

Executive Summary – Enforcement Matter – Case No. 49101
Albo Enterprises, Inc.
RN100810555
Docket No. 2014-1135-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Country Boy Store 1, 12496 Montana Avenue, El Paso, El Paso County

Type of Operation:

Property with an inactive petroleum underground storage tank ("UST") system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 10, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,937

Amount Deferred for Expedited Settlement: \$2,187

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$100

Total Due to General Revenue: \$8,650

Payment Plan: 11 monthly payments of \$100 each followed by 23 payments of \$320 each with one final payment of \$190.

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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RN100810555
Docket No. 2014-1135-PST-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 12, 2014

Date(s) of NOE(s): July 21, 2014

Violation Information

1. Failed to keep the UST system vent lines open and functioning. Specifically, no vent lines were present [30 TEX. ADMIN. CODE § 334.54(b)(1)].
2. Failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, fill pipes were not locked [30 TEX. ADMIN. CODE § 334.54(b)(2)].
3. Failed to ensure that any residue from stored regulated substances which remained in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity. Specifically, tank 3 contained approximately five centimeters of product [30 TEX. ADMIN. CODE § 334.54(d)(2)].
4. Failed to comply with UST operator training requirements [30 TEX. ADMIN. CODE § 334.601(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Designate and train a Facility operator; and
 - ii. Complete all requirements for temporarily removing the UST system from service, including but not limited to, installing vent lines, securing fill pipes and removing and properly disposing of all product from the system; or
 - iii. Permanently remove the UST system from service.

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b. Within 45 days, submit written certification to demonstrate compliance with a.i. and a.ii. or a.iii.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: John Duncan, Enforcement Division,
Enforcement Team 7, MC 128, (512) 239-2720; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Husam Jallad, Secretary, Albo Enterprises, Inc., 6941 Alto Rey Avenue,
Apartment A, El Paso, Texas 79912
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	4-Aug-2014	Screening	8-Aug-2014	EPA Due	
	PCW	13-Aug-2014				

RESPONDENT/FACILITY INFORMATION	
Respondent	Albo Enterprises, Inc.
Reg. Ent. Ref. No.	RN100810555
Facility/Site Region	6-El Paso
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	49101	No. of Violations	2
Docket No.	2014-1135-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Duncan
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7	\$2,187
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Notes: Enhancement for one Notice of Violation with same/ similar violations and one previous order with denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,792
Estimated Cost of Compliance	\$24,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,937
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$10,937

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,937
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,187
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$8,750
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Screening Date 8-Aug-2014

Docket No. 2014-1135-PST-E

PCW

Respondent Albo Enterprises, Inc.

Policy Revision 4 (April 2014)

Case ID No. 49101

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100810555

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Duncan

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one Notice of Violation with same/ similar violations and one previous order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 25%

Screening Date 8-Aug-2014
Respondent Albo Enterprises, Inc.
Case ID No. 49101
Reg. Ent. Reference No. RN100810555
Media [Statute] Petroleum Storage Tank
Enf. Coordinator John Duncan

Docket No. 2014-1135-PST-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.54(b)(1), (b)(2), and (d)(2)

Violation Description
 Failed to keep the underground storage tank ("UST") system vent lines open and functioning. Specifically, no vent lines were present. Failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, fill pipes were not locked. Failed to ensure that any residue from stored regulated substances which remained in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity. Specifically, tank 3 contained approximately five centimeters of product.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes
 Human health or the environment will or could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended based on documentation of the violation during the June 12, 2014 record review to the August 8, 2014 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes
 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,756

Violation Final Penalty Total \$9,375

This violation Final Assessed Penalty (adjusted for limits) \$9,375

Economic Benefit Worksheet

Respondent Albo Enterprises, Inc.
Case ID No. 49101
Reg. Ent. Reference No. RN100810555
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$24,000	20-Nov-2013	8-May-2015	1.46	\$1,756	n/a	\$1,756

Notes for DELAYED costs Estimated cost to permanently remove from service three USTs with a combined capacity of 24,000 gallons at \$1.00 per gallon. The Date Required is the initial investigation date. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$24,000 **TOTAL** \$1,756

Screening Date 8-Aug-2014
Respondent Albo Enterprises, Inc.
Case ID No. 49101
Reg. Ent. Reference No. RN100810555
Media [Statute] Petroleum Storage Tank
Enf. Coordinator John Duncan

Docket No. 2014-1135-PST-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number 2
Rule Cite(s)

30 Tex. Admin. Code § 334.601(b)

Violation Description

Failed to comply with UST operator training requirements.

Base Penalty \$25,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 5.0%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended based on documentation of the violation during the June 12, 2014 record review to the August 8, 2014 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$37

Violation Final Penalty Total \$1,563

This violation Final Assessed Penalty (adjusted for limits) \$1,563

Economic Benefit Worksheet

Respondent Albo Enterprises, Inc.
Case ID No. 49101
Reg. Ent. Reference No. RN100810555
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	20-Nov-2013	8-May-2015	1.46	\$37	n/a	\$37
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to complete the operator training course. The Date Required is the initial investigation date. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$500	TOTAL	\$37
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TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603988726, RN100810555, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN603988726, Albo Enterprises, Inc. **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN100810555, Country Boy Store 1 **Classification:** SATISFACTORY **Rating:** 45.00

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 12496 MONTANA AVE EL PASO, TX 79938-9665, EL PASO COUNTY

TCEQ Region: REGION 06 - EL PASO

ID Number(s):

AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE0967M **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 40747

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: August 11, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 04, 2009 to August 04, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: John Duncan

Phone: (512) 239-2720

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 11/30/2012 ADMINORDER 2012-0116-PST-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)

Description: Failure to maintain required records. During the onsite investigation, the facility could not demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(4)(A)(vii)

30 TAC Chapter 334, SubChapter A 334.8(c)(5)(B)(ii)

Description: Failure to have a previously issued TCEQ Delivery Certificate renewed. The facility's UST Delivery Certificate expired 05/2011.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3467(a)

30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)

Description: Failure to have a current TCEQ Delivery Certificate prior to fuel delivery. The facility's UST Delivery Certificate expired 05/2011 and has been receiving fuel deliveries. Inventory control was not provided by the facility, so it is unknown at this time how much fuel the facility received while the Delivery Certificate was expired. According to SIR records evaluated during the January 2, 2009 investigation, total throughput for the months of October, November and December 2008 was approximat

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)
2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)(B)(ii)(IV)
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(iii)(I)

Description: Failure to monitor USTs for releases at a frequency of at least once every month; failed to provide proper release deteciton for the pressurized piping associated with the UST system; failed to test the line leak detectors at least once per yer for performance and operational reliability; failed to conduct reconciliation of detailed inventory control at least once each month; and failed to record inventory volume and measurement for regulated substance inputs, withdrawals, and the amount remaini

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.42(i)

Description: Failure to inspect at least once every 60 days, any sumps, manways, overfill containers or catchment basins, to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of debris and liquid.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	September 16, 2009	(766453)
Item 2	March 12, 2010	(795097)
Item 3	August 30, 2010	(850644)
Item 4	January 06, 2011	(887136)
Item 5	August 08, 2011	(944331)
Item 6	February 13, 2012	(987189)
Item 7	April 09, 2013	(1076827)
Item 8	July 25, 2013	(1103928)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	12/16/2013	(1128054)	CN603988726
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 334, SubChapter C 334.50(a) 30 TAC Chapter 334, SubChapter C 334.54(c)(2) 30 TAC Chapter 334, SubChapter C 334.54(d)(2)		
	Description:	Failure to conduct monthly release detection for a UST containing more than 2.5 cm of product. At the time of the investigation product was noticed. A follow up investigation confirmed that tank 3 had approximately 5 cm of product remaining.		
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 334, SubChapter C 334.54(b)(2)		
	Description:	Failure to secure USTs against tampering, vandalism or unauthorized access. At the time of the investigation the caps on the fill tubes were not securely tight on the fill tubes.		
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 334, SubChapter C 334.54(b)(1)		
	Description:	Failure to keep the vent lines open and functioning. At the time of the investigation no vent lines were found to be present.		
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 334, SubChapter N 334.603		
	Description:	Failure to obtain a Class A and B operator certification as per 30 TAC §334.603 pertaining to operator training and deadlines.		

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ALBO ENTERPRISES, INC.
RN100810555

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2014-1135-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Albo Enterprises, Inc. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns property with an inactive petroleum underground storage tank ("UST") system at 12496 Montana Avenue in El Paso, El Paso County, Texas (the "Facility").
2. The Respondent's three USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 26, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Ten Thousand Nine Hundred Thirty-Seven Dollars (\$10,937) is assessed by the Commission in settlement of the violations alleged

in Section II ("Allegations"). The Respondent has paid One Hundred Dollars (\$100) of the administrative penalty and Two Thousand One Hundred Eighty-Seven Dollars (\$2,187) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Eight Thousand Six Hundred Fifty Dollars (\$8,650) of the administrative penalty shall be payable in 11 monthly payments of One Hundred Dollars (\$100) each followed by 23 monthly payments of Three Hundred Twenty Dollars (\$320) with one final payment of One Hundred and Ninety Dollars (\$190). The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner of the Facility, the Respondent is alleged to have:

1. Failed to keep the UST system vent lines open and functioning, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(1), as documented during a record review conducted on June 12, 2014. Specifically, no vent lines were present.

2. Failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(2), as documented during a record review conducted on June 12, 2014. Specifically, fill pipes were not locked.
3. Failed to ensure that any residue from stored regulated substances which remained in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity, in violation of 30 TEX. ADMIN. CODE § 334.54(d)(2), as documented during a record review conducted on June 12, 2014. Specifically, tank 3 contained approximately five centimeters of product.
4. Failed to comply with UST operator training requirements, in violation of 30 TEX. ADMIN. CODE § 334.601(b), as documented during a record review conducted on June 12, 2014.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Albo Enterprises, Inc., Docket No. 2014-1135-PST-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Designate and train a Facility operator, in accordance with 30 TEX. ADMIN. CODE § 334.601; and
 - ii. Complete all requirements for temporarily removing the UST system from service, including but not limited to, installing vent lines, securing fill pipes

and removing and properly disposing of all product from the system, in accordance with 30 TEX. ADMIN. CODE § 334.54; or

- iii. Permanently remove the UST system from service, in accordance with 30 TEX ADMIN. CODE § 334.55.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i, and 2.a.ii or 2.a.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

8/24/15
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

6-2-2015
Date

Husam Jallad
Name (Printed or typed)
Authorized Representative of
Albo Enterprises, Inc.

Secretary
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.