

Executive Summary – Enforcement Matter – Case No. 58196
AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart
RN103026241
Docket No. 2019-1498-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Payless Food Mart, 410 East Pine Street, Frankston, Anderson County

Type of Operation:

Underground storage tank ("UST") system and a convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 30, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$43,954

Amount Deferred for Financial Inability to Pay: \$26,378

Confidential information, which may include financial or medical information, has been provided to the Commission for their consideration.

Total Paid to General Revenue: \$100

Total Due to General Revenue: \$17,476

Payment Plan: 11 payments of \$100, 23 payments of \$682 each, and a final payment of \$690

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: Yes

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 15, 2019

Date(s) of NOE(s): August 19, 2019

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AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart
RN103026241
Docket No. 2019-1498-PST-E

Violation Information

1. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
2. Failed to report suspected releases within 24 hours of discovery. Specifically, monthly inventory control ("MIC") records for the months of July and August 2018 for UST Nos. 1, 2, and 3 indicated suspected releases that were not reported [30 TEX. ADMIN. CODE § 334.72].
3. Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TEX. ADMIN. CODE § 334.72 (relating to Reporting of Suspected Releases) within 30 days. Specifically, MIC records for the months of July and August 2018 for UST Nos. 1, 2, and 3 indicated suspected releases that were not investigated [30 TEX. ADMIN. CODE § 334.74].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Conducted an investigation of the suspected releases and submitted a Release Determination Report to the TCEQ on November 1, 2019;
- b. Received a letter from the TCEQ Remediation Division indicating that the investigation conducted on the suspected releases was satisfactory and no further action was required on January 14, 2020;
- c. Implemented a release detection method for the USTs at the Facility on February 10, 2020; and
- d. Developed and implemented procedures to ensure that suspected releases are reported timely on March 15, 2020.

Technical Requirements:

N/A

Executive Summary – Enforcement Matter – Case No. 58196
AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart
RN103026241
Docket No. 2019-1498-PST-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Berenice Munoz, Enforcement Division,
Enforcement Team 6, MC R-06, (915) 834-4976; Michael Parrish, Enforcement
Division, MC 219, (512) 239-2548

Respondent: Irfan Ehsan, Owner, Payless Food Mart, 2646 Blancas Boulevard, Tyler,
Texas 75709-5442

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	28-Aug-2019	EPA Due	
	PCW	20-Aug-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart		
Reg. Ent. Ref. No.	RN103026241		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	58196	No. of Violations	3
Docket No.	2019-1498-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Berenice Munoz
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$48,750
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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	-\$4,875
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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	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$223	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,475	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$43,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.2% Adjustment	\$79
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 2.
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Final Penalty Amount	\$43,954
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$43,954
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DEFERRAL	20.0% Reduction Adjustment	-\$8,790
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$35,164
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Screening Date 28-Aug-2019

Docket No. 2019-1498-PST-E

PCW

Respondent AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart

Policy Revision 4 (April 2014)

Case ID No. 58196

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103026241

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.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 28-Aug-2019

Docket No. 2019-1498-PST-E

PCW

Respondent AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart

Policy Revision 4 (April 2014)

Case ID No. 58196

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103026241

Media Petroleum Storage Tank

Enf. Coordinator Berenice Munoz

Violation Number 1

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

Violation Description Failed to monitor the underground storage tanks ("USTs") in a manner which will detect a release at a frequency of at least once every 30 days.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 Number of violation days 44

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One quarterly event is recommended from the July 15, 2019 investigation date to the August 28, 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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$43

Violation Final Penalty Total \$6,762

This violation Final Assessed Penalty (adjusted for limits) \$6,762

Economic Benefit Worksheet

Respondent AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart
Case ID No. 58196
Reg. Ent. Reference No. RN103026241
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)	\$1,500	15-Jul-2019	10-Feb-2020	0.58	\$43	n/a	\$43

Notes for DELAYED costs

Estimated delayed cost to implement a release detection method for the USTs at the Facility. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$43

Screening Date 28-Aug-2019

Docket No. 2019-1498-PST-E

PCW

Respondent AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart

Policy Revision 4 (April 2014)

Case ID No. 58196

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103026241

Media Petroleum Storage Tank

Enf. Coordinator Berenice Munoz

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report suspected releases within 24 hours of discovery. Specifically, monthly inventory control ("MIC") records for the months of July and August 2018 for UST Nos. 1, 2, and 3 indicated suspected releases that were not reported.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			15.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3 361 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$11,250

Three single events are recommended.

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 \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$82

Violation Final Penalty Total \$10,143

This violation Final Assessed Penalty (adjusted for limits) \$10,143

Economic Benefit Worksheet

Respondent AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart
Case ID No. 58196
Reg. Ent. Reference No. RN103026241
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)	\$100	15-Jul-2019	15-Mar-2020	0.67	\$3	n/a	\$3

Notes for DELAYED costs

Estimated delayed cost to develop and implement procedures to ensure that suspected releases are reported timely. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$75	1-Sep-2018	28-Aug-2019	0.99	\$4	\$75	\$79

Notes for AVOIDED costs

Estimated avoided cost to report three suspected releases (\$25 each). The Date Required is the date the suspected releases should have been reported and the Final Date is the screening date.

Approx. Cost of Compliance

\$175

TOTAL

\$82

Screening Date 28-Aug-2019 **Docket No.** 2019-1498-PST-E
Respondent AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart
Case ID No. 58196
Reg. Ent. Reference No. RN103026241
Media Petroleum Storage Tank
Enf. Coordinator Berenice Munoz

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.74

Violation Description Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 Tex. Admin. Code § 334.72 (relating to Reporting of Suspected Releases) within 30 days. Specifically, MIC records for the months of July and August 2018 for UST Nos. 1, 2, and 3 indicated suspected releases that were not investigated.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 4 332 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$30,000

Four quarterly events are recommended from the earliest suspected release investigation due date of September 30, 2018 to the August 28, 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 \$30,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$98

Violation Final Penalty Total \$27,049

This violation Final Assessed Penalty (adjusted for limits) \$27,049

Economic Benefit Worksheet

Respondent AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart
Case ID No. 58196
Reg. Ent. Reference No. RN103026241
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,800	30-Sep-2018	1-Nov-2019	1.09	\$98	n/a	\$98

Notes for DELAYED costs

Estimated delayed cost to conduct an investigation of the suspected releases (\$1,200 for testing (\$400 per tank plus line x 3 = \$1,200) and \$600 for Release Determination Report) and implement appropriate corrective measures. The Date Required is the due date of the investigation of the suspected releases and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,800

TOTAL

\$98

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 CN604900910, RN103026241, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator: CN604900910, AZINO PROPERTY MANAGEMENT LLC **Classification:** HIGH **Rating:** 0.00
Regulated Entity: RN103026241, Payless Food Mart **Classification:** HIGH **Rating:** 0.00
Complexity Points: 6 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 410 East Pine Street in Frankston, Anderson County, Texas
TCEQ Region: REGION 05 - TYLER

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 43336

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

Date Compliance History Report Prepared: August 26, 2019

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 26, 2014 to August 26, 2019

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

Name: Amanda Scott

Phone: (512) 239-2558

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) Who is the current owner/operator? AZINO PROPERTY MANAGMENT LLC OWNER OPERATOR since 6/1/2015
- 4) Who was/were the prior owner(s)/operator(s)? SATTAR, AASIA, OWNER OPERATOR, 9/7/2007 to 5/31/2015

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 January 13, 2017 (1387637)

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
AZINO PROPERTY
MANAGEMENT LLC DBA
PAYLESS FOOD MART
RN103026241**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2019-1498-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 AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart (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 and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 410 East Pine Street in Frankston, Anderson 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 \$43,954 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Revenue Operations Section of TCEQ's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay all or part of the penalty. Therefore, \$26,378 of the penalty is deferred contingent upon the Respondent's compliance with all the terms of this Order and shall be waived only upon full compliance with this Order. If the Respondent fails to comply

with any of the requirements of this Order, including any payment schedule, the Executive Director may require Respondent to pay all or part of the deferred penalty.

The Respondent paid \$100 of the undeferred penalty. The remaining amount of \$17,476 of the undeferred penalty shall be paid in 11 monthly payments of \$100 each for the first year, followed by 23 monthly payments of \$682, and a final payment of \$690. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Order and the Executive Director may demand payment of all or part of the deferred penalty.

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 the following corrective measures:
 - a. Conducted an investigation of the suspected releases and submitted a Release Determination Report to the TCEQ on November 1, 2019;
 - b. Received a letter from the TCEQ Remediation Division indicating that the investigation conducted on the suspected releases was satisfactory and no further action was required on January 14, 2020;
 - c. Implemented a release detection method for the USTs at the Facility on February 10, 2020; and

- d. Developed and implemented procedures to ensure that suspected releases are reported timely on March 15, 2020.

II. ALLEGATIONS

During an investigation conducted on July 15, 2019, an investigator documented that the Respondent:

1. 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 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).
2. Failed to report suspected releases within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, monthly inventory control ("MIC") records for the months of July and August 2018 for UST Nos. 1, 2, and 3 indicated suspected releases that were not reported.
3. Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TEX. ADMIN. CODE § 334.72 (relating to Reporting of Suspected Releases) within 30 days, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, MIC records for the months of July and August 2018 for UST Nos. 1, 2, and 3 indicated suspected releases that were not investigated.

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: AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart, Docket No. 2019-1498-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. All relief not expressly granted in this Order is denied.

3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. 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.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This 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.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

3/2/2022

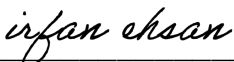
Date

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

01/25/22

Date

Irfan Ehsan

Owner/Member

Name (Printed or typed)

Title

Authorized Representative of

AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart

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