

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 57967
OLMOS EQUIPMENT, INC.
RN101381820
Docket No. 2019-0973-MLM-E

Order Type:

Default Order (SOAH preliminary hearing)

Media:

MLM: PST, MSW, and Used Oil

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

440 Pinn Road, San Antonio, Bexar County

Type of Operation:

underground storage tank ("UST") system and a construction warehouse

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: June 9, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$52,197

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$52,197

Compliance History Classifications:

Person/CN - High
Site/RN - High

Major Source: Yes; No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): April 9, 2019

Complaint Information: The complaint alleges an oil discharge from the facility and storage of a large quantity of tires.

Date(s) of Investigation: May 2, 2019 and May 6, 2019

Date(s) of NOV(s): N/A

Date(s) of NOE(s): July 1, 2019

OLMOS EQUIPMENT, INC.
RN101381820
Docket No. 2019-0973-MLM-E

Violation Information

1. Failed to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
2. Failed to ensure the UST corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(2)].
3. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
4. Failed to provide release detection for the pressurized piping associated with the UST system [TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)].
5. Failed to maintain containers used to store used oil in good condition and not leaking [TEX. HEALTH & SAFETY CODE § 371.041, 30 TEX. ADMIN. CODE § 324.4(1), and 40 C.F.R. § 279.22(b)].
6. Failed to clean up and properly manage a release of used oil [30 TEX. ADMIN. CODE § 324.15 and 40 C.F.R. § 279.22(d)(3)].
7. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW [30 TEX. ADMIN. CODE § 330.15(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

As of August 26, 2020, Respondent no longer owns or operates the Facility.

Technical Requirements:

None

Litigation Information

Date Petition(s) Filed:	July 21, 2022
Date(s) of Service:	unclaimed
Date Answer(s) Filed:	August 12, 2022
SOAH Referral Date:	February 6, 2023
Hearing Date(s):	
Preliminary hearing:	April 13, 2023 (defaulted)
Evidentiary hearing:	N/A

Contact Information

TCEQ Attorneys: Megan Grace, 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: Jack Higginbotham, San Antonio Regional Office, (210) 490-3096

Respondent Contact: Larry Struthoff, Director, OLMOS EQUIPMENT, INC., 84 Pine Trail, Higden, Arkansas 72067

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	8-Jul-2019	Screening	15-Jul-2019	EPA Due	
	PCW	9-Mar-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	OLMOS EQUIPMENT, INC.	
Reg. Ent. Ref. No.	RN101381820	
Facility/Site Region	13-San Antonio	Major/Minor Source
		Minor

CASE INFORMATION

Enf./Case ID No.	57967	No. of Violations	3
Docket No.	2019-0973-MLM-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media	Waste Tires and Used Oil	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	\$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	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$875
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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	\$0
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Economic Benefit	50.0% Enhancement*	Subtotal 6	\$4,375
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Total EB Amounts	\$17,392	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$15,590	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	149.1% Adjustment	\$18,267
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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 the violations and to offset the reduction for Compliance History.
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Final Penalty Amount	\$30,517
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$30,517
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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	\$30,517
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Screening Date	15-Jul-2019	Docket No.	2019-0973-MLM-E	PCW
Respondent	OLMOS EQUIPMENT, INC.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57967			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101381820			
Media	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.
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Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date	15-Jul-2019	Docket No.	2019-0973-MLM-E	PCW
Respondent	OLMOS EQUIPMENT, INC.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57967			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101381820			
Media	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" 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 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 OLMOS EQUIPMENT, INC.
Case ID No. 57967
Reg. Ent. Reference No. RN101381820
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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	\$2,640	1-Jul-2016	26-Aug-2020	4.16	\$1,491	\$10,972	\$12,463
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to provide financial assurance for four USTs (\$660 per each tank). The Date Required is the expiration date of the last policy and the Final Date is the date of ownership change.

Approx. Cost of Compliance

\$10,972

TOTAL

\$12,463

Screening Date	15-Jul-2019	Docket No.	2019-0973-MLM-E	PCW	
Respondent	OLMOS EQUIPMENT, INC.			Policy Revision 4 (April 2014)	
Case ID No.	57967			PCW Revision March 26, 2014	
Reg. Ent. Reference No.	RN101381820				
Media	Petroleum Storage Tank				
Enf. Coordinator	Berenice Munoz				
Violation Number	2				
Rule Cite(s)	30 Tex. Admin. Code § 334.49(a)(2) and Tex. Water Code § 26.3475(d)				
Violation Description	Failed to ensure the UST corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection. Specifically, the rectifier was inactive.				
		Base Penalty	\$25,000		
>> Environmental, Property and Human Health Matrix					
OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	X	<input type="text"/>	<input type="text"/>	Percent 15.0%
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	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	70	Number of violation days	
	daily	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	weekly	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	monthly	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	quarterly	X	<input type="text"/>	<input type="text"/>	Violation Base Penalty \$3,750
	semiannual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	annual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	single event	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	One quarterly event is recommended from the May 6, 2019 investigation date to the July 15, 2019 screening date.				
Good Faith Efforts to Comply					
	0.0%			Reduction \$0	
		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	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	\$3,198	Violation Final Penalty Total	\$13,079	
	This violation Final Assessed Penalty (adjusted for limits)			\$13,079	

Economic Benefit Worksheet

Respondent OLMOS EQUIPMENT, INC.
Case ID No. 57967
Reg. Ent. Reference No. RN101381820
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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)	\$3,000	6-May-2019	26-Aug-2020	1.31	\$198	\$3,000	\$3,198

Notes for AVOIDED costs

Estimated avoided cost to repair and test the corrosion protection system for the UST system at the Facility. The Date Required is the investigation date and the Final Date is the date of ownership change.

Approx. Cost of Compliance

\$3,000

TOTAL

\$3,198

Screening Date	15-Jul-2019	Docket No.	2019-0973-MLM-E	PCW
Respondent	OLMOS EQUIPMENT, INC.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57967			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101381820			
Media	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" value="X"/>	<input type="text"/>	<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	<input type="text" value="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"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
N/A	<input 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 OLMOS EQUIPMENT, INC.
Case ID No. 57967
Reg. Ent. Reference No. RN101381820
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE 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	\$1,500	6-May-2019	26-Aug-2020	1.31	\$99	\$1,500	\$1,599
Other (as needed)	\$118	6-May-2018	26-Aug-2020	2.31	\$14	\$118	\$132

Notes for AVOIDED costs

Estimated avoided cost to implement a release detection method for the USTs at the Facility (\$1,500) and to conduct the annual line leak detector and piping tightness tests (\$118). The Dates Required are the investigation date and one year prior to the investigation date, respectively, and the Final Dates are the date of ownership change.

Approx. Cost of Compliance \$1,618

TOTAL \$1,731



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	8-Jul-2019	Screening	15-Jul-2019	EPA Due	
	PCW	9-Mar-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	OLMOS EQUIPMENT, INC.				
Reg. Ent. Ref. No.	RN101381820				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	57967	No. of Violations	2
Docket No.	2019-0973-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Petroleum Storage Tank and Waste Tires	Enf. Coordinator	Berenice Munoz
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,150
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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	-\$915
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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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$3,450	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,236	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,235
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OTHER FACTORS AS JUSTICE MAY REQUIRE	53.0% Adjustment	\$4,365
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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 the violations and to offset the reduction for Compliance History.
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Final Penalty Amount	\$12,600
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,600
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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	\$12,600
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Screening Date	15-Jul-2019	Docket No.	2019-0973-MLM-E	PCW
Respondent	OLMOS EQUIPMENT, INC.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57967			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101381820			
Media	Used Oil			
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	15-Jul-2019	Docket No.	2019-0973-MLM-E	PCW
Respondent	OLMOS EQUIPMENT, INC.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57967			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101381820			
Media	Used Oil			
Enf. Coordinator	Berenice Munoz			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 324.4(1), 40 Code of Federal Regulations ("CFR") § 279.22(b), and Texas Health & Safety Code § 371.041

Violation Description
Failed to maintain containers used to store used oil in good condition and not leaking. Specifically, approximately 24 55-gallon drums containing used oil were observed unsealed and structurally compromised.

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="3.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="X"/>	<input type="text"/>	

>> Programmatic Matrix

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

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

Adjustment

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

One single event is recommended.

Good Faith Efforts to Comply Reduction

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

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

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent OLMOS EQUIPMENT, INC.
Case ID No. 57967
Reg. Ent. Reference No. RN101381820
Media Used Oil
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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	\$2,136	6-May-2019	26-Aug-2020	1.31	\$141	\$2,136	\$2,277
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to replace any corroded or damaged used oil containers, and ensure that any remaining containers are kept in good condition and properly closed (\$89 per each container that needs to be replaced). The Date Required is the investigation date and the Final Date is the date of ownership change.

Approx. Cost of Compliance

\$2,136

TOTAL

\$2,277

Screening Date	15-Jul-2019	Docket No.	2019-0973-MLM-E	PCW	
Respondent	OLMOS EQUIPMENT, INC.			Policy Revision 4 (April 2014)	
Case ID No.	57967			PCW Revision March 26, 2014	
Reg. Ent. Reference No.	RN101381820				
Media	Used Oil				
Enf. Coordinator	Berenice Munoz				
Violation Number	2				
Rule Cite(s)	30 Tex. Admin. Code § 324.15 and 40 CFR § 279.22(d)(3)				
Violation Description	Failed to clean up and properly manage a release of used oil. Specifically, a used oil stain impacting approximately 800 square feet emanating from the warehouse, a used oil spill of approximately 6 feet by 4 feet beside the used oil tanks, a sheen flowing approximately 200 feet to the South of the property and 150 feet following a concrete curb before dissipating within disposed vegetation, and three separate sheens contained within isolated pools in the Northern bank of Leon Creek were observed at the Facility.				
		Base Penalty	\$5,000		
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			
		Major	Moderate	Minor	
	Actual	<input type="text"/>	X	<input type="text"/>	Percent <input type="text" value="15.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<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	Human health or the environment has been exposed to significant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
		Adjustment	\$4,250		
			\$750		
Violation Events					
	Number of Violation Events	<input type="text" value="12"/>	<input type="text" value="70"/>	Number of violation days	
	daily	<input type="text"/>			Violation Base Penalty <input type="text" value="\$9,000"/>
	weekly	<input type="text"/>			
	monthly	X			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
	12 monthly events are recommended (three per each of four isolated contaminated areas) from the May 6, 2019 investigation date to the July 15, 2019 screening date.				
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction	<input type="text" value="\$0"/>	
	Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer				
	Extraordinary	<input type="text"/>			
	Ordinary	<input type="text"/>			
	N/A	X			
	Notes	The Respondent does not meet the good faith criteria for this violation.			
			Violation Subtotal	<input type="text" value="\$9,000"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test		
	Estimated EB Amount	<input type="text" value="\$1,173"/>	Violation Final Penalty Total	<input type="text" value="\$12,393"/>	
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$12,393"/>	

Economic Benefit Worksheet

Respondent OLMOS EQUIPMENT, INC.
Case ID No. 57967
Reg. Ent. Reference No. RN101381820
Media Used Oil
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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	\$1,000	6-May-2019	26-Aug-2020	1.31	\$66	\$1,000	\$1,066
Other (as needed)	\$100	6-May-2019	26-Aug-2020	1.31	\$7	\$100	\$107

Notes for AVOIDED costs

Estimated avoided cost to remove and properly dispose of oil-contaminated soils at an authorized facility and submit a report including the details of the release incidents and adequacy of corrective actions (\$1,000), and to develop and implement procedures designed to prevent any additional discharges of used oil onto the ground (\$100). The Dates Required are the investigation date and the Final Dates are the date of ownership change.

Approx. Cost of Compliance	\$1,100	TOTAL	\$1,173
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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	8-Jul-2019	Screening	15-Jul-2019	EPA Due	
	PCW	9-Mar-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	OLMOS EQUIPMENT, INC.	
Reg. Ent. Ref. No.	RN101381820	
Facility/Site Region	13-San Antonio	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	57967	No. of Violations	1
Docket No.	2019-0973-MLM-E	Order Type	1660
Media Program(s)	Waste Tires	Government/Non-Profit	No
Multi-Media	Petroleum Storage Tank and Used Oil	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	\$3,750
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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	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$375
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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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$5,330	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$5,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,375
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OTHER FACTORS AS JUSTICE MAY REQUIRE	169.0% Adjustment	\$5,705
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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 the violations and to offset the reduction for Compliance History.
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Final Penalty Amount	\$9,080
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,080
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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	\$9,080
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Screening Date	15-Jul-2019	Docket No.	2019-0973-MLM-E	PCW
Respondent	OLMOS EQUIPMENT, INC.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57967			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101381820			
Media	Waste Tires			
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.
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Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date	15-Jul-2019	Docket No.	2019-0973-MLM-E	PCW
Respondent	OLMOS EQUIPMENT, INC.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	57967			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101381820			
Media	Waste Tires			
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"/>	X	<input type="text" value="15.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<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 OLMOS EQUIPMENT, INC.
Case ID No. 57967
Reg. Ent. Reference No. RN101381820
Media Waste Tires
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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	\$5,000	6-May-2019	26-Aug-2020	1.31	\$330	\$5,000	\$5,330
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to remove all scrap tires from the Facility, and dispose of them at an authorized facility (\$5 per each tire). The Date Required is the investigation date and the Final Date is the date of ownership change.

Approx. Cost of Compliance \$5,000

TOTAL \$5,330

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 CN602643447, RN101381820, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator: CN602643447, OLMOS EQUIPMENT, INC. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN101381820, Olmos Equipment **Classification:** HIGH **Rating:** 0.00

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 440 Pinn Road, San Antonio, Bexar County, Texas 78227-1232

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 18581

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

Date Compliance History Report Prepared: July 15, 2019

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 15, 2014 to July 15, 2019

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 June 17, 2016 (1331300)

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
OLMOS EQUIPMENT, INC.;
RN101381820**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2019-0973-MLM-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE chs. 361 and 371, 40 C.F.R. Part 279, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is OLMOS EQUIPMENT, INC. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated a construction warehouse located at 440 Pinn Road in San Antonio, Bexar County, Texas (the "Facility"). The Facility contained an underground storage tank ("UST") system (Facility ID No. 18581) that was not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and it contained a regulated petroleum substance as defined in the rules of the TCEQ. The Facility also contained and/or involved the management of used oil and municipal solid waste ("MSW"), including scrap tires, as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371.
2. During an investigation conducted on May 2, 2019, and May 6, 2019, an investigator documented that Respondent:
 - a. Failed to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs;
 - b. Failed to ensure the UST corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection. Specifically, the rectifier was inactive;
 - c. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days;
 - d. Failed to provide release detection for the pressurized piping associated with the UST system. Specifically, Respondent did not conduct the annual line leak detector and piping tightness tests;
 - e. Failed to maintain containers used to store used oil in good condition and not leaking. Specifically, approximately 24 55-gallon drums containing used oil were observed unsealed and structurally compromised;
 - f. Failed to clean up and properly manage a release of used oil. Specifically, a used oil stain impacting approximately 800 square feet emanating from the warehouse, a used oil spill of approximately 6 feet by 4 feet beside the used oil tanks, a sheen flowing approximately 200 feet to the South of the property and 150 feet following

- a concrete curb before dissipating within disposed vegetation, and three separate sheens contained within isolated pools in the Northern bank of Leon Creek were observed at the Facility; and
- g. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, an estimated 1,000 scrap tires were observed disposed of on the ground.
3. The Executive Director recognizes that Respondent no longer owns or operates the Facility, as of August 26, 2020.
 4. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against OLMOS EQUIPMENT, INC.” (the “EDPRP”) in the TCEQ Chief Clerk’s office on July 21, 2022.
 5. Respondent’s Answer to the EDPRP was filed on August 12, 2022, and the matter was referred to the State Office of Administrative Hearings (“SOAH”) on February 6, 2023.
 6. On March 17, 2023, the TCEQ Chief Clerk mailed notice of the April 13, 2023, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
 7. On April 13, 2023, the Administrative Law Judge (“ALJ”) convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
 8. On April 19, 2023, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 2 so that TCEQ may dispose of this case on a default basis.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE chs. 361 and 371, 40 C.F.R. Part 279, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to ensure the UST corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(2).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to provide release detection for the pressurized piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to maintain containers used to store used oil in good condition and not leaking, in violation of TEX. HEALTH & SAFETY CODE § 371.041, 30 TEX. ADMIN. CODE § 324.4(1), and 40 C.F.R. § 279.22(b).

7. As evidenced by Finding of Fact No. 2.f., Respondent failed to clean up and properly manage a release of used oil, in violation of 30 TEX. ADMIN. CODE § 324.15 and 40 C.F.R. § 279.22(d)(3).
8. As evidenced by Finding of Fact No. 2.g., Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
9. As evidenced by Finding of Fact No. 5, Respondent's Answer to the EDPRP was filed as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(d) and 30 TEX. ADMIN. CODE § 70.109.
10. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.105(b), 155.401, and 155.501.
11. As evidenced by Findings of Fact Nos. 7 and 8, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE § 155.501(e), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106(b).
12. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
13. An administrative penalty in the amount of fifty-two thousand one hundred ninety-seven dollars (\$52,197.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
14. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of fifty-two thousand one hundred ninety-seven dollars (\$52,197.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: OLMOS EQUIPMENT, INC.; Docket No. 2019-0973-MLM-E" to:

Financial Administration Division, Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
3. The Executive Director does not recommend any corrective measures at this time.

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent.
6. 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.
7. 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.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF MEGAN L. GRACE

“On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against OLMOS EQUIPMENT, INC.’ (the “EDPRP”) was filed in the TCEQ Chief Clerk’s office on July 21, 2022.

Respondent’s Answer to the EDPRP was filed on August 12, 2022, and the matter was referred to the State Office of Administrative Hearings (“SOAH”) on February 6, 2023. On March 17, 2023, the TCEQ Chief Clerk mailed notice of the April 13, 2023 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on April 13, 2023. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(e), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV’T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 2, issued on April 19, 2023, so that TCEQ may dispose of this case on a default basis.”

"My name is Megan L. Grace, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct.”

Executed in Travis County,
State of Texas,
on the 17th day of May, 2023

A handwritten signature in black ink, appearing to read "Megan L. Grace".

Declarant