

Executive Summary – Enforcement Matter – Case No. 50746
Tom Van Nguyen dba Lisa Food Mart
RN102010808
Docket No. 2015-0976-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Lisa Food Mart, 2315 Northwest 24th Street, Fort Worth, Tarrant County

Type of Operation:

Convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 18, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$50,725

Amount Deferred for Expedited Settlement: \$10,145

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$40,580

Total Due to General Revenue: \$0

Payment Plan: N/A

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

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - Unclassified

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 12, 2015

Date(s) of NOE(s): June 10, 2015

Executive Summary – Enforcement Matter – Case No. 50746
Tom Van Nguyen dba Lisa Food Mart
RN102010808
Docket No. 2015-0976-PST-E

Violation Information

1. Failed to perform inventory control procedures in accordance with a code or standard of practice developed by a nationally recognized association or independent testing laboratory. Specifically, the Respondent was conducting inventory control for all the tanks collectively rather than for each tank [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(i) and TEX. WATER CODE § 26.3475(c)(1)].
2. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, the automatic tank gauge test results from December 2014, January 2015, and April 2015 indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72].
3. Failed to investigate a suspected release of a regulated substance within 30 days of discovery. Specifically, the automatic tank gauge test results from December 2014, January 2015, and April 2015 indicated a suspected release that was not investigated [30 TEX. ADMIN. CODE § 334.74].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Begin conducting inventory control and reconciliation in accordance with a code or standard of practice developed by a nationally recognized association or independent testing laboratory for each underground storage tank at the Facility;
 - ii. Establish and implement a process for reporting suspected releases; and
 - iii. Conduct an investigation of the suspected release and implement appropriate corrective measures.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

**Executive Summary – Enforcement Matter – Case No. 50746
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RN102010808
Docket No. 2015-0976-PST-E**

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: Margarita Dennis, Enforcement Division,
Enforcement Team 7, MC R-04, (817) 588-5892; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Tom Van Nguyen, Owner, Lisa Food Mart, 2315 Northwest 24th Street,
Fort Worth, Texas 76164
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	15-Jun-2015	Screening	26-Jun-2015	EPA Due	
	PCW	1-Jul-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Tom Van Nguyen dba Lisa Food Mart
Reg. Ent. Ref. No.	RN102010808
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	50746	No. of Violations	3
Docket No.	2015-0976-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Margarita Dennis
		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	\$56,250
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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	-10.0%	Reduction	Subtotals 2, 3, & 7	-\$5,625
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Notes	Reduction for High Performer classification.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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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	\$463	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$6,700	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$50,625
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.2%	Adjustment	\$100
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with violation no. 2.
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Final Penalty Amount	\$50,725
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$50,725
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DEFERRAL	20.0%	Reduction	Adjustment	-\$10,145
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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.
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PAYABLE PENALTY	\$40,580
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Screening Date 26-Jun-2015

Docket No. 2015-0976-PST-E

PCW

Respondent Tom Van Nguyen dba Lisa Food Mart

Policy Revision 4 (April 2014)

Case ID No. 50746

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102010808

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Margarita Dennis

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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	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%

Please Enter Yes or No

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) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% -10%

Screening Date 26-Jun-2015

Docket No. 2015-0976-PST-E

PCW

Respondent Tom Van Nguyen dba Lisa Food Mart

Policy Revision 4 (April 2014)

Case ID No. 50746

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102010808

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Margarita Dennis

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.50(d)(1)(B)(i) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to perform inventory control procedures in accordance with a code or standard of practice developed by a nationally recognized association or independent testing laboratory. Specifically, the Respondent was conducting inventory control for all the tanks collectively rather than for each tank.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 45 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

One quarterly event is recommended based on the documentation of the violation during the May 12, 2015 investigation to the June 26, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/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 \$62

Violation Final Penalty Total \$6,763

This violation Final Assessed Penalty (adjusted for limits) \$6,763

Economic Benefit Worksheet

Respondent Tom Van Nguyen dba Lisa Food Mart
Case ID No. 50746
Reg. Ent. Reference No. RN102010808
Media Violation No. 1

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				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)	\$1,500	12-May-2015	11-Mar-2016	0.83	\$62	n/a	\$62

Notes for DELAYED costs

Estimated cost to conduct proper inventory control and reconciliation in accordance with a code or standard of practice developed by a nationally recognized association or independent testing laboratory for the underground storage tanks at the Facility. Date required is the investigation date. 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

\$1,500

TOTAL

\$62

Screening Date 26-Jun-2015

Docket No. 2015-0976-PST-E

PCW

Respondent Tom Van Nguyen dba Lisa Food Mart

Policy Revision 4 (April 2014)

Case ID No. 50746

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102010808

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Margarita Dennis

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §334.72

Violation Description Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, the automatic tank gauge ("ATG") test results from December 2014, January 2015, and April 2015 indicated a suspected release that was not reported.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (15.0%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 1

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$104

Violation Final Penalty Total \$3,382

This violation Final Assessed Penalty (adjusted for limits) \$3,382

Economic Benefit Worksheet

Respondent Tom Van Nguyen dba Lisa Food Mart
Case ID No. 50746
Reg. Ent. Reference No. RN102010808
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				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)	\$100	12-May-2015	11-Mar-2016	0.83	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to establish and implement a process for reporting suspected releases. Date required is the investigation date. 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]	\$100	5-Dec-2014	6-Dec-2014	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to report a suspected release. Date required is the date of the suspected release. Final date is the date the report was due.

Approx. Cost of Compliance

\$200

TOTAL

\$104

Screening Date 26-Jun-2015

Docket No. 2015-0976-PST-E

PCW

Respondent Tom Van Nguyen dba Lisa Food Mart

Policy Revision 4 (April 2014)

Case ID No. 50746

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102010808

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Margarita Dennis

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §334.74

Violation Description

Failed to investigate a suspected release of a regulated substance within 30 days of discovery. Specifically, the ATG test results from December 2014, January 2015, and April 2015 indicated a suspected release that was not investigated.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 6

173 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$45,000

Six monthly events are recommended from the January 4, 2015 suspected release investigation due date to the June 26, 2015 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 \$45,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$296

Violation Final Penalty Total \$40,580

This violation Final Assessed Penalty (adjusted for limits) \$40,580

Economic Benefit Worksheet

Respondent Tom Van Nguyen dba Lisa Food Mart
Case ID No. 50746
Reg. Ent. Reference No. RN102010808
Media Petroleum Storage Tank
Violation No. 3

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				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)	\$5,000	4-Jan-2015	11-Mar-2016	1.18	\$296	n/a	\$296

Notes for DELAYED costs

Estimated cost to investigate a suspected release. Date required is the date the release investigation was due. 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

\$5,000

TOTAL

\$296

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN602946402, RN102010808, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN602946402, Tom Van Nguyen **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN102010808, Lisa Food Mart **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations

Location: 2315 NW 24TH ST FORT WORTH, TX 76164-7611, TARRANT COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 65136

AIR QUALITY NON PERMITTED ID NUMBER
R04102010808

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: June 26, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 26, 2010 to June 26, 2015

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

Name: Margarita Dennis

Phone: (817) 588-5892

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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.

N/A

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
TOM VAN NGUYEN DBA LISA
FOOD MART
RN102010808**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2015-0976-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 Tom Van Nguyen dba Lisa Food Mart ("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 and operates a convenience store with retail sales of gasoline at 2315 Northwest 24th Street in Fort Worth, Tarrant County, Texas (the "Facility").
2. The Respondent's two underground storage tanks ("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 June 15, 2015.
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 Fifty Thousand Seven Hundred Twenty-Five Dollars (\$50,725) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Forty Thousand Five Hundred

Eighty Dollars (\$40,580) of the administrative penalty and Ten Thousand One Hundred Forty-Five Dollars (\$10,145) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 and operator of the Facility, the Respondent is alleged to have:

1. Failed to perform inventory control procedures in accordance with a code or standard of practice developed by a nationally recognized association or independent testing laboratory, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(i) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on May 12, 2015. Specifically, the Respondent was conducting inventory control for all the tanks collectively rather than for each tank.
2. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72, as documented during an investigation conducted on May 12, 2015. Specifically, the automatic tank gauge ("ATG") test results from December 2014, January 2015, and April 2015 indicated a suspected release that was not reported.
3. Failed to investigate a suspected release of a regulated substance within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74, as documented during an investigation conducted on May 12, 2015. Specifically, the ATG test results from

December 2014, January 2015, and April 2015 indicated a suspected release that was not investigated.

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: Tom Van Nguyen dba Lisa Food Mart, Docket No. 2015-0976-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. Begin conducting inventory control and reconciliation in accordance with a code or standard of practice developed by a nationally recognized association or independent testing laboratory for each UST at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - ii. Establish and implement a process for reporting suspected releases, in accordance with 30 TEX. ADMIN. CODE § 334.72; and
 - iii. Conduct an investigation of the suspected release and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74.
 - 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. through 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission or the Executive Director. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

11/19/15
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

August 14, 2015
Date

Tom Nguyen
Name (Printed or typed)
Authorized Representative of
Tom Van Nguyen dba Lisa Food Mart

Owner
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.