

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60175
Nianshra Holdings, LLC dba Carry On Food Mart
RN102356557
Docket No. 2020-1579-PST-E

Page 1 of 2

Order Type:
Agreed Order

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
4447 De Zavala Road, San Antonio, Bexar County

Type of Operation:
an 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: September 2, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$10,475

Total Paid to General Revenue: \$447

Total Due to General Revenue: \$10,028

Payment Plan: 23 payments of \$436 each

Compliance History Classifications:

Person/CN - High
Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: November 3, 2020

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

Date(s) of NOE(s): December 11, 2020

Violation Information

1. Failed to monitor the UST in a manner which would detect a release at a frequency of at least once every 30 days [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
2. 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)].
3. Failed to maintain operator training certification records on-site and make them available for review [30 TEX. ADMIN. CODE § 334.606].
4. Failed to assure that all UST recordkeeping requirements are met [30 TEX. ADMIN. CODE § 334.10(b)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately:
 - a. Begin maintaining operator training certification records on-site, and make them available for inspection upon request by agency personnel; and
 - b. Begin maintaining all UST records on-site, including financial assurance and corrosion protection records, and make them available for inspection upon request by agency personnel.
2. Within 30 days:
 - a. Implement a release detection method for the UST at the Facility; and
 - b. Conduct the annual line leak detector and piping tightness tests.
3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement Nos. 1 and 2.

Litigation Information

Date Petition(s) Filed: June 7, 2022; July 6, 2022
Date Green Card(s) Signed: unclaimed; July 8, 2022
Settlement Date: August 2, 2022

Contact Information

TCEQ Attorneys: William Hogan, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

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

TCEQ Enforcement Coordinator: Sushil Modak, Enforcement Division, (512) 239-2141

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

Respondent Contact: Nishant Hada, Managing Partner, Nianshra Holdings, LLC, 4447 De Zavala
Road #7301, San Antonio, Texas 78249

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	14-Dec-2020		
	PCW	16-Dec-2020	Screening	16-Dec-2020
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Nianshra Holdings, LLC dba Carry On Food Mart			
Reg. Ent. Ref. No.	RN102356557			
Facility/Site Region	13-San Antonio	Major/Minor Source	Major	

CASE INFORMATION

Enf./Case ID No.	60175	No. of Violations	3
Docket No.	2020-1579-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Berenice Munoz
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$1,150
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Notes	Reduction for High Performer classification.			
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.			
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$207	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,871	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,350
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1.2%	Adjustment	\$125
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 1.		
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Final Penalty Amount	\$10,475
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,475
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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	\$10,475
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Screening Date	16-Dec-2020	Docket No.	2020-1579-PST-E	PCW
Respondent	Nianshra Holdings, LLC dba Carry On Food Mart			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	60175			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN102356557			
Media	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date	16-Dec-2020	Docket No.	2020-1579-PST-E	PCW
Respondent	Nianshra Holdings, LLC dba Carry On Food Mart			Policy Revision 4 (April 2014)
Case ID No.	60175			PCW Revision March 26, 2014
Reg. Ent. Reference No.	RN102356557			
Media	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2) and Tex. Water Code § 26.3475(a) and (c)(1)			
Violation Description	<p>Failed to monitor the underground storage tank ("UST") in a manner which will detect a release at a frequency of at least once every 30 days. Also, failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the Respondent had not conducted the line leak detector and piping tightness tests.</p>			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

OR		Release	Harm		
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="30.0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="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.
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Adjustment	<input type="text" value="\$17,500"/>
<input type="text" value="\$7,500"/>	

Violation Events

Number of Violation Events	<input type="text" value="1"/>		<input type="text" value="43"/>	Number of violation days
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	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="text" value="X"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		

Violation Base Penalty	<input type="text" value="\$7,500"/>
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One quarterly event is recommended from the November 3, 2020 investigation date to the December 16, 2020 screening date.

Good Faith Efforts to Comply

	0.0%			
	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 checked="" type="text" value="X"/>	<input type="text"/>		
Notes	<div style="border: 1px solid black; padding: 5px;"> The Respondent does not meet the good faith criteria for this violation. </div>			
Violation Subtotal				<input type="text" value="\$7,500"/>

Economic Benefit (EB) for this violation

Estimated EB Amount	<input type="text" value="\$201"/>	Violation Final Penalty Total	<input type="text" value="\$6,832"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$6,832"/>

Economic Benefit Worksheet

Respondent Nianshra Holdings, LLC dba Carry On Food Mart
Case ID No. 60175
Reg. Ent. Reference No. RN102356557
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	\$118	3-Nov-2020	10-Oct-2021	0.93	\$6	n/a	\$6
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	3-Nov-2020	10-Oct-2021	0.93	\$70	n/a	\$70

Notes for DELAYED costs

Estimated delayed cost to conduct the annual line leak detector and piping tightness tests (\$118) and to implement a release detection method for the UST at the Facility. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$118	3-Nov-2019	16-Dec-2020	1.12	\$7	\$118	\$125

Notes for AVOIDED costs

Estimated avoided cost to conduct the annual line leak detector and piping tightness tests. The Date Required is one year prior to the investigation and the Final Date is the screening date.

Approx. Cost of Compliance

\$1,736

TOTAL

\$201

Screening Date	16-Dec-2020	Docket No.	2020-1579-PST-E	PCW
Respondent	Nianshra Holdings, LLC dba Carry On Food Mart			Policy Revision 4 (April 2014)
Case ID No.	60175			PCW Revision March 26, 2014
Reg. Ent. Reference No.	RN102356557			
Media	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 334.606			
Violation Description	Failed to maintain operator training certification records on-site and make them available for review. Specifically, Class A/B Operator and Class C Operator training certification records were not available at the time of the investigation.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Release	Harm		
		Major	Moderate	Minor	
	Actual				
	Potential				Percent 0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		X			Percent 15.0%
Matrix Notes	100% of the rule requirement was not met.				
	Adjustment				\$21,250

\$3,750

Violation Events

Number of Violation Events	1	43	Number of violation days
	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	
	One single event is recommended.		
	Violation Base Penalty		

\$3,750

Good Faith Efforts to Comply

	0.0%		
	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		

\$3,750

Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount	\$2
	Violation Final Penalty Total
	\$3,416
This violation Final Assessed Penalty (adjusted for limits)	
\$3,416	

Economic Benefit Worksheet

Respondent Nianshra Holdings, LLC dba Carry On Food Mart
Case ID No. 60175
Reg. Ent. Reference No. RN102356557
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	\$45	3-Nov-2020	10-Oct-2021	0.93	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to maintain operator training certification records on-site. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$45

TOTAL

\$2

Screening Date	16-Dec-2020	Docket No.	2020-1579-PST-E	PCW
Respondent	Nianshra Holdings, LLC dba Carry On Food Mart			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	60175			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN102356557			
Media	Petroleum Storage Tank			
Enf. Coordinator	Berenice Munoz			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 334.10(b)(2)			
Violation Description	Failed to assure that all UST recordkeeping requirements are met. Specifically, financial assurance and corrosion protection records were not available at the time of the investigation.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential				Percent
					0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
				X	Percent
					1.0%
Matrix Notes	Less than 30% of the rule requirement was not met.				
					Adjustment
					\$24,750

\$250

Violation Events

Number of Violation Events	1	43	Number of violation days
daily			
weekly			
monthly			
quarterly			
semiannual			
annual			
single event	X		
			Violation Base Penalty
			\$250
	One single event is recommended.		

Good Faith Efforts to Comply

	0.0%		
			Reduction
			\$0
Extraordinary			
Ordinary			
N/A	X		
Notes	The Respondent does not meet the good faith criteria for this violation.		
			Violation Subtotal
			\$250

Economic Benefit (EB) for this violation

Estimated EB Amount	Statutory Limit Test
\$4	Violation Final Penalty Total
	\$228
This violation Final Assessed Penalty (adjusted for limits)	
\$228	

Economic Benefit Worksheet

Respondent Nianshra Holdings, LLC dba Carry On Food Mart
Case ID No. 60175
Reg. Ent. Reference No. RN102356557
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$90	3-Nov-2020	10-Oct-2021	0.93	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to maintain financial assurance and corrosion protection records and make them available for review upon request (\$45 per each type of record). The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$90

TOTAL

\$4

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 CN603672791, RN102356557, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN603672791, Nianshra Holdings, LLC **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN102356557, Carry On Food Mart **Classification:** HIGH **Rating:** 0.00

Complexity Points: 2 **Repeat Violator:** NO

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

Location: 4447 De Zavala Road, San Antonio, Bexar County, Texas 78249-2040

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 39533

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

Date Compliance History Report Prepared: December 16, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 16, 2015 to December 16, 2020

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

Name: Berenice Munoz **Phone:** (915) 834-4976

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 December 14, 2017 (1459172)

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
NIANSHRA HOLDINGS, LLC
DBA CARRY ON FOOD MART;
RN102356557

§
§
§
§
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BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2020-1579-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 Nianshra Holdings, LLC dba Carry On Food Mart ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 4447 De Zavala Road in San Antonio, Bexar County, Texas (Facility ID No. 39533) (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 Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of ten thousand four hundred seventy-five dollars (\$10,475.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid four hundred forty-seven dollars (\$447.00) of the penalty. The remaining amount of ten thousand twenty-eight dollars (\$10,028.00) shall be paid in twenty-three (23) monthly payments of four hundred thirty-six dollars (\$436.00) 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 Respondent fails 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, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. The Executive Director and Respondent 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 Respondent has 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 and around November 3, 2020, an investigator documented that Respondent:
 - a. Failed to monitor the UST in a manner which would detect a release at a frequency of at least once every 30 days, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A);
 - b. 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). Specifically, Respondent had not conducted line leak detector and piping tightness tests;
 - c. Failed to maintain operator training certification records on-site and make them available for review, in violation of 30 TEX. ADMIN. CODE § 334.606. Specifically, Class A/B Operator and Class C Operator training certification records were not available at the time of the investigation; and
 - d. Failed to assure that all UST recordkeeping requirements are met, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2). Specifically, financial assurance and corrosion protection records were not available at the time of the investigation.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective 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: Nianshra Holdings, LLC dba Carry On Food Mart, Docket No. 2020-1579-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. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order:
 - i. Begin maintaining operator training certification records on-site, and make them available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.606; and
 - ii. Begin maintaining all UST records on-site, including financial assurance and corrosion protection records, and make them available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10.
 - b. Within 30 days after the effective date of this Order:
 - i. Implement a release detection method for the UST at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - ii. Conduct the annual line leak detector and piping tightness tests, in accordance with 30 TEX. ADMIN. CODE § 334.50.
 - c. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be signed by Respondent and shall include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
- Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Corrective Action Ordering Provisions to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
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
3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by 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. Extension requests shall be sent to the Enforcement Division at the address listed above.
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. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
 8. 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.
 9. 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

For the Executive Director

09/19/22

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.

Nishant Hada

Signature - Nishant Hada, Managing Partner
Nianshra Holdings, LLC
4447 De Zavala Road #7301
San Antonio, Texas 78249

8/2/22

Date

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