

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 53026
Sunnys Rufe Snow Inc dba Sunny Shell
RN100746882
Docket No. 2020-0240-PST-E

Order Type:
Default Shutdown Order

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
4037 Rufe Snow Drive, North Richland Hills, Tarrant County (the "Station")

Type of Operation:
convenience store with retail sales of gasoline

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

Texas Register Publication Date: April 29, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$63,319
Total Paid to General Revenue: \$0
Total Due to General Revenue: \$63,319

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

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

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: December 19, 2019
Date(s) of NOV(s): August 2, 2019
Date(s) of NOE(s): January 28, 2020

Sunnys Rufe Snow Inc dba Sunny Shell

RN100746882

Docket No. 2020-0240-PST-E

Violation Information

1. Failed to comply with annual Stage I vapor recovery testing requirements [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.225].
2. Failed to inspect all sumps, manways, overspill containers, or catchment basins associated with a UST system at least once every 60 days to ensure that their sides, bottoms, and any penetration points are maintained liquid tight [TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.42(i)].
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), 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), and TCEQ Agreed Order Docket No. 2016-1394-PST-E, Ordering Provision No. 2.a].
4. Failed to provide release detection for the pressurized piping associated with the USTs at the Station [TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)].
5. Failed to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tanks when the liquid level in the tank reaches a preset level which shall be no higher than 95% capacity [TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.51(b)(2)(C)].
6. Failed to maintain a list of all Class C Operators who have been trained for the Station [30 TEX. ADMIN. CODE § 334.603(b)(2)].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

None

Technical Requirements:

1. Immediately shut down operations of all USTs at the Station:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances; and
 - e. Temporarily remove the USTs from service.
2. The Station's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in the Order, including payment of the administrative penalty in full.
3. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the violations have been corrected and Respondent obtains a new fuel delivery certificate for the Station.
4. Immediately cease accepting fuel at the Station until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days, Respondent shall surrender the Station's UST fuel delivery certificate to the TCEQ.
6. Within 15 days, submit a detailed written report documenting the steps taken to comply with Technical Requirements Nos. 1, 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:
 - a. Begin conducting inspections of all sumps, manways, overspill containers, and catchment basins at the Station at least once every 60 days;
 - b. Conduct passing annual testing of the Stage I equipment at the Station;

Sunnys Rufe Snow Inc dba Sunny Shell

RN100746882

Docket No. 2020-0240-PST-E

- c. Remove the liquid from the spill buckets at the Station and dispose of it at an authorized facility;
 - d. Conduct passing annual line leak detector and piping tightness tests at the Station;
 - e. Implement a release detection method for the USTs at the Station;
 - f. Install overfill prevention equipment in the UST system at the Station;
 - g. Submit a current list of all Class C operators for the Station; and
 - h. Obtain a new fuel delivery certificate.
8. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times.
9. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirements Nos. 7 and 8.

Litigation Information

Date Petition(s) Filed: March 19, 2021
Date Green Card(s) Signed: March 22, 2021
Date Answer(s) Filed: June 4, 2021
SOAH Referral Date: July 19, 2021
Hearing Date(s):
Preliminary hearing: (defaulted)

Contact Information

TCEQ Attorneys: Jennifer Peltier, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-3144
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Berenice Munoz, Enforcement, (915) 834-4976
TCEQ Regional Contact: Erin Gorman, Dallas/Fort Worth Regional Office, (817) 588-5853
Respondent Contact: Prabin Piya, Director, Sunnys Rufe Snow Inc, 4037 Rufe Snow Drive, North Richland Hills, Texas 76180
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	3-Feb-2020	Screening	5-Feb-2020	EPA Due	
	PCW	5-Feb-2020				

RESPONDENT/FACILITY INFORMATION	
Respondent	Sunnys Rufe Snow Inc dba Sunny Shell
Reg. Ent. Ref. No.	RN100746882
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	53026	No. of Violations	5
Docket No.	2020-0240-PST-E	Order Type	Findings
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	\$50,000
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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	25.0%	Adjustment	Subtotals 2, 3, & 7	\$12,500
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Notes: Enhancement for one Agreed Order containing a denial of liability and one NOV with same/similar violations.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,237
 Estimated Cost of Compliance: \$4,643
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$62,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1.3%	Adjustment	\$819
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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 Nos. 1, 2, and 3.

Final Penalty Amount	\$63,319
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$63,319
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$63,319
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Screening Date 5-Feb-2020

Docket No. 2020-0240-PST-E

PCW

Respondent Sunnys Rufe Snow Inc dba Sunny Shell

Policy Revision 4 (April 2014)

Case ID No. 53026

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100746882

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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one Agreed Order containing a denial of liability and one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 5-Feb-2020

Docket No. 2020-0240-PST-E

PCW

Respondent Sunnys Rufe Snow Inc dba Sunny Shell

Policy Revision 4 (April 2014)

Case ID No. 53026

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100746882

Media Petroleum Storage Tank

Enf. Coordinator Berenice Munoz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 115.225 and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with annual Stage I vapor recovery testing requirements. Specifically, the annual testing of the Stage I equipment was not conducted.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5.0%
Potential			X		

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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 Number of violation days 48

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,250

One single event is 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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$605

Violation Final Penalty Total \$1,583

This violation Final Assessed Penalty (adjusted for limits) \$1,583

Economic Benefit Worksheet

Respondent Sunnys Rufe Snow Inc dba Sunny Shell
Case ID No. 53026
Reg. Ent. Reference No. RN100746882
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	\$500	19-Dec-2019	29-Nov-2020	0.95	\$24	n/a	\$24
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 conduct the annual testing of the Stage I equipment. 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	\$500	19-Dec-2018	5-Feb-2020	1.13	\$15	\$566	\$581
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 annual testing of the Stage I equipment. The Date Required is one year prior to the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$1,066

TOTAL

\$605

Screening Date 5-Feb-2020

Docket No. 2020-0240-PST-E

PCW

Respondent Sunnys Rufe Snow Inc dba Sunny Shell

Policy Revision 4 (April 2014)

Case ID No. 53026

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100746882

Media Petroleum Storage Tank

Enf. Coordinator Berenice Munoz

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.42(i) and Tex. Water Code § 26.3475(c)(2)

Violation Description Failed to inspect all sumps, manways, overspill containers, or catchment basins associated with an underground storage tank ("UST") system at least once every 60 days to ensure that their sides, bottoms, and any penetration points are maintained liquid-tight. Specifically, liquid was observed in the spill buckets at the Station.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (5.0%).

>> Programmatic Matrix

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

Matrix Notes Human health or the environment will or could be exposed to 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 48 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and checkboxes.

Violation Base Penalty \$1,250

One quarterly event is recommended from the December 19, 2019 investigation date to the February 5, 2020 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Table with columns: Effort Type (Extraordinary, Ordinary, N/A) and checkboxes.

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 \$111

Violation Final Penalty Total \$1,583

This violation Final Assessed Penalty (adjusted for limits) \$1,583

Economic Benefit Worksheet

Respondent Sunnys Rufe Snow Inc dba Sunny Shell
Case ID No. 53026
Reg. Ent. Reference No. RN100746882
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	\$100	19-Dec-2019	29-Nov-2020	0.95	\$5	n/a	\$5
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	19-Dec-2019	29-Nov-2020	0.95	\$5	n/a	\$5
Notes for DELAYED costs	Estimated delayed cost to remove the liquid from the spill buckets at the Station and dispose of it at an authorized facility, and to conduct inspections of all sumps, manways, overspill containers, and catchment basins at the Station at least once every 60 days. 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	\$100	20-Oct-2019	5-Feb-2020	0.30	\$1	\$100	\$101
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs	Estimated avoided cost to conduct bimonthly inspections of all sumps, manways, overspill containers, and catchment basins at the Station. The Date Required is 60 days prior to the investigation date and the Final Date is the screening date.						

Approx. Cost of Compliance	\$300	TOTAL	\$111
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Screening Date 5-Feb-2020

Docket No. 2020-0240-PST-E

PCW

Respondent Sunnys Rufe Snow Inc dba Sunny Shell

Policy Revision 4 (April 2014)

Case ID No. 53026

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100746882

Media Petroleum Storage Tank

Enf. Coordinator Berenice Munoz

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2), Tex. Water Code § 26.3475(a) and (c)(1), and TCEQ Agreed Order Docket No. 2016-1394-PST-E, Ordering Provision No. 2.a

Violation Description Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days. Also, failed to provide release detection for the pressurized piping associated with the USTs at the Station. Specifically, the line leak detector and piping tightness tests had not been conducted.

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	Harm		
	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 12 1051 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$45,000

Twelve quarterly events are recommended from the March 21, 2017 effective date of TCEQ Agreed Order Docket No.: 2016-1394-PST-E to the February 5, 2020 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 \$45,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$420

Violation Final Penalty Total \$56,987

This violation Final Assessed Penalty (adjusted for limits) \$56,987

Economic Benefit Worksheet

Respondent Sunnys Rufe Snow Inc dba Sunny Shell
Case ID No. 53026
Reg. Ent. Reference No. RN100746882
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	\$118	19-Dec-2019	29-Nov-2020	0.95	\$6	n/a	\$6
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	21-Mar-2017	29-Nov-2020	3.70	\$277	n/a	\$277

Notes for DELAYED costs

Estimated delayed cost to conduct the annual line leak detector and piping tightness tests (\$118), and to implement a release detection method for the USTs at the Station (\$1,500). The Dates Required are the investigation date and the effective date of the Order, respectively, and the Final Dates are 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	\$118	19-Dec-2018	5-Feb-2020	1.13	\$3	\$134	\$137
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 annual line leak detector and piping tightness tests. The Date Required is one year prior to the investigation and the Final Date is the screening date.

Approx. Cost of Compliance

\$1,752

TOTAL

\$420

Screening Date 5-Feb-2020

Docket No. 2020-0240-PST-E

PCW

Respondent Sunnys Rufe Snow Inc dba Sunny Shell

Policy Revision 4 (April 2014)

Case ID No. 53026

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100746882

Media Petroleum Storage Tank

Enf. Coordinator Berenice Munoz

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.51(b)(2)(C) and Tex. Water Code § 26.3475(c)(2)

Violation Description

Failed to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tanks when the liquid level in the tank reaches a preset level which shall be no higher than 95% capacity. Specifically, overfill prevention devices were not installed in the USTs at the Station.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				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 48 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 December 19, 2019 investigation date to the February 5, 2020 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 \$100

Violation Final Penalty Total \$1,583

This violation Final Assessed Penalty (adjusted for limits) \$1,583

Economic Benefit Worksheet

Respondent Sunnys Rufe Snow Inc dba Sunny Shell
Case ID No. 53026
Reg. Ent. Reference No. RN100746882
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$1,500	19-Dec-2019	29-Nov-2020	0.95	\$5	\$95	\$100
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to install overfill prevention equipment in the UST system. 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

\$1,500

TOTAL

\$100

Screening Date 5-Feb-2020

Docket No. 2020-0240-PST-E

PCW

Respondent Sunnys Rufe Snow Inc dba Sunny Shell

Policy Revision 4 (April 2014)

Case ID No. 53026

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100746882

Media Petroleum Storage Tank

Enf. Coordinator Berenice Munoz

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 334.603(b)(2)

Violation Description Failed to maintain a list of all Class C Operators who have been trained for the Station.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR Release Major Moderate Minor Actual Potential Percent 0.0%

>> Programmatic Matrix

Falsification Major Moderate Minor Percent 5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 48 Number of violation days

daily weekly monthly quarterly semiannual annual single event X

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

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 \$1

Violation Final Penalty Total \$1,583

This violation Final Assessed Penalty (adjusted for limits) \$1,583

Economic Benefit Worksheet

Respondent Sunnys Rufe Snow Inc dba Sunny Shell
Case ID No. 53026
Reg. Ent. Reference No. RN100746882
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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	\$25	19-Dec-2019	29-Nov-2020	0.95	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to submit a current list of all Class C Operators for the Station. 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

\$25

TOTAL

\$1

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 CN604915900, RN100746882, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN604915900, Sunnys Rufe Snow Inc **Classification:** SATISFACTORY **Rating:** 12.50

Regulated Entity: RN100746882, Sunny Shell **Classification:** SATISFACTORY **Rating:** 12.50

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 4037 Rufe Snow Drive, North Richland Hills, Tarrant County, Texas 76180-8845

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

AIR NEW SOURCE PERMITS ACCOUNT NUMBER TA3930N

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 42888

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: February 04, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 04, 2015 to February 04, 2020

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? YES
- 3) Who is the current owner/operator? Sunnys Rufe Snow Inc OWNER OPERATOR since 7/1/2015
- 4) Who was/were the prior owner(s)/operator(s)? Nanji Enterprise, Inc., OWNER OPERATOR, 8/22/1997 to 6/30/2015

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

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

- 1 Effective Date: 03/21/2017 ADMINORDER 2016-1394-PST-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
Description: Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

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.

1 Date: 08/02/2019 (1578299)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)
Description: Failure to have required UST records which are maintained readily accessible and available for inspection upon request by Commission personnel.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.42(i)
Description: Failure to inspect any overspill containment at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Any liquids or debris found in them during an inspection must be removed and properly disposed of within 96 hours of discovery.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 2/4/2015 and 2/4/2020

1* Date: 08/02/2019 (1578299)
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)
Description: Failure to have required UST records which are maintained readily accessible and available for inspection upon request by Commission personnel.
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 334, SubChapter C 334.42(i)
Description: Failure to inspect any overspill containment at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Any liquids or debris found in them during an inspection must be removed and properly disposed of within 96 hours of discovery.

* NOVs applicable for the Compliance History rating period 9/1/2014 to 8/31/2019

Appendix B

All Investigations Conducted During Component Period February 04, 2015 and February 04, 2020

Item 1 August 11, 2016** (1355204) For Informational Purposes Only
Item 2 August 02, 2019** (1578299) For Informational Purposes Only
(1618535)

Item 3

January 27, 2020

For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2014 and 08/31/2019.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SUNNYS RUFÉ SNOW INC
DBA SUNNY SHELL;
RN100746882**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2020-0240-PST-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 ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the station’s fuel delivery certificate. The Commission also considered the Executive Director’s Motion requesting the entry of an Order requiring the respondent to shut down and remove from service the underground storage tanks (“USTs”) located at 4037 Rufe Snow Drive in North Richland Hills, Tarrant County, Texas. The respondent made the subject of this Order is Sunnys Rufe Snow Inc dba Sunny Shell (“Respondent”).

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

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), a UST system and a convenience store with retail sales of gasoline located at 4037 Rufe Snow Drive in North Richland Hills, Tarrant County, Texas (Facility ID No. 42888) (the “Station”). The USTs at the Station are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation initiated on December 19, 2019, an investigator documented that Respondent:
 - a. Failed to comply with annual Stage I vapor recovery testing requirements. Specifically, the annual testing of the Stage I equipment was not conducted;
 - b. Failed to inspect all sumps, manways, overspill containers, or catchment basins associated with a UST system at least once every 60 days to ensure that their sides, bottoms, and any penetration points are maintained liquid tight. Specifically, liquid was observed in the spill buckets at the Station;
 - 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 USTs at the Station. Specifically, the line leak detector and piping tightness tests had not been conducted;
 - e. Failed to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tanks when the liquid level in the tank reaches a preset level which shall be no higher than 95% capacity.

Specifically, overfill prevention devices were not installed in the USTs at the Station; and

- f. Failed to maintain a list of all Class C Operators who have been trained for the Station.
3. By letter dated January 28, 2020, Respondent was provided with written notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.
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 and Requiring Certain Actions of Sunnys Rufe Snow Inc dba Sunny Shell" (the "EDPRP") in the TCEQ Chief Clerk's office on March 19, 2021.
5. Respondent filed an answer requesting a hearing on June 4, 2021, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on July 19, 2021.
6. On August 23, 2021, the TCEQ Chief Clerk mailed notice of the preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
7. On September 23, 2021, the Administrative Law Judge ("ALJ") convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that 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 November 16, 2021, 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.
9. By letter dated March 25, 2022, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Station to be shut down and removed from service if Respondent failed to correct the release detection, spill and overfill prevention violations within 30 days after Respondent's receipt of the notice.
10. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the release detection and spill and overfill prevention violations alleged in Findings of Fact Nos. 2.b., 2.c., 2.d. and 2.e. have been corrected.
11. The USTs at the Station do not have release detection and spill and overfill prevention as required by TEX. WATER CODE § 26.3475(a), (c)(1) and (c)(2) and 30 TEX. ADMIN. CODE §§ 334.42(i), 334.50(b)(1)(A) and (b)(2), 334.51(b)(2)(C), and TCEQ Agreed Order Docket No. 2016-1394-PST-E, Ordering Provision No. 2.a. and may be releasing petroleum products to the environment. Therefore, conditions at the Station constitute an imminent peril to public health, safety, and welfare.

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 ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to comply with annual Stage I vapor recovery testing requirements in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.225.

3. As evidenced by Finding of Fact No. 2.b., Respondent failed to inspect all sumps, manways, overspill containers, or catchment basins associated with a UST system at least once every 60 days to ensure that their sides, bottoms, and any penetration points are maintained liquid tight, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.42(i).
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), 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), and TCEQ Agreed Order Docket No. 2016-1394-PST-E, Ordering Provision No. 2.a.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to provide release detection for the pressurized piping associated with the USTs at the Station, 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 equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tanks when the liquid level in the tank reaches a preset level which shall be no higher than 95% capacity, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.51(b)(2)(C).
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to maintain a list of all Class C Operators who have been trained for the Station, in violation of 30 TEX. ADMIN. CODE § 334.603(b)(2).
8. As evidenced by Finding of Fact No. 5, Respondent filed an answer requesting a hearing 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(b) and 30 TEX. ADMIN. CODE § 70.109.
9. 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 §§ 155.103(b), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
10. 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), TEX. WATER CODE § 7.057, and 1 TEX. ADMIN. CODE § 155.501(d), 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).
11. 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.
12. An administrative penalty in the amount of sixty-three thousand three hundred nineteen dollars (\$63,319.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
13. As evidenced by Findings of Fact Nos. 2.b., 2.c., 2.d., 2.e., Respondent failed to correct documented violations of TCEQ release detection and spill and overflow prevention requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Station.
14. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of TCEQ regulatory

requirements relating to release detection for tanks and/or piping, spill and/or overflow prevention for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.

15. 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.
16. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Station's UST fuel delivery certificate if the Commission finds that good cause exists.
17. Good cause for revocation of the Station's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 8 and Conclusions of Law Nos. 2 through 10.
18. As evidenced by Findings of Fact Nos. 10 and 11, current conditions at the Station constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date it is signed by the Commission.

ORDERING PROVISIONS

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

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at the Station:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Secure the dispensers to prevent access;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. The Station's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order, including payment of the administrative penalty in full.
3. The USTs at the Station shall remain out of service, pursuant to TEX. WATER CODE § 26.3475(e) and as directed by Ordering Provisions Nos. 1.a. through 1.e. until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection and spill and overflow prevention violations noted in Conclusions of Law Nos. 3 through 6 have been corrected and Respondent obtains a new fuel delivery certificate for the Station.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Station until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
5. Within 10 days after the effective date of this Order, Respondent shall send the Station's UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report, in accordance with Ordering Provision No. 13, below, documenting the steps taken to comply with Ordering Provisions Nos. 1.a. through 1.e., 4 and 5.
7. If Respondent elects to permanently remove from service any portion of the UST system at the Station, Respondent shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

8. Respondent is assessed an administrative penalty in the amount of sixty-three thousand three hundred nineteen dollars (\$63,319.00) 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.
9. 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: Sunnys Rufe Snow Inc dba Sunny Shell; Docket No. 2020-0240-PST-E" to:

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

10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
 - a. Begin conducting inspections of all sumps, manways, overspill containers, and catchment basins at the Station at least once every 60 days, in accordance with 30 TEX. ADMIN. CODE § 334.42;
 - b. Conduct passing annual testing of the Stage I equipment at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.225;
 - c. Remove the liquid from the spill buckets at the Station and dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 334.42;
 - d. Conduct passing annual line leak detector and piping tightness tests at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - e. Implement a release detection method for the USTs at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - f. Install overfill prevention equipment in the UST system at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.51;
 - g. Submit a current list of all Class C operators for the Station, in accordance with 30 TEX. ADMIN. CODE § 334.603; and
 - h. Obtain a new fuel delivery certificate from the TCEQ.

11. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
12. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification, in accordance with Ordering Provision No. 13, below, to demonstrate compliance with Ordering Provisions Nos. 10 and 11.
13. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

14. All relief not expressly granted in this Order is denied.
15. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
16. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
17. 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.

18. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") 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.
19. 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.
20. 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.
21. 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 JENNIFER PELTIER

"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 and Requiring Certain Actions of Sunnys Rufe Snow Inc dba Sunny Shell" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 19, 2021.

The EDPRP was mailed to Respondent's last known address on March 19, 2021, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on March 22, 2021, as evidenced by the signature on the card.

Respondent filed an answer requesting a hearing on June 4, 2021, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on July 19, 2021. On August 23, 2021, the TCEQ Chief Clerk mailed notice of the 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 September 23, 2021. At that hearing, TCEQ staff attorney Judy Bohr 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(d), which gives an ALJ the authority to remand the case back to the agency 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 November 16, 2021, so that TCEQ may dispose of this case on a default basis.

By letter dated March 25, 2022, sent via first class mail and certified mail, return receipt requested article no. 7021 0350 0000 4630 6450, I provided Respondent with notice of the TCEQ's intent to order the USTs at the Station be shut down and removed from service if the violations pertaining to release detection, spill and overfill prevention were not corrected within 30 days of Respondent's receipt of the letter. According to the return receipt "green card," Respondent received the notice on March 28, 2022.

As of the date of this declaration, I am not aware of any evidence that indicates that Respondent has corrected the release detection and, spill and overfill prevention violations noted during the December 19, 2019, investigation."

"My name is Jennifer Peltier, 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 30th day of March, 2022



Declarant