EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 59223 First Yeti dba Classic Mart RN102456332 Docket No. 2020-0553-PST-E

Order Type:

Default Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

605 South 9th Street, Slaton, Lubbock 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: None Past-Due Penalties: None Past-Due Fees: None Other: None Interested Third-Parties: None

Texas Register Publication Date: November 4, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$6,236

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$6,236

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: February 27, 2020

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

Date(s) of NOE(s): March 27, 2020

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 59223 First Yeti dba Classic Mart RN102456332 Docket No. 2020-0553-PST-E

Violation Information

- 1. Failed to provide release detection for the pressurized piping associated with the UST system [Tex. Water Code § 26.3475(a) and 30 Tex. Admin. Code § 334.50(b)(2)].
- 2. Failed to inspect all sumps, including dispenser sumps, manways, and overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris [Tex. Water Code § 26.3475(c)(2) and 30 Tex. Admin. Code § 334.42(i)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

As of August 13, 2020, Respondent no longer owns or operates the Facility.

Technical Requirements:

Respondent no longer owns/operates.

Litigation Information

Date Petition(s) Filed: August 10, 2021

Date Green Card(s) Signed: August 13, 2021

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Taylor Pearson, Litigation Division, (512) 239-3400

Sheldon Wayne, Public Interest Counsel, (512) 239-6363

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

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

TCEQ Regional Contact: Jay Keith, Lubbock Regional Office, (806) 796-7092

Respondent Contact: Megha N Parajulee, President, First Yeti Inc., 5522 100th Street, Lubbock, Texas

79424

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

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

DATES Assigned 30-Mar-2020
PCW 1-Oct-2020 Screening 9-Apr-2020 EPA Due

RESPONDENT/FACILITY INFORMATION
Respondent First Yeti Inc dba Classic Mart
Reg. Ent. Ref. No. RN102456332
Facility/Site Region 2-Lubbock Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 59223
Docket No. 2020-0553-PST-E
Media Program(s) Multi-Media
Multi-Media

Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000

Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) \$5,000 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. **Compliance History 20.0%** Adjustment Subtotals 2, 3, & 7 \$1,000 Notes Enhancement for one Agreed Order containing a denial of liability. Culpability Subtotal 4 **\$0** No 0.0% Enhancement Notes The Respondent does not meet the culpability criteria. **Good Faith Effort to Comply Total Adjustments** Subtotal 5 **\$0** Subtotal 6 \$0 **Economic Benefit** 0.0% Enhancement* Total EB Amounts *Capped at the Total EB \$ Amount \$246 Estimated Cost of Compliance **SUM OF SUBTOTALS 1-7** Final Subtotal \$6,000 OTHER FACTORS AS JUSTICE MAY REQUIRE 3.9% Adjustment \$236 Reduces or enhances the Final Subtotal by the indicated percentage. Recommended enhancement to capture the avoided cost of compliance Notes associated with Violations Nos. 1. and 2. Final Penalty Amount \$6,236 STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$6,236 DEFERRAL Reduction Adjustment \$0 Reduces the Final Assessed Penalty by the indicated percentage. Deferral not offered for non-expedited settlement. Notes **PAYABLE PENALTY** \$6,236

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Docket No. 2020-0553-PST-E

Respondent First Yeti Inc dba Classic Mart

Case ID No. 59223

Reg. Ent. Reference No. RN102456332

Media Petroleum Storage Tank

Enf. Coordinator Alain Elegbe

	mulianee Wiet	ow. Cito En	Compliance History Worksheet			
Co	Component	Number of	hancement (Subtotal 2)	Number	Adjust.	
	NOVs	Written not	ices of violation ("NOVs") with same or similar violations as those in enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%	
	Other wri		n NOVs	0	0%	
	Orders Orders Any adjudicated fir without a denial o government, or any		final enforcement orders containing a denial of liability (<i>number of ting criteria</i>)	1	20%	
			cated final enforcement orders, agreed final enforcement orders denial of liability, or default orders of this state or the federal c, or any final prohibitory emergency orders issued by the commission	0	0%	
	Judgments	of liability	judicated final court judgments or consent decrees containing a denial of this state or the federal government (number of judgments or crees meeting criteria)	0	0%	
final court j		final court j	ated final court judgments and default judgments, or non-adjudicated udgments or consent decrees without a denial of liability, of this state ral government	0	0%	
	Convictions Any crimina counts)		al convictions of this state or the federal government (number of	0	0%	
	Emissions	Chronic exc	essive 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 (number of audits for which notices were submitted) Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)		ronmental, Health, and Safety Audit Privilege Act, 74th Legislature,	0	0%	
			• • • • • • • • • • • • • • • • • • • •	0	0%	
			tal management systems in place for one year or more	No	0%	
	Other under a sp		n-site compliance assessments conducted by the executive director cial assistance program	No	0%	
			n in a voluntary pollution reduction program	No	0%	
			liance with, or offer of a product that meets future state or federal environmental requirements	No	0%	
D.	Violeto	(C.,kt-t-1-2	Adjustment Per	centage (Sub	ototal 2)	209
ке	peat Violator	(Subtotal 3)			
	No		Adjustment Per	centage (Sub	ototal 3)	0%
Co	mpliance Hist	ory Person	Classification (Subtotal 7)			
	Satisfactory Performer Adjustment Pe		centage (Sub	ototal 7)	0%	
Co	mpliance Hist	ory Summa	ry			
	Compliance History Notes		Enhancement for one Agreed Order containing a denial of liability.			
Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%						
Fina	I Compliance	History Adj			_	
			Final Adjustment Percenta	age *capped	at 100%	20%

Respondent First Yeth Link doo Classic Mart Zeas LD No. 5922 Reg. Ent. Reference No. RN1024503322 Media Petroleum Storage Tank Enf. Coordinator Alan Elegbe Violation Number 1			ening Date			2020-0553-PST-E		PCW
Reg. Ent. Reference No. RN102456332 Media Petroleum Storage Tank Enf. Coordinator Alain Elegbe Violation Number Rule Cite(s) Jo Tex. Admin. Code § 334.50(b)(2) and Tex. Water Code § 26.3475(a) Failed to provide release detection for the pressured piping associated with the underground storage tank ("UST") system. Specifically, the Respondent did not conduct the annual line leak detector and piping tightness text. **Sease Penalty** **Sease Penalty** **Percent** Sase Penalty** S25,000		F	Respondent	First Yeti Inc dba Classic M	lart		Policy I	Revision 4 (April 2014)
Media Petroleum Storage Tank Einft. Coordinator Alain Eleghe Violation Number Alain Eleghe Violation Number Alain Eleghe Violation Number Alain Eleghe Violation Number Alain Eleghe Violation Description Violation Description Failed to provide release detection for the pressurted piping associated with the underground storage tank ("UST") system. Specifically, the Respondent did not conduct the annual line leak detector and piping tightness test. Base Penalty \$25,000		(Case ID No.	59223			PCW Re	evision March 26, 2014
Violation Number 1	Reg.	Ent. Ref	ference No.	RN102456332				
Violation Number 1 30 Tex. Admin. Code § 334.50(b)(2) and Tex. Water Code § 26.3475(a)								
Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(2) and Tex. Water Code § 26.3475(a) Falled to provide release detection for the pressurized piping associated with the underground storage tank ("UST") system. Specifically, the Respondent did not conduct the annual line leak detector and piping tightness test. **Base Penalty** \$ 275,000 **Servironmental, Property and Human Health Matrix** **Harm **Release** **Major** **Moderate** **Matrix** **Percent** **Percent** **One Adjustment** **Percent** **Percent** **One Adjustment** **Percent** **One Adjustment** **Selfication** **Notes** **Notes** **Number of Violation Events** **Number of Violation Events** **Number of Violation Events** **One single event is recommended.** **Good Faith Efforts to Comply** **One single event is recommended.** **Good Faith Efforts to Comply** **One Single event is recommended.** **Good Faith Efforts to Comply** **One Single event is recommended.** **Good Faith Efforts to Comply** **One Single event is recommended.** **Good Faith Efforts to Comply** **One Single event is recommended.** **Good Faith Efforts to Comply** **One Single event is recommended.** **Good Faith Efforts to Comply** **One Single event is recommended.** **The Respondent does not meet the good faith criteria for this violation.** **Violation Subtotal** **Say,750* **Source Single Event Subtotal** *				Alain Elegbe				
Violation Description Fallet to provide release detection for the pressurized piping accordated with the underground storage tank ("UST") system. Specifically, the Respondent did not conduct the annual line leak detector and piping tightness test. Base Penalty \$25,000 >> Environmental, Property and Human Health Matrix Harm		Viol	ation Number	1				
Violation Description underground storage tank ("UST") system. Specifically, the Respondent did not conduct the annual line leak detector and piping tightness test. Sase Penalty \$25,000	Rule Cite(s)		Rule Cite(s)	30 Tex. Admin. Code	e § 334.50(b)(2) and Tex.	Water Code § 26.3475	5(a)	
>> Environmental, Property and Human Health Matrix Harm Release Major Moderate Minor Moderate		Violatio	n Description	underground storage ta	nk ("UST") system. Specif	ically, the Respondent		
Name						Base	Penalty	\$25,000
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OR 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 which would exceed levels that are protective of human health or environmental receptors as a result of the violation. Adjustment \$21,250			D.I		Minan			
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>>Programmatic Matrix Falsification Major Moderate Minor Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation. **Adjustment** **S21,250** **Adjustment** \$21,250** **S3,750** Violation Events Number of Violation Events **Number of Violation Events* Number of Violation Events **One single event is recommended.* **One single event is recommended.* **Good Faith Efforts to Comply** **One single event is recommended.* **One single event is recommended.* **Good Faith Efforts to Comply** **Ordinary Ordinary Ordinary N/A X Notes The Respondent does not meet the good faith criteria for this violation.* **Violation Subtotal** **Violation Subtotal** **S3,750** **S0** **S0** **Violation Subtotal** **S140** **Violation Final Penalty Total** **S4,677* **S4,677* **S140** **Violation Final Penalty Total** **S4,677* **S4,677* **S4,677* **S140** **Violation Final Penalty Total** **S4,677* **S4,677* **S140** **Violation Final Penalty Total** **S4,677* **S140** **Violation Final Penalty Total* **S4,677* **S140** **S140** **S140** **Violation Final Penalty Total* **S4,677* **S140** **S140** **Violation Final Penalty Total* **S4,677* **S140** **S140** **S140** **S140** **S140** **S	OK			Y		Percent 15.0%		
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Economic Benefit (EB) for this violation Statutory Limit Test Violation Final Penalty Total \$4,677								
Estimated EB Amount \$140 Violation Final Penalty Total \$4,677		_					_	\$3,750
	Econon	nic Bene	efit (EB) for	this violation		Statutory Limit	Test	
This violation Final Assessed Penalty (adjusted for limits) \$4.677			Estimate	ed EB Amount	\$140	Violation Final Pena	Ity Total	\$4,677
				This vi	olation Final Assessed	Penalty (adiusted fo	or limits)	\$4.677

	E	conomic	Benefit	Wo	rksheet		
Respondent							
Case ID No. 59223							
Reg. Ent. Reference No.	RN102456332						
	Petroleum Sto						Years of
Violation No.		.ago ra				Percent Interest	Depreciation
11014110111101	_					5.0	15
	Itam Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Thoma Donomination	Item Cost	Date Required	i illai Date	113	Interest Saveu	Costs Saveu	LD Alliount
Item Description							
Dalawad Casta							
Delayed Costs		1		0.00	\$0	# 0	¢Ω
Equipment Buildings				0.00	\$0 \$0	\$0 \$0	<u>\$0</u> \$0
Other (as needed)				0.00	\$0	\$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	27-Feb-2020	24-Jan-2021	0.91	\$5	n/a	\$5
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		•				piping tightness test mated date of comp	
Avoided Costs	ANNU	ALIZE avoided o	osts before er	ntering	item (except for	one-time avoide	d costs)
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$118	27-Feb-2019	9-Apr-2020	1.12	\$3	\$132	\$135
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0 #0
ONE-TIME avoided costs Other (as needed)				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Notes for AVOIDED costs				ual line l	leak detector and I	piping tightness test Date is the screening	s. The Date
Approx. Cost of Compliance		\$250			TOTAL		\$140

Case ID No. Reg. Ent. Reference No.	RN102456332 Petroleum Storage Tank	Policy Revision 4 (April 2014) PCW Revision March 26, 2014
Reg. Ent. Reference No. Media Enf. Coordinator Violation Number	RN102456332 Petroleum Storage Tank	PCW Revision March 26, 2014
Media Enf. Coordinator Violation Number	Petroleum Storage Tank	
Enf. Coordinator Violation Number		
Violation Number	Alain Elegbe	
	2	
Rule Cite(s)		
	30 Tex. Admin. Code § 334.42(i) and Tex. Water Code § 26.3475(c)(2)	
	Failed to inspect all sumps, including dispenser sumps, manways, overspi	
Violation Description	containers or catchment basins associated with a UST system at least once ever days to assure that their sides, bottoms, and any penetration points are maint	,
Violation Description	liquid tight and free of any liquid or debris. Specifically, the Respondent did	
	inspect sump pumps.	
	Base Pe	enalty \$25,000
>> Environmental, Proper	ty and Human Health Matrix	
Release	Harm Major Moderate Minor	
OR Actual	Traderace Timor	
Potential	X Percent 5.0%	
>>Programmatic Matrix		
Falsification	Major Moderate Minor	
	Percent 0.0%	
Human haribb		ha hh a h
Matrix	or the environment will or could be exposed to significant amounts of pollutant eed levels that are protective of human health or environmental receptors as a	
Notes Would Not exc	of the violation.	result
	Adjustment \$2	23,750
		¢1 250
		\$1,250
Violation Events		
Number of V	iolation Events 1 42 Number of violation days	S
Number of V		S
Number of \	daily	s
Number of \	daily weekly	s
Number of V	daily weekly monthly	
Number of V	daily weekly	
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Number of V	daily weekly monthly quarterly semiannual Violation Base Pe	
Number of V	daily weekly monthly quarterly semiannual annual	
	daily weekly monthly quarterly semiannual annual	enalty \$1,250
	daily weekly monthly quarterly semiannual annual single event	enalty \$1,250
	daily weekly monthly quarterly semiannual annual single event	enalty \$1,250
	daily weekly monthly quarterly semiannual annual single event event is recommended from the February 27, 2020 investigation date to the A 2020 screening date.	enalty \$1,250
One quarterly	daily weekly monthly quarterly semiannual annual single event event is recommended from the February 27, 2020 investigation date to the A 2020 screening date. Ply 0.0% Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer	enalty \$1,250
One quarterly	daily weekly monthly quarterly semiannual annual single event event is recommended from the February 27, 2020 investigation date to the A 2020 screening date. Poly O.0% Red	enalty \$1,250
One quarterly	daily weekly monthly quarterly x Violation Base Personal Single event with the February 27, 2020 investigation date to the A 2020 screening date. Poly 0.0% Reduce the Reference of the Reduce the Reference of the Reduce the Reference of the Reduce the R	enalty \$1,250
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One quarterly	daily weekly monthly quarterly x Semiannual annual single event event is recommended from the February 27, 2020 investigation date to the A 2020 screening date. Ply 0.0% Reduce the Extraordinary Ordinary Ordinary N/A X Notes The Respondent does not meet the good faith criteria for this violation.	### \$1,250 Paper
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Economic Benefit Worksheet							
Respondent	Respondent First Yeti Inc dba Classic Mart						
	Case ID No. 59223						
Reg. Ent. Reference No.	RN102456332						
	Petroleum Sto					B	Years of
Violation No.	2	_				Percent Interest	Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description							
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	\$100	27-Feb-2020	24-Jan-2021	0.91	\$5	n/a	\$5
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Permit Costs	Estimated	delaved cost to de	evelop and imple	0.00	\$0 \$0	n/a n/a	\$0 \$0
Permit Costs Other (as needed)		•		0.00 0.00 ement p	\$0 \$0 procedures to cond	n/a n/a uct bimonthly inspe	\$0 \$0 ctions of the
Permit Costs		ays, and overfill o	containers or ca	0.00 0.00 ement p	\$0 \$0 procedures to cond t basins. The Date	n/a n/a uct bimonthly inspe	\$0 \$0 ctions of the
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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 CN605242890, RN102456332, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, CN605242890, First Yeti Inc Classification: SATISFACTORY Rating: 22.50

or Owner/Operator:

Regulated Entity: RN102456332, Classic Mart Classification: SATISFACTORY Rating: 22.50

Complexity Points: 3 Repeat Violator: NO

CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations

Location: 605 S 9th Street, Slaton, Lubbock County, Texas 79364-5222

TCEQ Region: REGION 02 - LUBBOCK

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION

REGISTRATION 45103

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

Date Compliance History Report Prepared: April 09, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 09, 2015 to April 09, 2020

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

Name: Alain Elegbe Phone: (512) 239-6924

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?

3) Who is the current owner/operator? FIRST YETI INC OWNER OPERATOR since 7/28/2016

4) Who was/were the prior owner(s)/operator(s)? Trent Investments, Inc., OWNER OPERATOR, 4/30/2012 to 7/27/2016

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

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

1 Effective Date: 04/24/2018 ADMINORDER 2017-0512-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). Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d)

30 TAC Chapter 334, SubChapter C 334.49(c)(4)(C)

Description: Failed to have the corrosion protection system inspected and tested for operability and adequacy of

protection at a frequency of at least once every three years.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 February 04, 2019 (1540182)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 4/9/2015 and 4/9/2020

N/A For Informational Purposes Only

Appendix B

All Investigations Conducted During Component Period April 09, 2015 and April 09, 2020

(1402066)

Item 1 April 03, 2017** For Informational Purposes Only

(1540182)

Item 2* February 04, 2019** For Informational Purposes Only

(1637245)

Item 3 March 25, 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
FIRST YETI INC DBA CLASSIC	§	TEAAS COMMISSION ON
MART;	§	
RN102456332	§	ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2020-0553-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 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is First Yeti Inc dba Classic Mart ("Respondent").

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

FINDINGS OF FACT

- 1. Respondent owned and operated, 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 605 South 9th Street in Slaton, Lubbock County, Texas (Facility ID No. 45103) (the "Facility"). The USTs at the Facility 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.
- 2. During an investigation conducted on February 27, 2020, an investigator documented that Respondent:
 - a. Failed to provide release detection for the pressurized piping associated with the UST system. Specifically, Respondent did not conduct the annual line leak detector and piping tightness tests; and
 - b. Failed to inspect all sumps, including dispenser sumps, manways, and overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris. Specifically, Respondent did not inspect sump pumps.
- 3. The Executive Director recognizes that Respondent no longer owns or operates the Facility as of August 13, 2020.
- 4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of First Yeti Inc dba Classic Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on August 10, 2021.
- 5. By letter dated August 10, 2021, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on August 13, 2021, as evidenced by the signature on the card.

6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

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 and the rules of the TCEQ.
- 2. As evidenced by Finding of Fact No. 2.a., Respondent failed to provide release detection for the pressurized piping associated with the UST system, in violation of Tex. WATER CODE § 26.3475(a) and 30 Tex. ADMIN. CODE § 334.50(b)(2).
- 3. As evidenced by Finding of Fact No. 2.b., Respondent failed to inspect all sumps, including dispenser sumps, manways, and overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris, in violation of Tex. Water Code § 26.3475(c)(2) and 30 Tex. Admin. Code § 334.42(i).
- 4. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by Tex. Water Code § 7.055 and 30 Tex. Admin. Code § 70.104(b)(1).
- 5. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by Tex. Water Code § 7.056 and 30 Tex. Admin. Code § 70.105. Pursuant to Tex. Water Code § 7.057 and 30 Tex. Admin. Code § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
- 6. 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.
- 7. An administrative penalty in the amount of six thousand two hundred thirty-six dollars (\$6,236.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in Tex. Water Code § 7.053.
- 8. Tex. Water Code §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

- 1. Respondent is assessed an administrative penalty in the amount of six thousand two hundred thirty-six dollars (\$6,236.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
- 2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: First Yeti Inc dba Classic Mart; Docket No. 2020-0553-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

- 3. All relief not expressly granted in this Order is denied.
- 4. 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 Facility operations referenced in this Order.
- 5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 7. 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.
- 8. 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.
- 9. 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.
- 10. 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 ENVIRONME	NTAL QUALITY
For the Commission	

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF TAYLOR PEARSON

"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 First Yeti Inc dba Classic Mart' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on August 10, 2021.

The EDPRP was mailed to Respondent's last known address on August 10, 2021, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on August 13, 2021, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

"My name is Taylor Wayne Pearson, 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 3rd day of October, 2022

Declarant