

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 59423
NEW HOPE CORNER STORE LLC
RN101561652
Docket No. 2020-0766-PST-E

Order Type:
Default Order

Media:
petroleum storage tank

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
400 Farm-to-Market Road 2933, McKinney, Collin 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: April 22, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$12,471

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$12,471

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 7, 2020

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

Date(s) of NOE(s): June 1, 2020

Violation Information

1. Failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons [30 TEX. ADMIN. CODE § 334.54(b)(2)].
2. Failed to inspect and test the cathodic protection system for operability and adequacy of protection [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE §§ 334.49(c)(4)(C) and 334.54(b)(3)].
3. Failed to monitor a temporarily out-of-service UST system for releases [TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE §§ 334.50(b) and 334.54(c)(1)].
4. Failed to notify the agency of any change or additional information regarding the UST within 30 days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(1)(B) and (d)(3)].
5. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE §§ 37.815(a) and (b) and 334.54(e)(5)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent no longer owns or operates the Facility as of June 30, 2020.

Technical Requirements:

None

Litigation Information

Date Petition(s) Filed: November 2, 2021; February 23, 2022
Date Green Card(s) Signed: unclaimed, unclaimed
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Megan L. Grace, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

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

TCEQ Enforcement Coordinator: Stephanie McCurley, Enforcement, (512) 239-2607

TCEQ Regional Contact: Erin Gorman, Dallas/Fort Worth Regional Office, (817) 588-5800

Respondent Contact: Chaudhry Nomaan Habib, Managing Member, NEW HOPE CORNER STORE LLC, 8400 Stonebook Parkway, Apartment 211, Frisco, Texas 75034

Chaudhry Nomaan Habib, Managing Member, NEW HOPE CORNER STORE LLC, 400 Farm-to-Market Road 2933, McKinney, Texas 75071

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	8-Jun-2020	Screening	8-Jun-2020	EPA Due	
	PCW	26-Mar-2021				

RESPONDENT/FACILITY INFORMATION			
Respondent	NEW HOPE CORNER STORE LLC		
Reg. Ent. Ref. No.	RN101561652		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	59423	No. of Violations	3
Docket No.	2020-0766-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Tyler Richardson
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit	Minimum	\$0	Maximum
			\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,250
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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	20.0% Adjustment	Subtotals 2, 3, & 7	\$1,250
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Notes	Enhancement for one agreed order with denial of liability.
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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	\$4,971	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$4,733	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	66.3%	Adjustment	\$4,971
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance with Violation Nos. 1 through 3.
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Final Penalty Amount	\$12,471
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,471
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$12,471
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Screening Date 8-Jun-2020

Docket No. 2020-0766-PST-E

PCW

Respondent NEW HOPE CORNER STORE LLC

Policy Revision 4 (April 2014)

Case ID No. 59423

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101561652

Media Petroleum Storage Tank

Enf. Coordinator Tyler Richardson

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>)	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) 20%

>> 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 with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 8-Jun-2020 **Docket No.** 2020-0766-PST-E **PCW**
Respondent NEW HOPE CORNER STORE LLC *Policy Revision 4 (April 2014)*
Case ID No. 59423 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN101561652
Media Petroleum Storage Tank
Enf. Coordinator Tyler Richardson

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code §§ 334.49(c)(4)(C), 334.50(b), and 334.54(b)(2), (b)(3), and (c)(1), and Tex. Water Code § 26.3475(a), (c)(1), and (d)
Violation Description Failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, the fill risers were not locked or secured against tampering. Also, failed to inspect and test the cathodic protection system for operability and adequacy of protection. Specifically, no triennial corrosion protection test was conducted. Furthermore, failed to monitor a temporarily out-of-service underground storage tank ("UST") system for releases.
Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	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 \$21,250
 \$3,750

Violation Events

Number of Violation Events Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty \$3,750

One semiannual event is recommended from the February 7, 2020 investigation date to the June 8, 2020 screening date.

Good Faith Efforts to Comply Reduction

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

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

Violation Subtotal \$3,750

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent NEW HOPE CORNER STORE LLC
Case ID No. 59423
Reg. Ent. Reference No. RN101561652
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Other (as needed)	\$100	7-Feb-2020	8-Jun-2020	0.33	\$2	\$100	\$102
Other (as needed)	\$1,500	7-Feb-2020	8-Jun-2020	0.33	\$25	\$1,500	\$1,525
Other (as needed)	\$500	16-Feb-2018	8-Jun-2020	2.31	\$60	\$500	\$560

Notes for AVOIDED costs

Estimated avoided cost to implement a method of release detection at the Facility (\$1,500). Estimated avoided cost to lock and secure tank access points (\$100). The Dates Required are the investigation date, and the Final Dates are the screening date.

Estimated avoided cost to conduct the triennial test of the corrosion protection system (\$500). The Date Required is the ownership start date, and the Final Date is the screening date.

Approx. Cost of Compliance \$2,100

TOTAL \$2,187

Screening Date 8-Jun-2020
Respondent NEW HOPE CORNER STORE LLC
Case ID No. 59423
Reg. Ent. Reference No. RN101561652
Media Petroleum Storage Tank
Enf. Coordinator Tyler Richardson

Docket No. 2020-0766-PST-E

PCW

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

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(1)(B) and (d)(3)

Violation Description Failed to notify the agency of any change or additional information regarding the UST within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the status of the tanks.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 122 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 \$41

Violation Final Penalty Total \$2,494

This violation Final Assessed Penalty (adjusted for limits) \$2,494

Economic Benefit Worksheet

Respondent NEW HOPE CORNER STORE LLC
Case ID No. 59423
Reg. Ent. Reference No. RN101561652
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$40	7-Feb-2020	8-Jun-2020	0.33	\$1	\$40	\$41

Notes for AVOIDED costs

Estimated avoided cost to accurately prepare and submit an updated UST registration form. The Date Required is the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance \$40

TOTAL \$41

Screening Date 8-Jun-2020
Respondent NEW HOPE CORNER STORE LLC
Case ID No. 59423
Reg. Ent. Reference No. RN101561652
Media Petroleum Storage Tank
Enf. Coordinator Tyler Richardson

Docket No. 2020-0766-PST-E

PCW

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

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 37.815(a) and (b) and 334.54(e)(5)

Violation Description Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 478 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 EDRP/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 \$2,743

Violation Final Penalty Total \$2,494

This violation Final Assessed Penalty (adjusted for limits) \$2,494

Economic Benefit Worksheet

Respondent NEW HOPE CORNER STORE LLC
Case ID No. 59423
Reg. Ent. Reference No. RN101561652
Media Violation No. Petroleum Storage Tank
 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance	\$1,980	16-Feb-2019	8-Jun-2020	1.31	\$150	\$2,593	\$2,743
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to provide financial assurance for the three USTs at the Facility (\$660 per tank annually). The Date Required is the date financial assurance expired and the Final Date is the screening date.

Approx. Cost of Compliance \$2,593

TOTAL \$2,743



Compliance History Report

Compliance History Report for CN605479567, RN101561652, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605479567, NEW HOPE CORNER STORE LLC **Classification:** SATISFACTORY **Rating:** 33.75

Regulated Entity: RN101561652, New Hope Corner Store **Classification:** SATISFACTORY **Rating:** 33.75

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

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

Location: 400 Farm-to-Market 2933 in McKinney, Collin County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 42989

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: December 10, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 10, 2015 to December 10, 2020

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

Name: Tyler Richardson

Phone: (512) 756-3994

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? Irwa Inc OWNER OPERATOR since 7/1/2020
- 4) Who was/were the prior owner(s)/operator(s)? NEW HOPE CORNER STORE LLC, OWNER OPERATOR, 2/16/2018 to 6/30/2020
GEELANI, MOHAMMAD, OWNER OPERATOR, 8/1/2012 to 2/15/2018

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

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

- 1 Effective Date: 06/05/2018 ADMINORDER 2017-0479-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(c)(2)
30 TAC Chapter 334, SubChapter C 334.51(b)(2)
Description: Failed to equip the UST system with spill and overflow prevention equipment that is designed, installed, and maintained in a manner that will prevent any spilling or overfilling of regulated substances.
Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(2)
Description: Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NEW HOPE CORNER STORE LLC;
RN101561652**

**§
§
§
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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2020-0766-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 NEW HOPE CORNER STORE LLC ("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 400 Farm-to-Market Road 2933 in McKinney, Collin County, Texas (Facility ID No. 42989) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on February 7, 2020, an investigator documented that Respondent:
 - a. Failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, the fill risers were not locked or secured against tampering;
 - b. Failed to inspect and test the cathodic protection system for operability and adequacy of protection. Specifically, no triennial corrosion protection test was conducted;
 - c. Failed to monitor a temporarily out-of-service UST system for releases;
 - d. Failed to notify the agency of any change or additional information regarding the UST within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the status of the tanks; and
 - e. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
3. The Executive Director recognizes that Respondent no longer owns or operates the Facility as of June 30, 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 NEW HOPE CORNER STORE LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on November 2, 2021.

5. The EDPRP was mailed to Respondent's last known address on November 2, 2021, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned.
6. The Executive Director refiled the EDPRP in the TCEQ Chief Clerk's Office on February 23, 2022.
7. The EDPRP was mailed to Respondent's last known address on February 23, 2022, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
8. 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 maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(2).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to inspect and test the cathodic protection system for operability and adequacy of protection, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE §§ 334.49(c)(4)(C) and 334.54(b)(3).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to monitor a temporarily out-of-service UST system for releases, in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE §§ 334.50(b) and 334.54(c)(1).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to notify the agency of any change or additional information regarding the UST within 30 days of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(1)(B) and (d)(3).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE §§ 37.815(a) and (b) and 334.54(e)(5).
7. As evidenced by Findings of Fact Nos. 4 through 7, 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(c)(2).
8. As evidenced by Finding of Fact No. 8, 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.
9. 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.

10. An administrative penalty in the amount of twelve thousand four hundred seventy-one dollars (\$12,471.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. 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 twelve thousand four hundred seventy-one dollars (\$12,471.00) 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: NEW HOPE CORNER STORE LLC; Docket No. 2020-0766-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.
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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF MEGAN L. GRACE

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against NEW HOPE CORNER STORE LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on November 2, 2021.

The EDPRP was mailed to Respondent's last known address on November 2, 2021, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on February 23, 2022.

The EDPRP was mailed to Respondent's last known address of managing member and registered agent on February 23, 2022, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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

Executed in Travis County,
State of Texas,
on the 31st day of March, 2022

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

Declarant