

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel
Dinniah Tadema, Assistant General Counsel

Thru: *JSR* Jess Robinson, Senior Attorney
Litigation Division

From: *CS* Cynthia Sirois, Staff Attorney
Litigation Division

Date: January 18, 2023

Subject: **Backup Revision**
January 25, 2023 Commission Agenda
Item No. 22 - Big Diamond, LLC
Docket No. 2018-1698-PST-E

Enclosed please find the following:

Attachment A to Proposed Agreed Order: Circle K Stores Inc.'s Signatory Authority for Big Diamond, LLC

Counsel for Respondent:

John Pearce, Director
Fennemore Craig, P.C.
2394 East Camelback Road, Suite 600
Phoenix, Texas 85016- 3429

Respondent Contact:

Circle K Stores, Inc.
P.O. Box 52085
Phoenix, Arizona 85072-2085

An original copy is enclosed. Please do not hesitate to call me at (512) 239-3392 if you have any questions regarding this matter.

cc: Sushil Modak, Enforcement Division
Cameron Lopez, San Antonio Regional Office
Gill Valls, Office of the General Counsel
Michael Parrish, Enforcement Division
Leslie Gann, Enforcement Division
Stuart Beckley, Enforcement Division
John Pearce, Counsel for Respondent

Attachment A

Circle K Stores Inc.'s Signatory Authority for Big Diamond, LLC



August 5, 2022

Re: Signature Authority – Texas Entities

To whom it may concern:

I am the Director of Maintenance and Environmental - North America for Circle K Stores Inc. ("Circle K"). As such, I have responsibility for, among other things, environmental and regulatory compliance in the State of Texas.

I can confirm that Denise Anderson (Sr. Environmental Manager - North America), and I both have authority to execute documents in Texas that bind both Circle K and Circle K's subsidiaries (which include, among others, Big Diamond, Skipper Beverage, and other related CST-related entities), on regulatory and environmental matters, including compliance, in Texas.

Please let me know if you have any questions, thank you.

Sincerely,

A handwritten signature in black ink that reads "Michael McKoy".

Michael McKoy
Director of Maintenance and Environmental - North America
Circle K Stores Inc.
Email: mmckoy@circlek.com
Mobile: 704-221-0329

2550 W. Tyvola Road, Suite 200
Charlotte, NC 28217

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 57026
Big Diamond, LLC dba Valero Corner Store 0406 and dba Valero Corner Store 1062
RN102373081 & RN106027600
Docket No. 2018-1698-PST-E

Order Type:
Agreed Order

Media:
PST

Small Business:
N/A

Locations Where Violations Occurred:
3225 Commercial Avenue, San Antonio, Bexar County (RN102373081)
11003 Culebra Road, San Antonio, Bexar County (RN106027600)

Type of Operation:
underground storage tank systems and convenience stores with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: Yes; 2018-1762-PST-E; 2019-0852-PST-E;
2019-1315-PST-E; 2020-0767-PST-E, and
2020-0932-PST-E

Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: December 9, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$17,051

Total Paid to General Revenue: \$17,051

Total Due to General Revenue: \$0

Compliance History Classifications: (RN102373081):

Person/CN - High
Site/RN - High

Compliance History Classifications: (RN106027600):

Person/CN - High
Site/RN - High

Major Source: RN102373081 PCW 1 of 2: Yes
RN106027600 PCW 2 of 2: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014 (PCW 1); April 2014 (PCW 2)

Investigation Information

Complaint Date: N/A
Dates of Investigation: RN102373081: October 17, 2018
RN106027600: October 18, 2018
Date of NOV: N/A
Dates of NOEs: RN102373081: November 28, 2018
RN106027600: November 30, 2018

Violation Information

RN102373081:

1. Failed to notify the agency of any change or additional information regarding the underground storage tank (“UST”) system within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(1)(H) and (d)(3)].
2. Failed to design, install, and operate all components of a UST system in a manner that will prevent releases of regulated substances due to structural failure for as long as the UST system is used to store regulated substances [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.42(a)].
3. Failed to inspect all sumps, manways, overspill containers, or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight [TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.42(i)].
4. Failed to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tank when the liquid level in the tank reaches no higher than 95% capacity [TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.51(b)(2)(C)].
5. Failed to assure that all UST recordkeeping requirements are met [30 TEX. ADMIN. CODE § 334.10(b)(2)].

RN106027600:

6. Failed to notify the agency of any change or additional information regarding the UST system within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(1)(H) and (d)(3)].
7. Failed to assure that all UST recordkeeping requirements are met [30 TEX. ADMIN. CODE § 334.10(b)(2)].

Corrective Actions/Technical Requirements

Corrective Actions Completed:

1. At Facility No. 1 (RN102373081):
 - a. Replaced corroded metal components in the submersible turbine pump (“STP”) for the UST system’s unleaded fuel UST, and installed and tested a corrosion protection system for them, with passing results, by December 6, 2018 (Violation No. 2);
 - b. Removed the liquid from the STP sump for the super fuel UST and disposed of it at an authorized facility on December 6, 2018 (Violation No. 3);
 - c. Installed overflow prevention equipment on all USTs at the facility on February 27, 2019 (Violation No. 4); and
 - d. Began maintaining piping release detection records on-site on March 18, 2021 (Violation No. 5).

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 57026
Big Diamond, LLC dba Valero Corner Store 0406 and dba Valero Corner Store 1062
RN102373081 & RN106027600
Docket No. 2018-1698-PST-E

2. At Facility No. 2 (RN106027600), began maintaining piping release detection and overflow prevention records on-site on March 18, 2021 (Violation No. 7).

Technical Requirements:

1. Within 30 days:
 - a. Submit an updated UST registration and self-certification form to reflect the current release detection method(s) for the USTs at each of the Facilities (Violation Nos. 1. and 6).
 - b. Begin conducting bimonthly inspections of all sumps, manways, overflow containers, and catchment basins at Facility No. 1 (RN102373081) (Violation No. 3).
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a. and 1.b.

Litigation Information

Date Petition Filed: N/A
Date Green Card Signed: N/A
Settlement Date: November 3, 2022

Contact Information

TCEQ Attorneys: Cynthia Sirois, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

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

TCEQ Enforcement Coordinator: Sushil Modak, Enforcement Division, (512) 239-2142

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

Respondent Contact: Circle K Stores, Inc., P.O. Box 52085, Phoenix, Arizona 85072-2085

Respondent's Attorney: John M. Pearce, Director, Fennemore Craig, P.C., 2394 East Camelback Road, Suite 600, Phoenix, Arizona 85016-3429

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	3-Dec-2018	Screening	6-Dec-2018	EPA Due	
	PCW	26-Mar-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)	
Reg. Ent. Ref. No.	RN102373081	
Facility/Site Region	13-San Antonio	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	57026	No. of Violations	5
Docket No.	2018-1698-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Berenice Munoz
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$1,525
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Notes	Reduction for High Performer classification.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$375
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$177	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,945	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,350
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.8% Adjustment	\$101
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 3.
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Final Penalty Amount	\$13,451
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,451
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$13,451
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Screening Date	6-Dec-2018	Docket No.	2018-1698-PST-E	PCW
Respondent	Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57026			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN102373081			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			

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>)	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%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes Reduction for High Performer classification.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% -10%

Screening Date	6-Dec-2018	Docket No.	2018-1698-PST-E	PCW
Respondent	Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57026			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN102373081			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	
<input type="text"/>	<input type="text" value="100% of the rule requirement was not met."/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="X"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)
Case ID No. 57026
Reg. Ent. Reference No. RN102373081
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				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	17-Oct-2018	18-Oct-2021	3.01	\$15	n/a	\$15

Notes for DELAYED costs

Estimated delayed cost to submit an updated UST registration and self-certification form to reflect the current release detection method for the USTs at the Facility. The Date Required is the investigation date and the Final Date is the estimated 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

\$100

TOTAL

\$15

Screening Date	6-Dec-2018	Docket No.	2018-1698-PST-E	PCW
Respondent	Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57026			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN102373081			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="15.0%"/>
Potential	<input type="text"/>	X	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV		NOE/NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	X	<input type="text"/>	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)
Case ID No. 57026
Reg. Ent. Reference No. RN102373081
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	\$1,500	17-Oct-2018	6-Dec-2018	0.14	\$1	\$14	\$15
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 and test a corrosion protection system for the UST system metal components of the STP for the unleaded UST. The Date Required is the investigation 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

\$1,500

TOTAL

\$15

Screening Date	6-Dec-2018	Docket No.	2018-1698-PST-E	PCW
Respondent	Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57026			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN102373081			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="15.0%"/>
Potential	<input type="text"/>	X	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)
Case ID No. 57026
Reg. Ent. Reference No. RN102373081
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	\$100	17-Oct-2018	6-Dec-2018	0.14	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	17-Oct-2018	18-Oct-2021	3.01	\$15	n/a	\$15

Notes for DELAYED costs

Estimated delayed cost to remove the liquid from the STP sump for the super fuel UST and dispose of it at an authorized facility, and to conduct bimonthly inspections of all sumps, manways, overspill containers, and catchment basins at the Facility. The Dates Required are the investigation date and the Final Dates are the date of compliance and the estimated date of compliance, respectively.

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	\$100	18-Aug-2018	17-Oct-2018	0.16	\$1	\$100	\$101
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct bimonthly inspections of all sumps, manways, overspill containers, and catchment basins at the Facility. The Date Required is 60 days before the investigation date and the Final Date is the investigation date.

Approx. Cost of Compliance

\$300

TOTAL

\$117

Screening Date	6-Dec-2018	Docket No.	2018-1698-PST-E	PCW
Respondent	Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57026			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN102373081			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="15.0%"/>
Potential	<input type="text"/>	X	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$3,750"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	X	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

Good Faith Efforts to Comply

Reduction

	Extraordinary	<input type="text"/>	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
	Ordinary	<input type="text"/>		
	N/A	X		

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)
Case ID No. 57026
Reg. Ent. Reference No. RN102373081
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	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment	\$1,000	17-Oct-2018	27-Feb-2019	0.36	\$1	\$24	\$25
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 on all USTs at the Facility (\$500 per each tank). The Date Required is the investigation 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

\$1,000

TOTAL

\$25

Screening Date	6-Dec-2018	Docket No.	2018-1698-PST-E	PCW
Respondent	Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57026			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN102373081			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

		Harm			
	Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input type="text" value="X"/>	Percent <input type="text" value="1.0%"/>
Matrix Notes	<input type="text" value="Less than 30% of the rule requirement was not met."/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="X"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Big Diamond, LLC dba Valero Corner Store 0406 (Facility No. 1)
Case ID No. 57026
Reg. Ent. Reference No. RN102373081
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	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	17-Oct-2018	18-Mar-2021	2.42	\$5	n/a	\$5
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 maintain piping release detection records on-site. The Date Required is the investigation 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

\$5



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	3-Dec-2018	Screening	7-Dec-2018	EPA Due	
	PCW	26-Mar-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	Big Diamond, LLC dba Valero Corner Store 1062 (Facility No. 2)	
Reg. Ent. Ref. No.	RN106027600	
Facility/Site Region	13-San Antonio	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	57026	No. of Violations	2
Docket No.	2018-1698-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Berenice Munoz
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,000
---	-------------------	----------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$400
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Notes	Reduction for High 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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$26	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$190	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
---	------------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
--------------	--

Final Penalty Amount	\$3,600
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,600
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$3,600
------------------------	----------------

Screening Date	7-Dec-2018	Docket No.	2018-1698-PST-E	PCW
Respondent	Big Diamond, LLC dba Valero Corner Store 1062 (Facility No. 2)			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57026			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN106027600			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			

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>)	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%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes Reduction for High Performer classification.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% -10%

Screening Date	7-Dec-2018	Docket No.	2018-1698-PST-E	PCW
Respondent	Big Diamond, LLC dba Valero Corner Store 1062 (Facility No. 2)			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57026			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN106027600			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>
<input type="text" value="100% of the rule requirement was not met."/>					

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="X"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Big Diamond, LLC dba Valero Corner Store 1062 (Facility No. 2)
Case ID No. 57026
Reg. Ent. Reference No. RN106027600
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	18-Oct-2018	18-Oct-2021	3.00	\$15	n/a	\$15

Notes for DELAYED costs

Estimated delayed cost to submit an updated UST registration and self-certification form to reflect the current release detection method for the USTs at the Facility. The Date Required is the investigation date and the Final Date is the estimated 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

\$100

TOTAL

\$15

Screening Date	7-Dec-2018	Docket No.	2018-1698-PST-E	PCW
Respondent	Big Diamond, LLC dba Valero Corner Store 1062 (Facility No. 2)			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57026			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN106027600			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

		Harm			
	Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="X"/>	Percent <input type="text" value="1.0%"/>
Matrix Notes	<input type="text" value="Less than 30% of the rule requirement was not met."/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Big Diamond, LLC dba Valero Corner Store 1062 (Facility No. 2)
Case ID No. 57026
Reg. Ent. Reference No. RN106027600
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	\$90	18-Oct-2018	18-Mar-2021	2.42	\$11	n/a	\$11
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 maintain piping release detection and overfill prevention records on-site (\$45 each). The Date Required is the investigation 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

\$90

TOTAL

\$11

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 CN604312421, RN102373081, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator: CN604312421, Big Diamond, LLC **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN102373081, Valero Corner Store 0406 **Classification:** HIGH **Rating:** 0.00
0406

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

CH Group: 14 - Other

Location: 3225 Commercial Avenue, San Antonio, Bexar County, Texas 78221-2550

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 32894

Compliance History Period: September 01, 2013 to August 31, 2018 **Rating Year:** 2018 **Rating Date:** 09/01/2018

Date Compliance History Report Prepared: December 06, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 06, 2013 to December 06, 2018

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Berenice Munoz **Phone:** (915) 834-4976

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:

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 August 05, 2016 (1349697)

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 12/6/2013 and 12/6/2018

N/A

For Informational Purposes Only

Appendix B

All Investigations Conducted During Component Period December 06, 2013 and December 06, 2018

(1349697)

Item 1* August 05, 2016**

For Informational Purposes Only

(1525480)

Item 2 November 28, 2018

For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2013 and 08/31/2018.

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 CN604312421, RN106027600, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator:	CN604312421, Big Diamond, LLC	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN106027600, Valero Corner Store 1062 1062	Classification: HIGH	Rating: 0.00
Complexity Points:	3	Repeat Violator: NO	
CH Group:	14 - Other		
Location:	11003 Culebra Road, San Antonio, Bexar County, Texas 78253-4876		
TCEQ Region:	REGION 13 - SAN ANTONIO		
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 83828		
Compliance History Period:	September 01, 2013 to August 31, 2018	Rating Year: 2018	Rating Date: 09/01/2018
Date Compliance History Report Prepared:	December 10, 2018		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	December 10, 2013 to December 10, 2018		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Berenice Munoz	Phone:	(915) 834-4976

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:

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	August 16, 2016	(1355701)
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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

Component Appendices

Appendix A

All NOVs Issued During Component Period 12/10/2013 and 12/10/2018

N/A

For Informational Purposes Only

Appendix B

All Investigations Conducted During Component Period December 10, 2013 and December 10, 2018

(1355701)

Item 1*

August 16, 2016**

For Informational Purposes Only

(1524897)

Item 2

November 30, 2018

For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2013 and 08/31/2018.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BIG DIAMOND, LLC
DBA VALERO CORNER STORE 0406 AND
DBA VALERO CORNER STORE 1062;
RN102373081 & RN106027600**

**§
§
§
§
§
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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2018-1698-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 Big Diamond, LLC dba Valero Corner Store 0406 and dba Valero Corner Store 1062 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and the Respondent, represented by John M. Pearce of the law firm Fennemore Craig, P.C., together stipulate that:

1. Respondent owned and operated, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), underground storage tank ("UST") systems and convenience stores with retail sales of gasoline (collectively referred to as the "Facilities") located as follows:
 - a. Valero Corner Store 0406, at 3225 Commercial Avenue in San Antonio, Bexar County, Texas (Facility ID No. 32894) ("Facility No. 1"); and
 - b. Valero Corner Store 1062, at 11003 Culebra Road in San Antonio, Bexar County, Texas (Facility ID No. 83828) ("Facility No. 2").

The UST systems at the Facilities 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. TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
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 seventeen thousand fifty-one dollars (\$17,051.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Respondent paid seventeen thousand fifty-one dollars (\$17,051.00) of the penalty.
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 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 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:
 - a. At Facility No. 1:
 - i. Replaced corroded metal components in the submersible turbine pump ("STP") for the UST system's unleaded fuel UST, and installed and tested a corrosion protection system for them, with passing results, by December 6, 2018 (Allegation No. 1.b.);
 - ii. Removed the liquid from the STP sump for the super fuel UST and disposed of it at an authorized facility on December 6, 2018 (Allegation No. 1.c.);
 - iii. Installed overflow prevention equipment on all USTs at the facility on February 27, 2019 (Allegation No. 1.d.); and
 - iv. Began maintaining piping release detection records on-site on March 18, 2021 (Allegation No. 1.e.).
 - b. At Facility No. 2, began maintaining piping release detection and overflow prevention records on-site on March 18, 2021 (Allegation No. 2.b.).
10. The Executive Director recognizes that Respondent is a subsidiary of Circle K Stores, Inc. (Attachment "A") and that Circle K Stores, Inc. has the authority to execute documents that bind both Circle K Stores, Inc. and Circle K Stores, Inc.'s subsidiaries on regulatory and environmental matters in Texas, including compliance with statutes and rules within TCEQ's jurisdiction.
11. The Executive Director recognizes that Circle K Stores, Inc. owns and operates the Facilities as of August 16, 2021.

II. ALLEGATIONS

1. During an investigation conducted at Facility No. 1 on October 17, 2018, an investigator documented that Respondent:
 - a. Failed to notify the agency of any change or additional information regarding the UST system within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(1)(H) and (d)(3). Specifically, the registration was not updated to reflect the current release detection method for the USTs at the Facility;
 - b. Failed to design, install, and operate all components of a UST system in a manner that will prevent releases of regulated substances due to structural failure for as long as the UST system is used to store regulated substances, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.42(a). Specifically, metal components of the STP for the unleaded fuel UST were corroded;

- c. Failed to inspect all sumps, manways, overflow containers, or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.42(i). Specifically, metal components of the STP sump for the super fuel UST were observed submerged in approximately eight inches of liquid;
 - d. Failed to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tank when the liquid level in the tank reaches no higher than 95% capacity, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.51(b)(2)(C). Specifically, no overflow prevention equipment was installed on the USTs at the Facility; and
 - e. Failed to assure that all UST recordkeeping requirements are met, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2). Specifically, piping release detection records were not available for review.
2. During an investigation conducted at Facility No. 2 on October 18, 2018, an investigator documented that Respondent:
- a. Failed to notify the agency of any change or additional information regarding the UST system within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(1)(H) and (d)(3). Specifically, the registration was not updated to reflect the current release detection method for the USTs at the Facility; and
 - b. Failed to assure that all UST recordkeeping requirements are met, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2). Specifically, piping release detection and overflow prevention records were not available for review.

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 No. 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 action or penalties for violations which are not raised here.
2. Respondent shall ensure and be responsible for the following technical requirements being performed:
 - a. Within 30 days after the effective date of this Order:
 - i. Submit an updated UST registration and self-certification form to reflect the current release detection method(s) for the USTs at each of the Facilities, in accordance with 30 TEX. ADMIN. CODE § 334.7 (Allegations Nos. 1.a. and 2.a.); and
 - ii. Begin conducting bimonthly inspections of all sumps, manways, overflow containers, and catchment basins at Facility No. 1, in accordance with 30 TEX. ADMIN. CODE § 334.42.
 - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii.

The certifications shall be accompanied by detailed supporting documentation including photographs, receipts, and/or other records, shall be signed by Respondent, and shall 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 fine and imprisonment for knowing violations."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. All relief not expressly granted in this Order is denied.
4. 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 Facilities' operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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.

8. 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.
9. 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

Erin E. Chanallop
For the Executive Director

12/19/22
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.

Kristen A Sherman
Signature - Authorized Representative
Circle K Stores, Inc.
P.O. Box 52085
Phoenix, Arizona 85072-2085

11/3/2022
Date

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