

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 50817  
SUPERIOR LUBRICANTS TRANSPORT, INC. d/b/a Superior Transport  
RN103026993  
Docket No. 2015-1056-PST-E

**Order Type:**

Default Order (SOAH preliminary hearing)

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

3312 Dooling Street, Fort Worth, Tarrant County;  
1330 Woodhaven Boulevard, Fort Worth, Tarrant County

**Type of Operation:**

common carrier

**Other Significant Matters:**

Additional Pending Enforcement Actions: None  
Past-Due Penalties: \$6,603.69 (2013-1665-PST-E; referred to the AG);  
\$2,417.70 (2014-1353-PST-E; referred for collection)  
Past-Due Fees: None  
Other: None  
Interested Third-Parties: None

**Texas Register Publication Date:** May 20, 2016

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$3,607

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$3,607

**Compliance History Classifications:**

Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 50817  
SUPERIOR LUBRICANTS TRANSPORT, INC. d/b/a Superior Transport  
RN103026993  
Docket No. 2015-1056-PST-E

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** April 16, 2015; April 30, 2015; June 3, 2015  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** June 24, 2015

**Violation Information**

Deposited a regulated substance into a regulated underground storage tank ("UST") system that was not covered by a valid, current TCEQ delivery certificate [TEX. WATER CODE § 26.3467(d) and 30 TEX. ADMIN. CODE § 334.5(b)(1)(A)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

On July 15, 2015, developed and implemented a procedure for fuel delivery personnel to verify that a facility possesses a valid, current TCEQ delivery certificate prior to depositing a regulated substance into a UST system.

**Technical Requirements:**

None

**Litigation Information**

**Date Petition(s) Filed:** October 30, 2015  
**Date Green Card(s) Signed:** November 2, 2015  
**Date Answer(s) Filed:** January 28, 2016  
**SOAH Referral Date:** March 2, 2016  
**Hearing Date(s):**  
Preliminary hearing: April 7, 2016 (defaulted)

**Contact Information**

**TCEQ Attorneys:** Tracy Chandler, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Abigail Lindsey, Enforcement Division, (512) 239-2576  
**TCEQ Regional Contact:** Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5800  
**Respondent Contact:** Jerri Gooden, President, SUPERIOR LUBRICANTS TRANSPORT, INC.,  
3312 Dooling Street, Fort Worth, Texas 76111  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

TCEQ

<b>DATES</b>	<b>Assigned</b>	29-Jun-2015		
	<b>PCW</b>	8-Oct-2015	<b>Screening</b>	7-Jul-2015
			<b>EPA Due</b>	

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	SUPERIOR LUBRICANTS TRANSPORT, INC. dba Superior Transport		
<b>Reg. Ent. Ref. No.</b>	RN103026993		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	50817	<b>No. of Violations</b>	1
<b>Docket No.</b>	2015-1056-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Abigail Lindsey
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,500
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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.

<b>Compliance History</b>	40.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,000
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Notes: Enhancement for two agreed orders containing a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$107  
 Estimated Cost of Compliance: \$200  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	3.1%	<b>Adjustment</b>	\$107
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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 the violation.

<b>Final Penalty Amount</b>	\$3,607
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,607
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<b>DEFERRAL</b>		Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$3,607
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**Screening Date** 7-Jul-2015

**Docket No.** 2015-1056-PST-E

**PCW**

**Respondent** SUPERIOR LUBRICANTS TRANSPORT, INC. dba Superior Transport

Policy Revision 4 (April 2014)

**Case ID No.** 50817

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN103026993

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Abigail Lindsey

### 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> )	2	40%
	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)** 40%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for two agreed orders containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 40%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 40%

**Screening Date** 7-Jul-2015 **Docket No.** 2015-1056-PST-E **PCW**  
**Respondent** SUPERIOR LUBRICANTS TRANSPORT, INC. dba Superior Transport *Policy Revision 4 (April 2014)*  
**Case ID No.** 50817 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN103026993  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Abigail Lindsey

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 334.5(b)(1)(A) and Tex. Water Code § 26.3467(d)

**Violation Description**

The Respondent deposited a regulated substance into a regulated underground storage tank ("UST") system that was not covered by a valid, current TCEQ delivery certificate. Specifically, the Respondent made two fuel deposits at the Facility during the months of December 2014 and May 2015. At the time of the fuel deposits, the Facility did not possess a valid, current TCEQ delivery certificate.

**Base Penalty**

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

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

**Percent**

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

**Number of Violation Events**

**Number of violation days**

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Two monthly events are recommended.

**Good Faith Efforts to Comply**

**Reduction**

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

**Notes**

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** SUPERIOR LUBRICANTS TRANSPORT, INC. dba Superior Transport  
**Case ID No.** 50817  
**Reg. Ent. Reference No.** RN103026993  
**Media** Petroleum Storage Tank  
**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)	\$100	3-Jun-2015	15-Jul-2015	0.12	\$1	n/a	\$1

**Notes for DELAYED costs** Estimated delayed cost to develop and implement a procedure for fuel delivery personnel to verify that a facility possesses a valid, current TCEQ delivery certificate prior to depositing a regulated substance into a UST system. The date required is the investigation date and the final date is the 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)	\$100	16-Dec-2014	3-Jun-2015	1.38	\$7	\$100	\$107

**Notes for AVOIDED costs** Estimated avoided cost to verify that the Facility had a valid, current fuel delivery certificate. The date required is the date of the first fuel delivery and the final date is the investigation date.

Approx. Cost of Compliance \$200

**TOTAL** \$107

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 CN603546169, RN103026993, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN603546169, SUPERIOR LUBRICANTS TRANSPORT, INC. **Classification:** SATISFACTORY **Rating:** 37.50

**Regulated Entity:** RN103026993, Superior Transport **Classification:** SATISFACTORY **Rating:** 37.50

**Complexity Points:** 6 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 3312 DOOLING ST FORT WORTH, TX 76111-1808, TARRANT COUNTY

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):** PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 46330  
PETROLEUM STORAGE TANK NON REGISTERED ID NUMBER R04103026993

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

**Date Compliance History Report Prepared:** July 15, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 15, 2010 to July 15, 2015

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

**Name:** Abigail Lindsey

**Phone:** (512) 239-2576

## 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:** 05/24/2014 **ADMINORDER 2013-1665-PST-E (1660 Order-Agreed Order With Denial)**
  - 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:** Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST, in violation of 30 TEX. ADMIN. CODE §334.8(c)(5)(A)(i) and TEX. WATER CODE §26.3467(a). Specifically, the Respondent accepted four fuel deliveries without a delivery certificate.
  - 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:** Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii). Specifically, the delivery certificate expired on April 30, 2011.
  - Classification:** Moderate
  - Citation:** 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
  - Description:** Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE §334.50(b)(1)(A) and TEX. WATER CODE §26.3475(c)(1).
  - Classification:** Moderate
  - Citation:** 2D TWC Chapter 26, SubChapter A 26.3475(a)  
30 TAC Chapter 334, SubChapter C 334.50(b)(2)
  - Description:** Failed to provide release detection for the pressurized piping associated with the UST, in violation of 30 TEX. ADMIN. CODE §334.50(b)(2) and TEX. WATER CODE §26.3475(a). Specifically, the annual piping tightness test was not conducted.
  - Classification:** Moderate
  - Citation:** 2D TWC Chapter 26, SubChapter A 26.3467(d)  
30 TAC Chapter 334, SubChapter A 334.5(b)(1)(A)
  - Description:** Failed to verify that the owner or operator of a UST system possessed a valid, current TCEQ delivery certificate prior to depositing a regulated substance into the UST system, in violation of 30 TEX. ADMIN. CODE § 334.5(b)(1)(A) and TEX. WATER CODE § 26.3467(d). Specifically, the Respondent made four fuel drops at the Facility in January 2013.

**2 Effective Date: 02/12/2015 ADMINORDER 2014-1353-PST-E (1660 Order-Agreed Order With Denial)**

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3467(d)  
30 TAC Chapter 334, SubChapter A 334.5(b)(1)(A)

Description: Failed to have deposited a regulated substance into a regulated UST system that was not covered by a valid, current TCEQ delivery certificate. Specifically, the Respondent made seven fuel deposits at the Facility during the months of May and July, 2014. At the time of the fuel deposits, the Facility did not possess a valid, current TCEQ delivery certificate.

**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  
SUPERIOR LUBRICANTS  
TRANSPORT, INC. DBA  
SUPERIOR TRANSPORT;  
RN103026993**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

### **DOCKET NO. 2015-1056-PST-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is SUPERIOR LUBRICANTS TRANSPORT, INC. d/b/a Superior Transport ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

#### **FINDINGS OF FACT**

1. Respondent is a person, as defined in 30 TEX. ADMIN. CODE § 334.2(76), who physically delivers regulated substances into underground storage tanks ("USTs") directly from a cargo tank which is affixed or mounted to a self-propelled, towable, or pushable vehicle (e.g., wagon, truck, trailer, railcar, aircraft, boat, or barge). As such, Respondent is a common carrier as defined in 30 TEX. ADMIN. CODE § 334.2(21). Respondent's principal place of business is located at 3312 Dooling St., Fort Worth, Tarrant County, Texas (the "Business").
2. During investigations conducted on April 16, 2015 and April 30, 2015, and a record review conducted on June 3, 2015, an investigator documented that Respondent deposited a regulated substance into a regulated UST system that was not covered by a valid, current TCEQ delivery certificate. Specifically, Respondent made two fuel deposits at 1330 Woodhaven Boulevard in Fort Worth, Tarrant County, Texas (the "Facility") during the months of December 2014 and May 2015. At the time of the fuel deposits, the Facility did not possess a valid, current TCEQ delivery certificate.
3. The Executive Director recognizes that on July 15, 2015, Respondent developed and implemented a procedure for fuel delivery personnel to verify that a facility possesses a valid, current TCEQ delivery certificate prior to depositing a regulated substance into a UST system.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against SUPERIOR LUBRICANTS TRANSPORT, INC. d/b/a Superior Transport" (the "EDPRP") in the TCEQ Chief Clerk's office on October 30, 2015.
5. Respondent's answer requesting a hearing was filed on January 28, 2016, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on March 2, 2016.

6. On March 9, 2016, the TCEQ Chief Clerk mailed notice of the April 7, 2016 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
7. On April 7, 2016, the Administrative Law Judge ("ALJ") convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
8. On April 12, 2016, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 1 so that TCEQ may dispose of this case on a default basis.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent deposited a regulated substance into a regulated UST system that was not covered by a valid, current TCEQ delivery certificate, in violation of TEX. WATER CODE § 26.3467(d) and 30 TEX. ADMIN. CODE § 334.5(b)(1)(A).
3. As evidenced by Finding of Fact No. 5, Respondent's answer requesting a hearing was filed as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
4. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
5. As evidenced by Findings of Fact Nos. 7 and 8, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106(b).
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of three thousand six hundred seven dollars (\$3,607.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of three thousand six hundred seven dollars (\$3,607.00) for violations of state statutes and rules of the

TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.

2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: SUPERIOR LUBRICANTS TRANSPORT, INC. d/b/a Superior Transport; Docket No. 2015-1056-PST-E" to:  

Financial Administration Division, Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Business operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

**AFFIDAVIT OF TRACY CHANDLER**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

§

§

"My name is Tracy Chandler. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against SUPERIOR LUBRICANTS TRANSPORT, INC. d/b/a Superior Transport" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 30, 2015.

Respondent's answer was filed requesting a hearing on January 28, 2016, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on March 2, 2016. On March 9, 2016, the TCEQ Chief Clerk mailed notice of the April 7, 2016 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on April 7, 2016. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

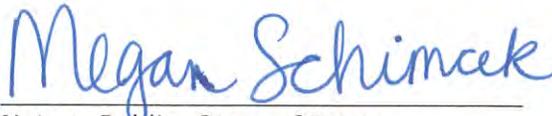
The ALJ remanded the matter to the Executive Director by SOAH Order No. 1, issued on April 12, 2016, so that TCEQ may dispose of this case on a default basis."



Tracy Chandler, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Tracy Chandler, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Subscribed and sworn to before me on this 22nd day of April, A.D. 2016.

  
Notary Public, State of Texas

