

Order Type:
Agreed Order

Media:
Petroleum Storage Tank

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
11640 Old Corpus Christi Highway, San Antonio, Bexar County

Type of Operation:
unregistered underground storage tank ("UST") system

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: May 13, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$11,250
Total Paid to General Revenue: \$330
Total Due to General Revenue: \$10,920
Payment Plan: 35 payments of \$312 each

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

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): May 4, 2020
Complaint Information: Alleged diesel fuel inside the housing of the site's water well and concerned that the fuel was dumping into the well or there was a fuel leak on the property.

Date(s) of Investigation: May 7, 2020

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

Date(s) of NOE(s): August 4, 2020

Ralph A. Minard II and Minard II, LLC

RN111039830

Docket No. 2020-1297-PST-E

Violation Information

1. Failed to register a UST in existence on or after September 1, 1987, with the agency on authorized agency forms [30 TEX. ADMIN. CODE § 334.7(a)(1)].
2. Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].
3. Failed to contain and immediately cleanup a spill or overflow of any petroleum substance from an UST that is less than 25 gallons [30 TEX. ADMIN. CODE § 334.75(b)].

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

None

Technical Requirements:

1. Within 30 days:
 - a. Accurately prepare and submit a UST Registration and Self-Certification form;
 - b. Permanently remove the UST system from service; and
 - c. Remove the soil contaminated with red-dyed diesel and dispose of it at an authorized facility.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. through 1.c.

Litigation Information

Date Petition(s) Filed: November 15, 2021
Date Green Card(s) Signed: November 17, 2021
Date Answer(s) Filed: December 3, 2021
Settlement Date: April 15, 2022

Contact Information

TCEQ Attorneys: Megan 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: John Fennell, Enforcement Division, (512) 239-2616

TCEQ Regional Contact: Cameron Lopez, San Antonio Regional Office, (210) 490-3096

Respondent Contact: Ralph A. Minard II, Managing Member, Minard II, LLC, 25104 Player Oaks, San Antonio, Texas 78260

Respondent's Attorney: Gregory Klipp, The Jones Law Firm PC, 3724 Jefferson St. Suite 310, Austin, Texas 78731



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	10-Aug-2020	Screening	31-Aug-2020	EPA Due	
	PCW	6-Oct-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	RAM II GENERAL CONTRACTOR, INC. and Minard II, LLC
Reg. Ent. Ref. No.	RN111039830
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	59767	No. of Violations	3
Docket No.	2020-1297-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Fennell
		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	\$11,250
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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	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondents do 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: \$381
 Estimated Cost of Compliance: \$7,040
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$11,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,250
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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.

PAYABLE PENALTY	\$11,250
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Screening Date 31-Aug-2020

Docket No. 2020-1297-PST-E

PCW

Respondent RAM II GENERAL CONTRACTOR, INC. and Minard II, LLC

Policy Revision 4 (April 2014)

Case ID No. 59767

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN111039830

Media Petroleum Storage Tank

Enf. Coordinator John Fennell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 31-Aug-2020

Docket No. 2020-1297-PST-E

PCW

Respondent RAM II GENERAL CONTRACTOR, INC. and Minard II, LLC

Policy Revision 4 (April 2014)

Case ID No. 59767

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN111039830

Media Petroleum Storage Tank

Enf. Coordinator John Fennell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.7(a)(1)

Violation Description Failed to register an underground storage tank ("UST") in existence on or after September 1, 1987, with the agency on authorized agency forms.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and 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 Number of violation days 116

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and a grid for selection.

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Effort Level (Extraordinary, Ordinary, N/A) and a grid for selection.

Notes The Respondents do 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

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent RAM II GENERAL CONTRACTOR, INC. and Minard II, LLC
Case ID No. 59767
Reg. Ent. Reference No. RN111039830
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	\$40	7-May-2020	6-Jun-2021	1.08	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to accurately prepare and submit a UST Registration and Self-Certification form. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$40

TOTAL

\$2

Screening Date 31-Aug-2020

Docket No. 2020-1297-PST-E

PCW

Respondent RAM II GENERAL CONTRACTOR, INC. and Minard II, LLC

Policy Revision 4 (April 2014)

Case ID No. 59767

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN111039830

Media Petroleum Storage Tank

Enf. Coordinator John Fennell

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.47(a)(2)

Violation Description Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

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 2 116 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended from the May 7, 2020 investigation date to the August 31, 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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$325

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent RAM II GENERAL CONTRACTOR, INC. and Minard II, LLC
Case ID No. 59767
Reg. Ent. Reference No. RN111039830
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)	\$6,000	7-May-2020	6-Jun-2021	1.08	\$325	n/a	\$325

Notes for DELAYED costs

Estimated delayed cost to permanently remove one UST from service with a capacity of 6,000 gallons at \$1.00 per gallon. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

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

\$6,000

TOTAL

\$325

Screening Date 31-Aug-2020 **Docket No.** 2020-1297-PST-E
Respondent RAM II GENERAL CONTRACTOR, INC. and Minard II, LLC
Case ID No. 59767
Reg. Ent. Reference No. RN111039830
Media Petroleum Storage Tank
Enf. Coordinator John Fennell

PCW

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

Violation Number

Rule Cite(s)

Violation Description Failed to contain and immediately cleanup a spill or overfill of any petroleum substance from an UST that is less than 25 gallons. Specifically, the soil adjacent to the UST system was stained with red-dyed diesel.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="5.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the May 7, 2020 investigation date to the August 31, 2020 screening date.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text"/>

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal

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 RAM II GENERAL CONTRACTOR, INC. and Minard II, LLC
Case ID No. 59767
Reg. Ent. Reference No. RN111039830
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,000	7-May-2020	6-Jun-2021	1.08	\$54	n/a	\$54
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 remove one cubic yard of soil contaminated with red-dyed diesel and dispose of it at an authorized facility. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

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

\$1,000

TOTAL

\$54

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 CN605933316, RN111039830, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605933316, Minard, Ralph A. **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN111039830, Ram II General Contractors **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 11640 OLD CORPUS CHRISTI HIGHWAY SAN ANTONIO, BEXAR COUNTY, TEXAS 78223-9358

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):
PETROLEUM STORAGE TANK NON REGISTERED ID
 NUMBER R13111039830

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: January 11, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 11, 2017 to January 11, 2022

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

Name: John Fennell **Phone:** (512) 239-2616

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 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?
 MINARD, RALPH A OWNER since 8/8/2021
 Minard II, LLC OWNER since 8/8/2021
 Ram II General Contractor, Inc. OWNER OPERATOR since 5/11/2020
- 4) Who was/were the prior owner(s)/operator(s)?
 MINARD, TIFFANY LAINE, OWNER, 6/4/2020 to 8/8/2021

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A



Compliance History Report

Compliance History Report for CN605934595, RN111039830, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN605934595, Minard II, LLC	Classification:	UNCLASSIFIED	Rating:	-----
Regulated Entity:	RN111039830, Ram II General Contractors	Classification:	UNCLASSIFIED	Rating:	-----
Complexity Points:	0	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	11640 OLD CORPUS CHRISTI HIGHWAY IN SAN ANTONIO, BEXAR COUNTY, TEXAS 78223-9358				
TCEQ Region:	REGION 13 - SAN ANTONIO				
ID Number(s):	PETROLEUM STORAGE TANK NON REGISTERED ID NUMBER R13111039830				
Compliance History Period:	September 01, 2016 to August 31, 2021	Rating Year:	2021	Rating Date:	09/01/2021
Date Compliance History Report Prepared:	October 06, 2021				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	October 06, 2016 to October 06, 2021				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	John Fennell			Phone:	(512) 239-2616

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 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?
MINARD, RALPH A OWNER since 8/8/2021
Minard II, LLC OWNER since 8/8/2021
Ram II General Contractor, Inc. OWNER OPERATOR since 5/11/2020
- 4) Who was/were the prior owner(s)/operator(s)?
MINARD, TIFFANY LAINE, OWNER, 6/4/2020 to 8/8/2021

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT
ACTION CONCERNING
RALPH A. MINARD II AND MINARD II,
LLC;
RN111039830

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2020-1297-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ralph A. Minard II and Minard II, LLC ("Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents, represented by Gregory Klipp of the law firm The Jones Law Firm PC together stipulate that:

1. Minard II, LLC owns, as defined in 30 TEX. ADMIN. CODE § 334.2(78), and Ralph A. Minard II operates, as defined in 30 TEX. ADMIN. CODE § 334.2(75), an unregistered underground storage tank ("UST") system located at 11640 Old Corpus Christi Highway in San Antonio, Bexar County, Texas (the "Facility"). The UST system at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. The Executive Director and Respondents agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondents are subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch.26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of eleven thousand two hundred fifty dollars (\$11,250.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondents paid three hundred thirty dollars (\$330.00) of the penalty. The remaining amount of ten thousand nine hundred twenty dollars (\$10,920.00) shall be paid in thirty-five (35) monthly payments of three hundred twelve dollars (\$312.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondents fail to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondents' failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondents to timely and satisfactorily comply with all the terms of this Order.
5. The Executive Director and Respondents agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any

notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions contained in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

1. During an investigation conducted on May 7, 2020, an investigator documented that Respondents:
 - a. Failed to register a UST in existence on or after September 1, 1987, with the agency on authorized agency forms, in violation of 30 TEX. ADMIN. CODE § 334.7(a)(1);
 - b. Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2); and
 - c. Failed to contain and immediately cleanup a spill or overflow of any petroleum substance from an UST that is less than 25 gallons, in violation of 30 TEX. ADMIN. CODE § 334.75(b). Specifically, the soil adjacent to the UST system was stained with red-dyed diesel.

III. DENIALS

Respondents generally deny each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondents are assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondents' compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: Ralph A. Minard II and Minard II, LLC, Docket No. 2020-1297-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

2. Respondents are jointly and severally liable for the violations documented in this Order and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Order.
3. Respondents shall undertake the following technical requirements:
 - a. Within 30 days after the date of this Order:
 - i. Accurately prepare and submit a UST Registration and Self-Certification form, in accordance with 30 TEX. ADMIN. CODE § 334.7;
 - ii. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; and
 - iii. Remove the soil contaminated with red-dyed diesel and dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 334.75.
 - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondents, 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.”

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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

7. If Respondents fail 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. This Order, issued by the Commission, shall not be admissible against Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Erin E. Chanallop

05/23/22

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

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

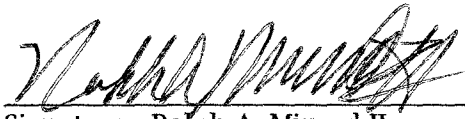
In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

Ralph A. Minard II

Signature - Ralph A. Minard II, Managing Member
Minard II, LLC
25104 Players Oaks
San Antonio, Texas 78260

4/15/2022
Date

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



Signature - Ralph A. Minard II
11640 Old Corpus Christi Highway
San Antonio, Texas 78223

4/15/2022

Date

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