

Executive Summary – Enforcement Matter – Case No. 51564
Sunline Energy Services, Inc.
RN106757099
Docket No. 2015-1750-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM – IHW and Used Oil

Small Business:

No

Location(s) Where Violation(s) Occurred:

Sunline Global, 7386 Farm-to-Market Road 1346, San Antonio, Bexar County

Type of Operation:

Tanker/trailer maintenance and storage yard

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: April 8, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$19,250

Amount Deferred for Expedited Settlement: \$3,850

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$15,400

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 - N/A

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 51564
Sunline Energy Services, Inc.
RN106757099
Docket No. 2015-1750-MLM-E

Investigation Information

Complaint Date(s): June 30, 2015

Complaint Information: Alleged there was dumping of crude oil on to the ground by a trucking company. The complainant stated that the material did make it to the dry creek bottom and estimated the amount of crude oil dumped was between 40-60 barrels. The complainant also has a video of the incident.

Date(s) of Investigation: July 2, 2015

Date(s) of NOE(s): November 3, 2015

Violation Information

1. Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste. Specifically, crude oil from tankers/trailers was discharged at the south/south-east property boundary of the Site. The investigator observed petroleum hydrocarbon contaminated soil, dead vegetation, and dried trees. Soil samples were taken from an area measuring approximately 100-200 feet by 10 feet and analytical results from those soil samples reported total petroleum hydrocarbon levels ranging from 8,400 milligrams per/kilogram ("mg/kg") to 13,500 mg/kg; exceeding the Tier 1 Residential Soil Protective Concentration Limit of 200 mg/kg [30 TEX. ADMIN. CODE § 335.4].
2. Failed to immediately abate and contain a spill or discharge and failed to begin reasonable response actions. Specifically, spills of used oil were observed on the soil surrounding the used oil storage area at the Site [30 TEX. ADMIN. CODE § 327.5(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, conduct an investigation to determine whether response actions are necessary under the Texas Risk Reduction Program ("TRRP") (30 TEX. ADMIN CODE ch. 350) and submit the results to the Executive Director ("ED").
- b. Respondent shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ.
- c. If the ED determines that response actions pursuant to 30 TEX. ADMIN CODE ch. 350 are necessary, the Respondent shall submit an Affected Property Assessment Report ("APAR").

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Sunline Energy Services, Inc.
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Docket No. 2015-1750-MLM-E

d. If the ED determines that the APAR indicates that response actions are necessary, the Respondent shall:

i. Comply with all applicable requirements of the Texas Risk Reduction Program ("TRRP") and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN CODE Ch. § 350.33(1)); and Institutional Controls under Subchapter F;

ii. Perform the necessary response actions in accordance with all approved plans and/or schedules as directed by the ED; and

iii. Respond, completely and adequately, to all requests for information concerning any response actions within 15 days after the date of such requests, or by any other deadline specified by the TCEQ in writing.

e. Within 60 days, submit a report addressing all areas where soil has been contaminated with used oil at the Site.

f. Within 75 days, submit written certification to demonstrate compliance with a. and 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: Rebecca Boyett, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2503; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483

TCEQ SEP Coordinator: N/A

Respondent: John M. Flinn, President, Sunline Energy Services, Inc., 422 East Ramsey, San Antonio, Texas 78216

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	9-Nov-2015	Screening	16-Nov-2015	EPA Due	
	PCW	30-Nov-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Sunline Energy Services, Inc.
Reg. Ent. Ref. No.	RN106757099
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	51564	Order Type	1660
Docket No.	2015-1750-MLM-E	Government/Non-Profit	No
Media Program(s)	Used Oil	Enf. Coordinator	Rebecca Boyett
Multi-Media	Industrial and Hazardous Waste	EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$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.

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

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	\$277
Estimated Cost of Compliance	\$5,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$500
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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	\$500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$500
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DEFERRAL	20.0%	Reduction	Adjustment	-\$100
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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	\$400
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Screening Date 16-Nov-2015

Docket No. 2015-1750-MLM-E

PCW

Respondent Sunline Energy Services, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51564

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106757099

Media [Statute] Used Oil

Enf. Coordinator Rebecca Boyett

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%
<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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 16-Nov-2015

Docket No. 2015-1750-MLM-E

PCW

Respondent Sunline Energy Services, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51564

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106757099

Media [Statute] Used Oil

Enf. Coordinator Rebecca Boyett

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 327.5(a)

Violation Description Failed to immediately abate and contain a spill or discharge and failed to begin reasonable response actions. Specifically, spills of used oil were observed on the soil surrounding the used oil storage area at the Site.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor). Actual Minor has an 'x'.

Percent 5.0%

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor. All are empty.

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 2 137 Number of violation days

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

Violation Base Penalty \$500

Two quarterly events are recommended from the July 2, 2015 investigation date to the November 16, 2015 screening date.

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$277

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Sunline Energy Services, Inc.
Case ID No. 51564
Reg. Ent. Reference No. RN106757099
Media Used Oil
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	\$5,000	2-Jul-2015	9-Aug-2016	1.11	\$277	n/a	\$277
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to remediate the soil contaminated with used oil, dispose of the contaminated soil at an authorized facility, and to submit a report summarizing remediation activities. The Date Required is the investigation date and 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	\$5,000	TOTAL	\$277
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Penalty Calculation Worksheet (PCW)

DATES	Assigned	9-Nov-2015	Screening	16-Nov-2015	EPA Due	
	PCW	30-Nov-2015				

RESPONDENT/FACILITY INFORMATION			
Respondent	Sunline Energy Services, Inc.		
Reg. Ent. Ref. No.	RN106757099		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	51564	No. of Violations	1
Docket No.	2015-1750-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media	Used Oil	Enf. Coordinator	Rebecca Boyett
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Adjustment **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$1,384
Estimated Cost of Compliance	\$25,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 16-Nov-2015

Docket No. 2015-1750-MLM-E

PCW

Respondent Sunline Energy Services, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51564

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106757099

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rebecca Boyett

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)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 16-Nov-2015

Docket No. 2015-1750-MLM-E

PCW

Respondent Sunline Energy Services, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51564

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106757099

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Rebecca Boyett

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.4

Violation Description

The Respondent caused, suffered, allowed, or permitted the unauthorized disposal of Industrial Solid Waste. Specifically, crude oil from tankers/trailers was discharged at the south/southeast property boundary of the Site. The investigator observed petroleum hydrocarbon contaminated soils, dead vegetation, and dried trees. Soil samples were taken from an area measuring approximately 100-200 feet by 10 feet and analytical results from those soil samples reported Total Petroleum Hydrocarbon levels ranging from 8,400 milligrams/kilogram ("mg/kg") to 13,500 mg/kg; exceeding the Tier 1 Residential Soil Protective Concentration Limit of 200 mg/kg.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not 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 5

137 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$18,750

Five monthly events are recommended from the July 2, 2015 investigation date to the November 16, 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 \$18,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,384

Violation Final Penalty Total \$18,750

This violation Final Assessed Penalty (adjusted for limits) \$18,750

Economic Benefit Worksheet

Respondent Sunline Energy Services, Inc.
Case ID No. 51564
Reg. Ent. Reference No. RN106757099
Media Industrial and Hazardous Waste
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
<small>No commas or \$</small>							

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	\$25,000	2-Jul-2015	9-Aug-2016	1.11	\$1,384	n/a	\$1,384
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit an Affected Property Assessment Report and remediate the Site. The Date Required is the investigation date and 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

\$25,000

TOTAL

\$1,384

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.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604937524, RN106757099, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN604937524, Sunline Energy Services, Inc. **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN106757099, Sunline Global **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 1 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 7386 FM 1346 SAN ANTONIO, TX 78220-2206, BEXAR COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 86074

INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED ID NUMBER F2184

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: November 19, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 13, 2010 to November 13, 2015

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

Name: Rebecca Boyett

Phone: (512) 239-2503

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 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
SUNLINE ENERGY SERVICES,
INC.
RN106757099**

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**BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2015-1750-MLM-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 Sunline Energy Services, Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371, and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. Sunline Energy Services, Inc. operates a tanker/trailer maintenance and storage yard at 7386 Farm-to-Market Road 1346 in San Antonio, Bexar County, Texas (the "Site").
2. The Site involves or involved the management of industrial solid waste ("ISW") as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Site involves or involved the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
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 November 8, 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 Nineteen Thousand Two Hundred Fifty Dollars (\$19,250) is assessed by the Commission in settlement of the violations alleged

in Section II ("Allegations"). The Respondent has paid Fifteen Thousand Four Hundred Dollars (\$15,400) of the administrative penalty and Three Thousand Eight Hundred Fifty Dollars (\$3,850) 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 operator of the Site, the Respondent is alleged to have:

1. Caused, suffered, allowed, or permitted the unauthorized disposal of ISW, in violation of 30 TEX. ADMIN. CODE § 335.4, as documented during an investigation conducted on July 2, 2015. Specifically, crude oil from tankers/trailers was discharged at the south/southeast property boundary of the Site. The investigator observed petroleum hydrocarbon contaminated soil, dead vegetation, and dried trees. Soil samples were taken from an area measuring approximately 100-200 feet by 10 feet and analytical results from those soil samples reported Total Petroleum Hydrocarbon levels ranging from 8,400 milligrams/kilogram ("mg/kg") to 13,500 mg/kg; exceeding the Tier 1 Residential Soil Protective Concentration Limit of 200 mg/kg.
2. Failed to immediately abate and contain a spill or discharge and failed to begin reasonable response actions, in violation of 30 TEX. ADMIN. CODE § 327.5(a), as documented during an investigation conducted on July 2, 2015. Specifically, spills of used oil were observed on the soil surrounding the used oil storage area at the Site.

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: Sunline Energy Services, Inc., Docket No. 2015-1750-MLM-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 Order, conduct an investigation to determine whether response actions are necessary under the Texas Risk Reduction Program ("TRRP") (30 TEX. ADMIN CODE ch. 350) and submit the results to the Executive Director. The investigation results shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records.

Respondent shall submit the investigation results and supporting documentation to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087
 - b. Respondent shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ.
 - c. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN CODE ch. 350 are necessary, Respondent shall submit, by the deadline prescribed by the Executive Director, an Affected Property Assessment Report

("APAR"), pursuant to 30 TEX. ADMIN CODE § 350.91, to the Order Compliance Team at the address listed above in Ordering Provision No. 2.a. and to any additional addresses as directed by the Executive Director.

- d. If the Executive Director determines that the APAR indicates that response actions are necessary, Respondent shall:
- i. Comply with all applicable requirements of the Texas Risk Reduction Program ("TRRP"), which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN CODE Ch. § 350.33(l)); and Institutional Controls under Subchapter F;
 - ii. Perform the necessary response actions in accordance with all approved plans and/or schedules as directed by the Executive Director; and
 - iii. Respond, completely and adequately, as determined by the TCEQ, to all requests for information concerning any response actions within 15 days after the date of such requests, or by any other deadline specified by the TCEQ in writing.
- e. Within 60 days after the effective date of this Agreed Order, submit a report, in accordance with 30 TEX. ADMIN. CODE § 327.5(c). The report shall address all areas where soil has been contaminated with used oil at the Site. This report shall be submitted to the addresses listed in Ordering Provision No. 2.f.
- f. Within 75 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. and 2.e. 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site 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. The effective date of this Order is the date it is signed by the Commission. 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

Date

Ramon Manue Jr

For the Executive Director

7/7/16

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.

John M. Flynn

Signature

3.2.16

Date

JOHN M. FLYNN

Name (Printed or typed)

PRESIDENT

Title

Authorized Representative of
Sunline Energy Services, Inc.

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.