

Order Type:
Agreed Order

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
1502 West Hildebrand Avenue, San Antonio, Bexar County

Type of Operation:
underground storage tank (“UST”) system and convenience store with retail sales of gasoline

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third Parties: None

Texas Register Publication Date: January 28, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$12,396
Total Paid to General Revenue: \$2,216
Total Due to General Revenue: \$10,180
Payment Plan: 34 payments of \$291 each; 1 payment of \$286

Compliance History Classifications:
Person/CN - Unsatisfactory
Site/RN - Unsatisfactory

Major Source: No
Statutory Limit Adjustment: None
Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: October 4, 2017, through February 13, 2018
Date(s) of NOV(s): N/A
Date(s) of NOE(s): May 14, 2018

Violation Information

1. Failed to provide corrosion protection for the UST system by ensuring that the corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection to all underground metal components of the UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(2) and (a)(4)]. Additionally, failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C)]. Also, failed to test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(4)].
2. Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
3. Failed to maintain required operator training certification documentation at the Facility and provide it upon request by a TCEQ-authorized investigator [30 TEX. ADMIN. CODE § 334.606].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Emptied and registered the operational UST at the Facility as temporarily out of service on February 7, 2018.
2. Completed the triennial testing of the corrosion protection system with passing results on December 21, 2017.
3. Provided operator training certificates on December 28, 2017.
4. Removed the USTs from the Facility on March 9, 2020, and installed new USTs and components at the Facility on March 17, 2020.

Technical Requirements:

None

Litigation Information

Date Petition(s) Filed: January 10, 2019
Date Answer(s) Filed: February 4, 2019
SOAH Referral Date: January 26, 2021
Hearing Date(s):
Preliminary hearing: April 15, 2021
Settlement Date: May 27, 2021

Contact Information

TCEQ Attorneys: Clayton Smith, Litigation Division, (512) 239-3400

Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Stephanie McCurley, Enforcement, (512) 239-2607

TCEQ Regional Contact: Cameron Lopez, San Antonio Regional Office, (210) 490-3096

Respondent Contact: Ameeya Dharani, President, DANAM ENTERPRISES INC., 1502 West Hildebrand Avenue, San Antonio, Texas 78201

Carlos Perez, Representative, DANAM ENTERPRISES INC., 1502 West Hildebrand Avenue, San Antonio, Texas 78201

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	21-May-2018	Screening	23-May-2018	EPA Due	
	PCW	25-May-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	DANAM ENTERPRISES INC. dba Hildebrand Grocery
Reg. Ent. Ref. No.	RN101851400
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	56178	No. of Violations	3
Docket No.	2018-0728-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephanie McCurley
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

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

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

Compliance History	50.0% Adjustment	Subtotals 2, 3, & 7	\$4,375
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Notes: Enhancement for two previous Orders containing a denial of liability. Enhancement due to Unsatisfactory Performer classification.

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	-\$1,249
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,110
 Estimated Cost of Compliance: #NAME?
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,876
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OTHER FACTORS AS JUSTICE MAY REQUIRE	4.4%	Adjustment	\$520
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost associated with Violation No. 1.

Final Penalty Amount	\$12,396
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,396
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$12,396
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Screening Date 23-May-2018

Docket No. 2018-0728-PST-E

PCW

Respondent DANAM ENTERPRISES INC. dba Hildebrand Grocery

Policy Revision 4 (April 2014)

Case ID No. 56178

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101851400

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for two previous Orders containing a denial of liability. Enhancement due to Unsatisfactory Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 50%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 50%

Screening Date 23-May-2018

Docket No. 2018-0728-PST-E

PCW

Respondent DANAM ENTERPRISES INC. dba Hildebrand Grocery

Policy Revision 4 (April 2014)

Case ID No. 56178

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101851400

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.49(a)(2), (a)(4), (c)(2)(C), and (c)(4) and Tex. Water Code § 26.3475(d)

Violation Description Failed to provide corrosion protection for the UST system by ensuring that the corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection to all underground metal components of the UST system. Specifically, the containment sumps for the submersible turbine pumps ("STPs"), the piping, and associated connectors were partially submerged in rust colored water, and the sacrificial anodes were installed onto STPs with existing rust and corrosion. Additionally, failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly. Also, failed to test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test for the corrosion protection system was due July 22, 2016; however, it was not tested until December 21, 2017.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 99 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and a selection box (x).

Violation Base Penalty \$3,750

One semiannual event is recommended from the February 13, 2018 investigation date to the May 23, 2018 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, and a selection box (x).

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,083 Violation Final Penalty Total \$5,871

This violation Final Assessed Penalty (adjusted for limits) \$5,871

Economic Benefit Worksheet

Respondent DANAM ENTERPRISES INC. dba Hildebrand Grocery
Case ID No. 56178
Reg. Ent. Reference No. RN101851400
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment	\$3,000	4-Oct-2017	17-Mar-2020	2.45	\$25	\$490	\$515
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$395	4-Oct-2017	21-Dec-2017	0.21	\$0	\$6	\$6
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	\$1,730	4-Oct-2017	7-Feb-2018	0.35	\$30	n/a	\$30
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	4-Oct-2017	17-Mar-2020	2.45	\$12	n/a	\$12

Notes for DELAYED costs

Estimated delayed cost to replace all corroded STPs, metal piping, and associated connectors and test the corrosion protection system for the UST system at the Facility (\$3,000). The Date Required is the investigation start date and the Final Date is the date the Respondent installed new USTs and components that do not require bimonthly inspections of the cathodic protection system at the Facility.

Actual delayed cost to conduct the triennial testing (\$395). The Date Required is the investigation start date and the Final Date is the date of compliance.

Actual delayed cost to remove the water from the containment sumps (\$1,730 per invoice dated February 7, 2018). The Date Required is the investigation start date and the Final Date is the date of compliance.

Estimated delayed cost to implement the required bimonthly inspections of the cathodic protection system (\$100). The Date Required is the investigation start date and the Final Date is the date the Respondent installed new USTs and components that do not require bimonthly inspections of the cathodic protection system at the Facility.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$395	22-Jul-2016	4-Oct-2017	1.20	\$24	\$395	\$419
Other (as needed)	\$100	5-Aug-2017	4-Oct-2017	0.16	\$1	\$100	\$101

Notes for AVOIDED costs

Actual avoided cost to conduct the triennial testing (\$395). The Date Required is the date the corrosion protection test was due and the Final Date is the investigation start date.

Estimated avoided cost to conduct bimonthly inspections of the cathodic protection system (\$100). The Date Required is 60 days before the investigation start date and the Final Date is the investigation start date.

Approx. Cost of Compliance

\$5,720

TOTAL

\$1,083

Screening Date 23-May-2018

Docket No. 2018-0728-PST-E

PCW

Respondent DANAM ENTERPRISES INC. dba Hildebrand Grocery

Policy Revision 4 (April 2014)

Case ID No. 56178

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101851400

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Violation Number 2

Rule Cite(s)

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

Violation Description

Failed to monitor the underground storage tank ("UST") 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		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

126 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty \$3,750

One semiannual event is recommended from the October 4, 2017 investigation start date to February 7, 2018 when the final tank was registered as empty and temporarily out of service.

Good Faith Efforts to Comply

25.0%

Reduction \$937

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent came into compliance on February 7, 2018 before the Notice of Enforcement ("NOE") dated May 14, 2018.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$4,893

This violation Final Assessed Penalty (adjusted for limits) \$4,893

Economic Benefit Worksheet

Respondent DANAM ENTERPRISES INC. dba Hildebrand Grocery
Case ID No. 56178
Reg. Ent. Reference No. RN101851400
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	Costs Saved	EB Amount
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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	4-Oct-2017	7-Feb-2018	0.35	\$26	n/a	\$26

Notes for DELAYED costs

Estimated delayed cost to implement a method of release detection for the UST at the Facility. The Date Required is the investigation start date and the Final Date is the date the tank was emptied and temporarily removed from service.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$26

Screening Date 23-May-2018

Docket No. 2018-0728-PST-E

PCW

Respondent DANAM ENTERPRISES INC. dba Hildebrand Grocery

Policy Revision 4 (April 2014)

Case ID No. 56178

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101851400

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.606

Violation Description

Failed to maintain required operator training certification documentation at the Facility and provide it upon request by a TCEQ-authorized investigator.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

85 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$312

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		

Notes

The Respondent came into compliance on December 28, 2017 prior to the NOE dated May 14, 2018.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,631

This violation Final Assessed Penalty (adjusted for limits) \$1,631

Economic Benefit Worksheet

Respondent DANAM ENTERPRISES INC. dba Hildebrand Grocery
Case ID No. 56178
Reg. Ent. Reference No. RN101851400
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	Costs Saved	EB Amount
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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	\$45	4-Oct-2017	28-Dec-2017	0.23	\$1	n/a	\$1
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 maintain records of UST operator training certification. The Date Required is the investigation start date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$45	TOTAL	\$1
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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

Compliance History Report for CN601008352, RN101851400, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

Customer, Respondent, or Owner/Operator: CN601008352, DANAM ENTERPRISES INC. **Classification:** UNSATISFACTORY **Rating:** 56.25

Regulated Entity: RN101851400, Hildebrand Grocery **Classification:** UNSATISFACTORY **Rating:** 56.25

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 1502 West Hildebrand Avenue in San Antonio, Bexar County, Texas

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 7099

Compliance History Period: September 01, 2012 to August 31, 2017 **Rating Year:** 2017 **Rating Date:** 09/01/2017

Date Compliance History Report Prepared: May 23, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 23, 2013 to May 23, 2018

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

Name: Stephanie McCurley

Phone: (512) 239-2607

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

1 Effective Date: 11/28/2013 ADMINORDER 2013-0987-PST-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d)
30 TAC Chapter 334, SubChapter C 334.49(a)(1)
Description: Failure to provide corrosion protection for the UST system.

2 Effective Date: 12/13/2016 ADMINORDER 2016-0850-PST-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
Description: Failure to monitor the USTs for releases at a frequency of at least once every month by using one or more of the release detection methods.
Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter N 334.602(a)
Description: failed to designate, train and certify at least one named individual for each class of operator-class A, class B, and class C for the facility

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 March 28, 2018 (1474348)

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
DANAM ENTERPRISES INC. DBA
HILDEBRAND GROCERY;
RN101851400**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2018-0728-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding DANAM ENTERPRISES INC. dba Hildebrand Grocery ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 1502 West Hildebrand Avenue in San Antonio, Bexar County, Texas (Facility ID No. 7099) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of twelve thousand three hundred ninety-six dollars (\$12,396.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid two thousand two hundred sixteen dollars (\$2,216.00). The remaining amount of ten thousand one hundred eighty dollars (\$10,180.00) shall be paid in thirty-four (34) monthly payments of two hundred ninety-one dollars (\$291.00) each and one (1) remaining payment of two hundred eighty-six dollars (\$286.00). 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 the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
6. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
 7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
 8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
 9. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. Emptied and registered the operational UST at the Facility as temporarily out of service on February 7, 2018;
 - b. Completed the triennial testing of the corrosion protection system with passing results on December 21, 2017; and
 - c. Provided operator training certificates on December 28, 2017.
 10. The Executive Director further recognizes that on March 9, 2020, Respondent removed the USTs from the Facility and installed new USTs and components at the Facility on March 17, 2020.

II. ALLEGATIONS

1. During an investigation conducted October 4, 2017, through February 13, 2018, a TCEQ investigator documented that Respondent:
 - a. Failed to provide corrosion protection for the UST system by ensuring that the corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection to all underground metal components of the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(2) and (a)(4). Specifically, the containment sumps for the submersible turbine pumps (“STPs”), the piping, and associated connectors were partially submerged in rust colored water, and the sacrificial anodes were installed onto STPs with existing rust and corrosion. Additionally, failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C). Also, failed to test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(4). Specifically, the triennial test for the corrosion protection system was due July 22, 2016; however, it was not tested until December 21, 2017;
 - b. Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A); and
 - c. Failed to maintain required operator training certification documentation at the Facility and provide it upon request by a TCEQ-authorized investigator, in violation of 30 TEX. ADMIN. CODE § 334.606.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: DANAM ENTERPRISES INC. dba Hildebrand Grocery, Docket No. 2018-0728-PST-E" to:

Financial Administration Division
Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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

Frank E. Chanallop

02/07/22

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Ameeya Dharani

Signature Ameeya Dharani, President
DANAM ENTERPRISES INC.
1502 West Hildebrand Avenue
San Antonio, Texas 78201

09-09-2021

Date

If mailing address has changed, please check this box and provide the new address below:
