

Executive Summary – Enforcement Matter – Case No. 51753
MARTY MECHANICAL, INC. dba One Stop 46
RN102257227
Docket No. 2016-0141-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

One Stop 46, 715 West Rusk Street, Rockwall, Rockwall 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: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: July 1, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$58,690

Amount Deferred for Expedited Settlement: \$11,738

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,312

Total Due to General Revenue: \$45,640

Payment Plan: 35 payments of \$1,304 each

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

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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RN102257227
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Investigation Information

Complaint Date(s): November 4, 2015

Complaint Information: Alleged 30-40 gallons of gasoline were released into an unnamed creek that flows into Lake Ray Hubbard.

Date(s) of Investigation: November 5, 2015, December 9, 2015, and January 19, 2016

Date(s) of NOE(s): January 11, 2016

Violation Information

1. Failed to renew a previously issued underground storage tank (“UST”) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on July 31, 2015 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, seven fuel deliveries were accepted on August 22, 2015, August 25, 2015, August 29, 2015, September 5, 2015, September 15, 2015, October 5, 2015, and November 4, 2015 without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
3. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs. Specifically, financial assurance was not provided for tank no. 2 [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
4. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
5. Failed to equip the UST system with overfill prevention equipment [30 TEX. ADMIN. CODE § 334.51(b) and TEX. WATER CODE § 26.3475(c)(2)].
6. Failed to provide notification of major construction activities for a UST system. Specifically, the Respondent installed overfill prevention equipment and replaced the spill buckets at the Facility without submitting a construction notification to the proper TCEQ regional office [30 TEX. ADMIN. CODE § 334.6(a)(2)].
7. Failed to submit a site assessment report within 45 days after a confirmed release of a regulated substance from a UST system. Specifically, an assessment report was not submitted within 45 days after a confirmed release on November 5, 2015 [30 TEX. ADMIN. CODE § 334.78(c)].

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8. Failed to provide corrosion protection to all underground and/or totally submerged components of a UST system. Specifically, corrosion protection was not provided for all metal components of the submersible turbine pumps [30 TEX. ADMIN. CODE § 334.49(a)(4) and TEX. WATER CODE § 26.3475(d)].

9. Allowed the unauthorized discharge of gasoline into or adjacent to waters in the state. Specifically, gasoline was leaking from the Facility's UST system into the ground and an unnamed creek adjacent to and south of the Facility [TEX. WATER CODE § 26.121].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. Submitted a properly completed UST registration and self-certification form, and obtained a current, valid delivery certificate on November 9, 2015;
- b. Obtained financial assurance for UST no. 2 on November 9, 2015;
- c. Implemented a method of release detection for the USTs at the Facility on February 4, 2016;
- d. Installed overflow prevention equipment on December 9, 2015;
- e. Implemented procedures designed to ensure that construction notifications are submitted to the proper TCEQ regional office on February 8, 2016;
- f. Submitted a site assessment report on January 4, 2016;
- g. Installed and tested a corrosion protection system for the metal components of the submersible turbine pumps on January 8, 2016; and
- h. Repaired the submersible turbine pumps by replacing the seals on October 21, 2015.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, begin corrective action to properly remediate the discharge of gasoline; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

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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; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548
TCEQ SEP Coordinator: N/A
Respondent: Tony Arterburn, President, MARTY MECHANICAL, INC., P.O. Box 339,
Rockwall, Texas 75087
Trevor Arterburn, Comptroller, MARTY MECHANICAL, INC., P.O. Box 339, Rockwall,
Texas 75087
Respondent's Attorney: N/A

TCEQ DATES	Assigned	11-Jan-2016	Screening	15-Jan-2016	EPA Due	
	PCW	15-Jul-2016				

RESPONDENT/FACILITY INFORMATION			
Respondent	MARTY MECHANICAL, INC. dba One Stop 46		
Reg. Ent. Ref. No.	RN102257227		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	51753	No. of Violations	9	
Docket No.	2016-0141-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No	
Multi-Media		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	\$68,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
Notes	No adjustment for compliance history.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	-\$9,810
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
<small>Total EB Amounts</small>	\$906	<small>*Capped at the Total EB \$ Amount</small>	
<small>Estimated Cost of Compliance</small>	\$29,160		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$58,690
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		Final Penalty Amount	\$58,690
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$58,690
DEFERRAL	20.0% Reduction	Adjustment	-\$11,738
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$46,952

Screening Date 15-Jan-2016

Docket No. 2016-0141-PST-E

PCW

Respondent MARTY MECHANICAL, INC. dba One Stop 46

Policy Revision 4 (April 2014)

Case ID No. 51753

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102257227

Media [Statute] Petroleum Storage Tank

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)

Satisfactory Performer

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 15-Jan-2016

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Respondent MARTY MECHANICAL, INC. dba One Stop 46

Policy Revision 4 (April 2014)

Case ID No. 51753

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102257227

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)

Violation Description Failed to renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on July 31, 2015.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 101 Number of violation days

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

Violation Base Penalty \$3,750

One annual event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$937

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

Notes The Respondent achieved compliance on November 9, 2015 prior to the Notice Enforcement ("NOE") dated January 11, 2016.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,813

This violation Final Assessed Penalty (adjusted for limits) \$2,813

Economic Benefit Worksheet

Respondent MARTY MECHANICAL, INC. dba One Stop 46
Case ID No. 51753
Reg. Ent. Reference No. RN102257227
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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	31-Jul-2015	9-Nov-2015	0.28	\$1	n/a

Notes for DELAYED costs

Estimated delayed cost to renew a delivery certificate by submitting a properly completed UST registration and self-certification form. The Date Required is the expiration date of the delivery certificate 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)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100
TOTAL
\$1

Screening Date 15-Jan-2016

Docket No. 2016-0141-PST-E

PCW

Respondent MARTY MECHANICAL, INC. dba One Stop 46

Case ID No. 51753

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102257227

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)

Violation Description

Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, seven fuel deliveries were accepted on August 22, 2015, August 25, 2015, August 29, 2015, September 5, 2015, September 15, 2015, October 5, 2015, and November 4, 2015 without a delivery certificate.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

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

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 7

7 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$12,250

Seven single events are recommended for accepting seven fuel deliveries.

Good Faith Efforts to Comply

25.0%

Reduction \$3,062

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

Notes

The Respondent achieved compliance on November 9, 2015 prior to the NOE dated January 11, 2016.

Violation Subtotal \$9,188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$9,188

This violation Final Assessed Penalty (adjusted for limits) \$9,188

Economic Benefit Worksheet

Respondent MARTY MECHANICAL, INC. dba One Stop 46
Case ID No. 51753
Reg. Ent. Reference No. RN102257227
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
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit is included in violation no. 1.

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 \$0

TOTAL \$0

Screening Date 15-Jan-2016

Docket No. 2016-0141-PST-E

PCW

Respondent MARTY MECHANICAL, INC. dba One Stop 46

Case ID No. 51753

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102257227

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 37.815(a) and (b)

Violation Description Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs. Specifically, financial assurance was not provided for tank no. 2.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, 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 26

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event. Single event is marked with an 'x'.

Violation Base Penalty \$3,750

One single event is recommended for the one UST (tank no. 2).

Good Faith Efforts to Comply

25.0%

Reduction \$937

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

Notes: The Respondent achieved compliance on November 9, 2015 prior to the NOE dated January 11, 2016.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,813

This violation Final Assessed Penalty (adjusted for limits) \$2,813

Economic Benefit Worksheet

Respondent MARTY MECHANICAL, INC. dba One Stop 46
Case ID No. 51753
Reg. Ent. Reference No. RN102257227
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
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$660	14-Oct-2015	9-Nov-2015	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

Estimated avoided cost to provide financial assurance for tank no. 2 (\$660/tank). The Date Required is the date the financial assurance was renewed for UST no. 1 and tank no. 3 and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$660

TOTAL

\$0

Screening Date 15-Jan-2016

Docket No. 2016-0141-PST-E

PCW

Respondent MARTY MECHANICAL, INC. dba One Stop 46

Case ID No. 51753

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102257227

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 4

Rule Cite(s) 30Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				30.0%
	Potential	x			

>> Programmatic Matrix

Matrix Notes	Harm				Percent
	Falsification	Major	Moderate	Minor	
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.					0.0%

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 74 Number of violation days

mark only one with an x	daily		Violation Base Penalty \$7,500
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

One quarterly event is recommended from the November 5, 2015 investigation date to the January 15, 2016 screening date.

Good Faith Efforts to Comply

10.0%

Reduction \$750

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

Notes The Respondent achieved compliance on February 4, 2016 after the NOE dated January 11, 2016.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$6,750

This violation Final Assessed Penalty (adjusted for limits) \$6,750

Economic Benefit Worksheet

Respondent MARTY MECHANICAL, INC. dba One Stop 46
Case ID No. 51753
Reg. Ent. Reference No. RN102257227
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	5-Nov-2015	4-Feb-2016	0.25	\$19	n/a	\$19

Notes for DELAYED costs

Estimated delayed cost to implement a method of release detection for the USTs at the facility. 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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$19

Screening Date 15-Jan-2016

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Respondent MARTY MECHANICAL, INC. dba One Stop 46

Case ID No. 51753

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102257227

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 334.51(b)(2)(c) and Tex. Water Code § 26.3475(c)(2)

Violation Description Failed to equip the UST system with overfill prevention equipment.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential		X		

>> Programmatic Matrix

Matrix Notes	Harm				Percent
	Falsification	Major	Moderate	Minor	
Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.					0.0%

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 34 Number of violation days

mark only one with an x	daily		Violation Base Penalty \$3,750
	weekly		
	monthly		
	quarterly	X	
	semiannual		
	annual		
	single event		

One quarterly event is recommended from the November 5, 2015 investigation date to the December 9, 2015 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$937

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

Notes The Respondent achieved compliance on December 9, 2015 prior to the NOE dated January 11, 2016.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$2,813

This violation Final Assessed Penalty (adjusted for limits) \$2,813

Economic Benefit Worksheet

Respondent MARTY MECHANICAL, INC. dba One Stop 46
Case ID No. 51753
Reg. Ent. Reference No. RN102257227
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$300	5-Nov-2015	9-Dec-2015	0.09	\$0	\$2	\$2
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to install overfill prevention equipment (\$100/tank). 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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$2

Screening Date 15-Jan-2016

Docket No. 2016-0141-PST-E

PCW

Respondent MARTY MECHANICAL, INC. dba One Stop 46

Case ID No. 51753

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102257227

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 334.6(a)(2)

Violation Description

Failed to provide notification of major construction activities for a UST system. Specifically, the Respondent installed overfill prevention equipment and replaced the spill buckets at the Facility without submitting a construction notification to the proper TCEQ regional office.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			15.0%
100% of the rule requirement was not met.					

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 37 Number of violation days

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

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$375

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

Notes The Respondent achieved compliance on February 8, 2016 after the NOE dated January 11, 2016.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,375

This violation Final Assessed Penalty (adjusted for limits) \$3,375

Economic Benefit Worksheet

Respondent MARTY MECHANICAL, INC. dba One Stop 46
Case ID No. 51753
Reg. Ent. Reference No. RN102257227
Media Petroleum Storage Tank
Violation No. 6

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	\$100	9-Dec-2015	8-Feb-2016	0.17	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to implement procedures designed to ensure that construction notifications are submitted to the proper TCEQ regional office. 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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$1

Screening Date 15-Jan-2016

Docket No. 2016-0141-PST-E

PCW

Respondent MARTY MECHANICAL, INC. dba One Stop 46

Case ID No. 51753

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102257227

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 334.78(c)

Violation Description Failed to submit a site assessment report within 45 days after a confirmed release of a regulated substance from a UST system. Specifically, an assessment report was not submitted within 45 days after a confirmed release on November 5, 2015.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			15.0%
100% of the rule requirement was not met.					

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 15 Number of violation days

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

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$937

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

Notes The Respondent achieved compliance on January 4, 2016 prior to the NOE date January 11, 2015.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$2,813

This violation Final Assessed Penalty (adjusted for limits) \$2,813

Economic Benefit Worksheet

Respondent MARTY MECHANICAL, INC. dba One Stop 46
Case ID No. 51753
Reg. Ent. Reference No. RN102257227
Media Petroleum Storage Tank
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	20-Dec-2015	4-Jan-2016	0.04	\$10	n/a	\$10

Notes for DELAYED costs

Estimated delayed cost to submit a site assessment report. The Date Required is the report due 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)

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000 **TOTAL** \$10

Screening Date 15-Jan-2016

Docket No. 2016-0141-PST-E

PCW

Respondent MARTY MECHANICAL, INC. dba One Stop 46

Case ID No. 51753

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102257227

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 334.49(a)(4) and Tex. Water Code § 26.3475(d)

Violation Description Failed to provide corrosion protection to all underground and/or totally or partially submerged metal components of a UST system. Specifically, corrosion protection was not provided for all metal components of the submersible turbine pumps.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				30.0%
	Potential	x			

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%
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 Number of violation days 64

mark only one with an x	daily		Violation Base Penalty \$7,500
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

One quarterly event is recommended from the November 5, 2015 investigation date the January 8, 2016 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

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

Notes The Respondent achieved compliance on January 8, 2016 prior to the NOE dated January 11, 2016.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$5,625

This violation Final Assessed Penalty (adjusted for limits) \$5,625

Economic Benefit Worksheet

Respondent MARTY MECHANICAL, INC. dba One Stop 46
Case ID No. 51753
Reg. Ent. Reference No. RN102257227
Media Petroleum Storage Tank
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$1,500	5-Nov-2015	8-Jan-2016	0.18	\$1	\$18	\$18
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install and test a corrosion protection system for the metal components of the submersible turbine pumps. 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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$18

Screening Date 15-Jan-2016

Docket No. 2016-0141-PST-E

PCW

Respondent MARTY MECHANICAL, INC. dba One Stop 46

Case ID No. 51753

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102257227

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 9

Rule Cite(s) 30 Tex. Admin Code § 26.121(a)(1)

Violation Description Allowed the unauthorized discharge of gasoline into or adjacent to waters in the state. Specifically, gasoline was leaking from the Facility's UST system into the ground and an unnamed creek adjacent to and south of the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual			X		30.0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
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.					0.0%

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 3 Number of violation days 71

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

Violation Base Penalty \$22,500

Three monthly events are recommended from the November 5, 2015 investigation date to the January 15, 2016 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 \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$855

Violation Final Penalty Total \$22,500

This violation Final Assessed Penalty (adjusted for limits) \$22,500

Economic Benefit Worksheet

Respondent MARTY MECHANICAL, INC. dba One Stop 46
Case ID No. 51753
Reg. Ent. Reference No. RN102257227
Media Petroleum Storage Tank
Violation No. 9

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$20,000	4-Nov-2015	11-Sep-2016	0.85	\$855	n/a	\$855
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to perform the corrective actions necessary to properly remediate the discharge of gasoline. Date Required is the date the discharge occurred 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)

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$855

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 CN603775834, RN102257227, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN603775834, MARTY MECHANICAL, INC. **Classification:** SATISFACTORY **Rating:** 2.50

Regulated Entity: RN102257227, One Stop 46 **Classification:** HIGH **Rating:** 0.00

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 715 W RUSK ST ROCKWALL, TX 75087-3624, ROCKWALL COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 46667

AIR NEW SOURCE PERMITS REGISTRATION 70112

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

Date Compliance History Report Prepared: January 19, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 15, 2011 to January 15, 2016

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? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If **YES** for #2, who is the current owner/operator? MARTY MECHANICAL, INC. OWNER OPERATOR since 10/14/2010
Universal Metro Holdings, Inc. OWNER OPERATOR since 1/1/1800
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? One Stop Food Stores, Inc., OPERATOR, 9/1/1989 to 10/13/2010
- 5) If **YES**, when did the change(s) in owner or operator occur? 10/14/2010

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.):

Item 1 February 27, 2013 (1056709)

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
MARTY MECHANICAL, INC. DBA
ONE STOP 46
RN102257227**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2016-0141-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 MARTY MECHANICAL, INC. dba One Stop 46 ("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 715 West Rusk Street in Rockwall, Rockwall County, Texas (the "Facility").
2. The Respondent's three 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 January 16, 2016.
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 \$58,690 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid

\$1,312 of the penalty and \$11,738 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$45,640 of the penalty shall be paid in 35 monthly payments of \$1,304 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Submitted a properly completed UST registration and self-certification form, and obtained a current, valid delivery certificate on November 9, 2015;
 - b. Obtained financial assurance for UST no. 2 on November 9, 2015;
 - c. Implemented a method of release detection for the USTs at the Facility on February 4, 2016;
 - d. Installed overfill prevention equipment on December 9, 2015;
 - e. Implemented procedures designed to ensure that construction notifications are submitted to the proper TCEQ regional office on February 8, 2016;
 - f. Submitted a site assessment report on January 4, 2016;
 - g. Installed and tested a corrosion protection system for the metal components of the submersible turbine pumps ("STPs") on January 8, 2016; and
 - h. Repaired the STPs by replacing the seals on October 21, 2015.
10. 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.

11. 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.
12. 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 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), as documented during an investigation conducted on November 5, 2015. Specifically, the delivery certificate expired on July 31, 2015.
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on November 5, 2015. Specifically, seven fuel deliveries were accepted on August 22, 2015, August 25, 2015, August 29, 2015, September 5, 2015, September 15, 2015, October 5, 2015, and November 4, 2015 without a delivery certificate.
3. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b), as documented during an investigation conducted on November 5, 2015. Specifically, financial assurance was not provided for tank no. 2.
4. Failed to monitor the USTs 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), as documented during an investigation conducted on November 5, 2015.
5. Failed to equip the UST system with overflow prevention equipment, in violation of 30 TEX. ADMIN. CODE § 334.51(b) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on November 5, 2015.
6. Failed to provide notification of major construction activities for a UST system, in violation of 30 TEX. ADMIN. CODE § 334.6(a)(2), as documented during an investigation conducted on December 9, 2015. Specifically, the Respondent installed overflow prevention equipment and replaced the spill buckets at the Facility without submitting a construction notification to the proper TCEQ regional office.

7. Failed to submit a site assessment report within 45 days after a confirmed release of a regulated substance from a UST system, in violation of 30 TEX. ADMIN. CODE § 334.78(c), as documented during a record review conducted on January 19, 2016. Specifically, an assessment report was not submitted within 45 days after a confirmed release on November 5, 2015.
8. Failed to provide corrosion protection to all underground and/or totally submerged components of a UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(4) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on November 5, 2015. Specifically, corrosion protection was not provided for all metal components of the submersible turbine pumps.
9. Allowed the unauthorized discharge of gasoline into or adjacent to waters in the state, in violation of TEX. WATER CODE § 26.121, as documented during an investigation conducted on November 5, 2015. Specifically, gasoline was leaking from the Facility's UST system into the ground and an unnamed creek adjacent to and south of the Facility.

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: MARTY MECHANICAL, INC. dba One Stop 46, Docket No. 2016-0141-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, begin corrective action to properly remediate the discharge of gasoline, in accordance with 30 TEX. ADMIN. CODE § 334.75; and
 - 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 No. 2.a. 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. 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


For the Executive Director

9/25/16
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.


Signature

7/20/16
Date

Trevor Arterburn
Name (Printed or typed)
Authorized Representative of
MARTY MECHANICAL, INC. dba One Stop 46

Comptroller
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.