

Executive Summary – Enforcement Matter – Case No. 58224

Jimmy Joyce

RN101870483

Docket No. 2019-1411-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Paul's Restaurant, 219 North Main Street, Morton, Cochran County

Type of Operation:

Underground storage tank ("UST") system and an out-of-service fuel station

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 30, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,351

Amount Deferred as Recommended by the Commission: \$9,251

Total Paid to General Revenue: \$100

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 18, 2019

Date(s) of NOE(s): August 22, 2019

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Jimmy Joyce

RN101870483

Docket No. 2019-1411-PST-E

Violation Information

1. Failed to identify and designate for the UST Facility at least one named individual for each class of operator - Class A, Class B, and Class C. Specifically, there was no Class A and Class B operator designated for the Facility [30 TEX. ADMIN. CODE § 334.602(a)].
2. Failed to provide an amended registration for any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition. Specifically, the Respondent did not amend the registration to include owner's contact information [30 TEX. ADMIN. CODE § 334.7(d)(3) and (e)(2)].
3. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE §§ 334.49(c)(4)(C) and 334.54(b)(3) and TEX. WATER CODE § 26.3475(d)].
4. Failed to ensure that the corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection to all underground metal components of the UST system. Specifically, no corrosion protection system was installed to protect the steel USTs [30 TEX. ADMIN. CODE § 334.49(a)(2) and TEX. WATER CODE § 26.3475(d)].
5. Failed to keep all vent lines open and functioning [30 TEX. ADMIN. CODE § 334.54(b)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent submitted an amended UST registration form to the TCEQ on July 31, 2019.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Designate, train, and certify at least one named individual for Class A and Class B operator for the Facility;
 - ii. Install and test a corrosion protection system;
 - iii. Conduct the triennial cathodic protection test; and

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Docket No. 2019-1411-PST-E

- iv. Ensure all UST system vent lines remain open and functioning; or
- v. In lieu of completing a.i. through a.iv., permanently remove the UST system from service.
- b. Within 45 days, submit written certification to demonstrate compliance with a.i. through a.iv. or complete v.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Stephanie McCurley, Enforcement Division, Enforcement Team 7, MC 219, (512) 239-2607; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Jimmy Joyce, Owner/Manager, 7203 Primrose Avenue, Lubbock, Texas 79424

Claudette Joyce, Representative, 7203 Primrose Avenue, Lubbock, Texas 79424

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 26-Aug-2019 | Screening | 30-Aug-2019 | EPA Due | |
| | PCW | 9-Feb-2022 | | | | |

| | |
|--|-------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Jimmy Joyce |
| Reg. Ent. Ref. No. | RN101870483 |
| Facility/Site Region | 2-Lubbock |
| Major/Minor Source | Minor |

| | | | |
|--|------------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 58224 | No. of Violations | 4 |
| Docket No. | 2019-1411-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Stephanie McCurley |
| | | EC's Team | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|----------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$10,000 |
|---|-------------------|----------|

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 | -\$1,000 |
|---------------------------|-------------------|--------------------------------|----------|

| | |
|--------------|--|
| Notes | Reduction for High Performer classification. |
|--------------|--|

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

| | |
|--------------|--|
| Notes | The Respondent does not meet the culpability criteria. |
|--------------|--|

| | | |
|--|-------------------|--------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | -\$312 |
|--|-------------------|--------|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

| | | |
|------------------------------|---------|-----------------------------------|
| Total EB Amounts | \$1,104 | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$7,745 | |

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$8,688 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|------|-------------------|-------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 7.6% | Adjustment | \$663 |
|---|------|-------------------|-------|

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|--------------|---|
| Notes | Recommended enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 and 3. |
|--------------|---|

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$9,351 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$9,351 |
|-----------------------------------|-------------------------------|---------|

| | | | | |
|-----------------|-------|-----------|-------------------|----------|
| DEFERRAL | 98.9% | Reduction | Adjustment | -\$9,251 |
|-----------------|-------|-----------|-------------------|----------|

Reduces the Final Assessed Penalty by the indicated percentage.

| | |
|--------------|--|
| Notes | Deferral offered as recommended by the Commission. |
|--------------|--|

| | |
|------------------------|-------|
| PAYABLE PENALTY | \$100 |
|------------------------|-------|

Screening Date 30-Aug-2019

Docket No. 2019-1411-PST-E

PCW

Respondent Jimmy Joyce

Policy Revision 4 (April 2014)

Case ID No. 58224

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101870483

Media Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Number | Adjust. |
|-------------------------------|--|--------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 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 30-Aug-2019 **Docket No.** 2019-1411-PST-E **PCW**
Respondent Jimmy Joyce *Policy Revision 4 (April 2014)*
Case ID No. 58224 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN101870483
Media Petroleum Storage Tank
Enf. Coordinator Stephanie McCurley

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 334.602(a)
Violation Description Failed to identify and designate for the underground storage tank ("UST") Facility at least one named individual for each class of operator - Class A, Class B, and Class C. Specifically, there was no Class A and Class B operator designated for the Facility.
Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|----------------|-------------|----------|-------|---------------------|
| OR | | Harm | | | |
| | Release | Major | Moderate | Minor | |
| | Actual | | | | Percent 5.0% |
| Potential | | x | | | |

>> Programmatic Matrix

| | | | | | |
|--|---------------|-------|----------|-------|---------------------|
| | Falsification | Major | Moderate | Minor | |
| | | | | | Percent 0.0% |

Matrix Notes 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 \$23,750
\$1,250

Violation Events

Number of Violation Events 1 43 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$1,250

One quarterly event is recommended from the July 18, 2019 investigation date to the August 30, 2019 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$1,250

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

Estimated EB Amount \$105 **Violation Final Penalty Total** \$1,211

This violation Final Assessed Penalty (adjusted for limits) \$1,211

Economic Benefit Worksheet

Respondent Jimmy Joyce
Case ID No. 58224
Reg. Ent. Reference No. RN101870483
Media Violation No. Petroleum Storage Tank
 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 | \$90 | 18-Jul-2019 | 21-Jun-2020 | 0.93 | \$4 | n/a | \$4 |
| 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 designate, train, and certify at least one named individual for Class A and Class B operator for 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 |
| Training | \$30 | 18-Jul-2016 | 30-Aug-2019 | 3.12 | \$7 | \$94 | \$101 |
| 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

Estimated avoided cost to designate, train, and certify at least one named individual for Class A and Class B operator for the Facility (\$90 for a three year certification). The Date Required is three years prior to the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$184

TOTAL

\$105

Screening Date 30-Aug-2019

Docket No. 2019-1411-PST-E

PCW

Respondent Jimmy Joyce

Policy Revision 4 (April 2014)

Case ID No. 58224

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101870483

Media Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3) and (e)(2)

Violation Description Failed to provide an amended registration for any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition. Specifically, the Respondent did not amend the registration to include owner's contact information.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 0.0% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | x | | | 5.0% |

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 43

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$312

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

Notes The Respondent came into compliance on July 31, 2019 prior to the Notice of Enforcement (NOE) dated August 22, 2019.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$875

This violation Final Assessed Penalty (adjusted for limits) \$875

Economic Benefit Worksheet

Respondent Jimmy Joyce
Case ID No. 58224
Reg. Ent. Reference No. RN101870483
Media Violation No. Petroleum Storage Tank
 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 | | | | 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) | \$40 | 18-Jul-2019 | 31-Jul-2019 | 0.04 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated delayed cost to amend the UST Registration and Self-Certification form with the Respondent's contact information. The Date Required is the initial 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 \$40

TOTAL \$0

Screening Date 30-Aug-2019

Docket No. 2019-1411-PST-E

PCW

Respondent Jimmy Joyce

Policy Revision 4 (April 2014)

Case ID No. 58224

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101870483

Media Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Violation Number 3

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

Violation Description Failed to ensure that the corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection to all underground metal components of the UST system. Specifically, no corrosion protection system was installed to protect the steel USTs. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | x | | |

Percent 15.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 43

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$3,750

One quarterly event is recommended from the July 18, 2019 investigation date to the August 30, 2019 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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 \$976

Violation Final Penalty Total \$3,633

This violation Final Assessed Penalty (adjusted for limits) \$3,633

Economic Benefit Worksheet

Respondent Jimmy Joyce
Case ID No. 58224
Reg. Ent. Reference No. RN101870483
Media Violation No. Petroleum Storage Tank
 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 | \$6,000 | 18-Jul-2019 | 21-Jun-2020 | 0.93 | \$19 | \$372 | \$391 |
| 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) | \$500 | 18-Jul-2019 | 21-Jun-2020 | 0.93 | \$23 | n/a | \$23 |

Notes for DELAYED costs

Estimated delayed cost to install and test a corrosion protection system. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Estimated delayed cost to conduct the triennial cathodic protection test. 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 | \$167 | 18-Jul-2016 | 30-Aug-2019 | 3.12 | \$41 | \$521 | \$562 |
| 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

Estimated avoided cost to conduct the triennial cathodic protection test (\$500 for a three year test). The Date Required is three years prior to the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance \$7,021

TOTAL \$976

Screening Date 30-Aug-2019

Docket No. 2019-1411-PST-E

PCW

Respondent Jimmy Joyce

Policy Revision 4 (April 2014)

Case ID No. 58224

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101870483

Media Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.54(b)(1)

Violation Description Failed to keep all vent lines open and functioning.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | x | | |

Percent 15.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 43

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$3,750

One quarterly event is recommended from the July 18, 2019 investigation date to the August 30, 2019 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

| | Before NOE/NOV | NOE/NOV to EDRP/Settlement Offer |
|---------------|----------------|----------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | |

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$3,633

This violation Final Assessed Penalty (adjusted for limits) \$3,633

Economic Benefit Worksheet

Respondent Jimmy Joyce
Case ID No. 58224
Reg. Ent. Reference No. RN101870483
Media Violation No. Petroleum Storage Tank
 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 | | | | 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) | \$500 | 18-Jul-2019 | 21-Jun-2020 | 0.93 | \$23 | n/a | \$23 |

Notes for DELAYED costs

Estimated delayed cost to ensure all UST system vent lines remain open and functioning. 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 \$500

TOTAL \$23

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.



Compliance History Report

Compliance History Report for CN605682814, RN101870483, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

| | | | |
|---|---|-----------------------------|--------------------------------|
| Customer, Respondent, or Owner/Operator: | CN605682814, Jimmy Joyce | Classification: HIGH | Rating: 0.00 |
| Regulated Entity: | RN101870483, Pauls Restaurant | Classification: HIGH | Rating: 0.00 |
| Complexity Points: | 2 | Repeat Violator: NO | |
| CH Group: | 14 - Other | | |
| Location: | 219 North Main Street in Morton, Cochran County, Texas | | |
| TCEQ Region: | REGION 02 - LUBBOCK | | |
| ID Number(s): | PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 28990 | | |
| Compliance History Period: | September 01, 2014 to August 31, 2019 | Rating Year: 2019 | Rating Date: 09/01/2019 |
| Date Compliance History Report Prepared: | September 30, 2019 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Component Period Selected: | September 30, 2014 to September 30, 2019 | | |
| TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History. | | | |
| Name: | Stephanie McCurley | Phone: | (512) 239-1000 |

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.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JIMMY JOYCE
RN101870483**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2019-1411-PST-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jimmy Joyce (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2(78), an underground storage tank ("UST") system and an out-of-service fuel station located at 219 North Main Street in Morton, Cochran County, Texas (the "Facility"). The UST system at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$9,351 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$100 of the penalty and \$9,251 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms

or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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 the 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 the Respondent implemented a corrective measure at the Facility by submitting an amended UST registration form to the TCEQ by July 31, 2019.

II. ALLEGATIONS

During an investigation conducted on July 18, 2019, an investigator documented that the Respondent:

1. Failed to identify and designate for the UST Facility at least one named individual for each class of operator - Class A, Class B, and Class C, in violation of 30 TEX. ADMIN. CODE § 334.602(a). Specifically, there was no Class A and Class B operator designated for the Facility.
2. Failed to provide an amended registration for any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3) and (e)(2). Specifically, the Respondent did not amend the registration to include owner's contact information.
3. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE §§ 334.49(c)(4)(C) and 334.54(b)(3) and TEX. WATER CODE § 26.3475(d).
4. Failed to ensure that the corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection to all underground metal components of the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(2) and

TEX. WATER CODE § 26.3475(d). Specifically, no corrosion protection system was installed to protect the steel USTs.

5. Failed to keep all vent lines open and functioning, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(1).

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Jimmy Joyce, Docket No. 2019-1411-PST-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Designate, train, and certify at least one named individual for Class A and Class B operator for the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.602;
 - ii. Install and test a corrosion protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - iii. Conduct the triennial cathodic protection test, in accordance with 30 TEX. ADMIN. CODE § 334.49; and
 - iv. Ensure all UST system vent lines remain open and functioning, in accordance with 30 TEX. ADMIN. CODE § 334.54; or
 - v. In lieu of completing 2.a.i through 2.a.iv, permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
 - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts,

and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.a.iv or complete 2.v. The certification shall be signed by the 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3426

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 the Respondent.
5. If the 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, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.

7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
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



For the Executive Director

5/18/2022

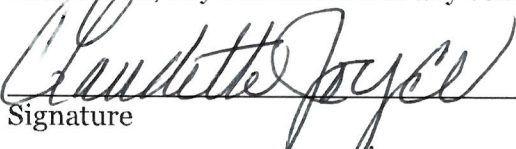
Date

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, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

3/28/2022

Date

CLAUDETTE JOYCE

Name (Printed or typed)
Authorized Representative of
Jimmy Joyce

Power of Attorney

Title

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.