

## **TCEQ Interoffice Memorandum**

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**To:** Mary Smith, General Counsel  
Elain Lucas, Assistant General Counsel

**Thru:** Anna Treadwell, Senior Attorney  
*AMT* Litigation Division

**From:** Marilyn Norrod, Staff Attorney  
*MN* Litigation Division

**Date:** August 7, 2024

**Subject: Backup Revision**  
**August 14, 2024 Commission Agenda**  
Item No. 46; Samay Piya Enterprise Inc dba Seminary Food Mart  
Docket No. 2021-0017-PST-E

Enclosed please find the following:

**Page 2 of the Executive Summary:**

Technical Requirements 1.c. and 2.b were corrected, as reflected on the enclosed redline and clean copies.

**Page 6 of the Default Order:**

The reference to Ordering Provision 7.b. has been removed from Ordering Provision 7.e., as reflected on the enclosed redline and clean copies.

**Respondent Contact:**

Sunil Piya, Director, Samay Piya Enterprise, Inc  
7100 Flying H Ranch Road  
North Richland Hills, Texas 76182

Please do not hesitate to call LD Attorney Marilyn Norrod at (512) 239-5916 if you have any questions regarding this matter.

cc: Stephanie McCurley, Enforcement Division  
Doug Reske, Dallas/Fort Worth Regional Office  
Elaine Lucas, Office of the General Counsel  
Gill Valls, Office of the General Counsel  
Michael Parrish, Enforcement Division  
Leslie Gann, Enforcement Division  
Stuart Beckley, Enforcement Division

**Violation Information**

1. Failed to ensure that the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances from the system due to structural failure or corrosion [30 TEX. ADMIN. CODE § 334.48(a)].
2. Failed to perform initial response actions within 24 hours of a release [TEX. WATER CODE § 26.121 and 30 TEX. ADMIN. CODE § 334.76].
3. Failed to conduct initial abatement measures and submit a report detailing remediation activities at the Facility [30 TEX. ADMIN. CODE § 334.77].
4. Failed to conduct the required site assessment actions [30 TEX. ADMIN. CODE § 334.78].
5. Failed to conduct inventory control procedures for the USTs at a retail service station [30 TEX. ADMIN. CODE § 334.48(c)].

**Corrective Actions/Technical Requirements**

**Corrective Action Completed:**

None

**Technical Requirements:**

1. Respondent shall:
  - a. Immediately cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ;
  - b. Within 10 days send the Facility's UST fuel delivery certificate to TCEQ;
  - c. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times;
  - d. Within 30 days:
    - i. Develop and implement procedures to perform initial response actions of a release, timely;
    - ii. Complete abatement actions at the Facility;
    - iii. Conduct inventory control procedures for the USTs at the Facility; and
  - e. Within 45 days conduct the site assessment and site classification actions at the Facility.
2. Submit written certification to demonstrate compliance:
  - a. Within 15 days for Technical Requirement No. 1.a. and 1.b.; and
  - b. Within 60 days for Technical Requirement Nos. ~~1.c. and~~ 1.d.i. through 1.d.iii.

**Litigation Information**

**Date Petitions Filed:** December 7, 2023

**Dates of Service:** December 11, 2023

**Date Answer Filed:** N/A

- e. Within 60 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. ~~7.b. and 7.c.i.~~ through 7.c.iii. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

8. All relief not expressly granted in this Order is denied.
9. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
10. 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.
11. 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.
12. 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.

**Violation Information**

1. Failed to ensure that the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances from the system due to structural failure or corrosion [30 TEX. ADMIN. CODE § 334.48(a)].
2. Failed to perform initial response actions within 24 hours of a release [TEX. WATER CODE § 26.121 and 30 TEX. ADMIN. CODE § 334.76].
3. Failed to conduct initial abatement measures and submit a report detailing remediation activities at the Facility [30 TEX. ADMIN. CODE § 334.77].
4. Failed to conduct the required site assessment actions [30 TEX. ADMIN. CODE § 334.78].
5. Failed to conduct inventory control procedures for the USTs at a retail service station [30 TEX. ADMIN. CODE § 334.48(c)].

**Corrective Actions/Technical Requirements**

**Corrective Action Completed:**

None

**Technical Requirements:**

1. Respondent shall:
  - a. Immediately cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ;
  - b. Within 10 days send the Facility's UST fuel delivery certificate to TCEQ;
  - c. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times and certify compliance within 15 days of doing so;
  - d. Within 30 days:
    - i. Develop and implement procedures to perform initial response actions of a release, timely;
    - ii. Complete abatement actions at the Facility;
    - iii. Conduct inventory control procedures for the USTs at the Facility; and
  - e. Within 45 days conduct the site assessment and site classification actions at the Facility.
2. Submit written certification to demonstrate compliance:
  - a. Within 15 days for Technical Requirement No. 1.a. and 1.b.; and
  - b. Within 60 days for Technical Requirement Nos. 1.d.i. through 1.d.iii.

**Litigation Information**

**Date Petitions Filed:** December 7, 2023

**Dates of Service:** December 11, 2023

**Date Answer Filed:** N/A

- e. Within 60 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. 7.c.i. through 7.c.iii. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
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with a copy to:

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

8. All relief not expressly granted in this Order is denied.
9. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
10. 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.
11. 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.
12. 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.

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 59860  
Samay Piya Enterprise Inc dba Seminary Food Mart  
RN102387107  
Docket No. 2021-0017-PST-E

Page 1 of 3

**Order Type:**  
Default Order

**Media:**  
PST

**Small Business:**  
Yes

**Location Where Violation Occurred:**  
300 East Seminary Drive, Fort Worth, Tarrant 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:** July 5, 2024

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$32,812

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$32,812

**Compliance History Classifications:**  
Person/CN – Satisfactory  
Site/RN – Unsatisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date:** N/A

**Date of Investigation:** July 20, 2020

**Date of NOV:** N/A

**Date of NOE:** N/A

**Violation Information**

1. Failed to ensure that the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances from the system due to structural failure or corrosion [30 TEX. ADMIN. CODE § 334.48(a)].
2. Failed to perform initial response actions within 24 hours of a release [TEX. WATER CODE § 26.121 and 30 TEX. ADMIN. CODE § 334.76].
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**Corrective Actions/Technical Requirements**

**Corrective Action Completed:**  
None

**Technical Requirements:**

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    - i. Develop and implement procedures to perform initial response actions of a release, timely;
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  - a. Within 15 days for Technical Requirement No. 1.a. and 1.b.; and
  - b. Within 60 days for Technical Requirement Nos. 1.c. and 1.d.i. through 1.d.iii.

**Litigation Information**

**Date Petitions Filed:** December 7, 2023

**Dates of Service:** December 11, 2023

**Date Answer Filed:** N/A

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 59860  
Samay Piya Enterprise Inc dba Seminary Food Mart  
RN102387107  
Docket No. 2021-0017-PST-E

Page 3 of 3

**Contact Information**

**TCEQ Attorneys:** Marilyn Norrod, 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:** Stephanie McCurley, Enforcement Division, (512) 239-2607

**TCEQ Regional Contact:** Brent Candler, Dallas/Fort Worth Regional Office, (817) 588-5800

**Respondent Contact:** Sunil Piya, Director, Samay Piya Enterprise Inc, 7100 Flying H Ranch Road,  
North Richland Hills, Texas 76182

**Respondent's Attorney:** N/A



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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	8-Sep-2020			
	<b>PCW</b>	15-Sep-2020	<b>Screening</b>	15-Sep-2020	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Samay Piya Enterprise Inc dba Seminary Food Mart				
<b>Reg. Ent. Ref. No.</b>	RN102387107				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth		<b>Major/Minor Source</b>	Minor	

## CASE INFORMATION

<b>Enf./Case ID No.</b>	59860	<b>No. of Violations</b>	2
<b>Docket No.</b>	2021-0017-PST-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	John Fennell
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$18,750
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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.

<b>Compliance History</b>	25.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$4,687
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<b>Notes</b>	Enhancement for one default order.			
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<b>Culpability</b>	No	0.0%	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.				
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	50.0%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$9,375
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Total EB Amounts	\$15,240	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$123,476	

				\$32,812
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	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Recommended enhancement for the avoided cost of compliance associated with Violation No. 1 is included in the Economic Benefit Enhancement.			
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<b>Final Penalty Amount</b>	\$32,812
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				\$32,812
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<b>DEFERRAL</b>	0.0%	<b>Reduction</b>	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.			
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<b>PAYABLE PENALTY</b>	\$32,812
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<b>Screening Date</b>	15-Sep-2020	<b>Docket No.</b>	2021-0017-PST-E	<b>PCW</b>
<b>Respondent</b>	Samay Piya Enterprise Inc dba Seminary Food Mart			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	59860			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN102387107			
<b>Media</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	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%
	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
Orders	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 25%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for one default order.

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

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 25%

<b>Screening Date</b>	15-Sep-2020	<b>Docket No.</b>	2021-0017-PST-E	<b>PCW</b>	
<b>Respondent</b>	Samay Piya Enterprise Inc dba Seminary Food Mart	Policy Revision 4 (April 2014)			
<b>Case ID No.</b>	59860	PCW Revision March 26, 2014			
<b>Reg. Ent. Reference No.</b>	RN102387107				
<b>Media</b>	Petroleum Storage Tank				
<b>Enf. Coordinator</b>	John Fennell				
<b>Violation Number</b>	1				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 334.48(a), 334.76, 334.77, and 334.78 and Tex. Water Code § 26.121				
<b>Violation Description</b>	<p>Failed to ensure that the underground storage tank ("UST") system is operated, maintained, and managed in a manner that will prevent releases of regulated substances from the system due to structural failure or corrosion. Specifically, a confirmed release of gasoline from a corrosion hole in a metallic elbow piping component in the unleaded submersible turbine pump sump resulted in Lower Explosive Limit ("LEL") readings ranging from 47% to 100% in the sanitary sewer and a LEL reading of 65% at the sewer cleanout of a residence. Also, the Respondent failed to perform initial response actions within 24 hours of a release. Specifically, the Respondent did not initiate the required response actions after a confirmed release of gasoline on July 20, 2020. Also, the Respondent failed to conduct initial abatement measures and submit a report detailing remediation activities at the Facility. Furthermore, the Respondent failed to conduct the required site assessment actions.</p>				
<b>Base Penalty</b>			\$25,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Release</b>	<b>Harm</b>			
		Major      Moderate      Minor			
	Actual Potential	x			<b>Percent</b>
				30.0%	
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
					0.0%
Matrix Notes	Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.				
<b>Adjustment</b>			\$17,500		
			\$7,500		
<b>Violation Events</b>					
Number of Violation Events		2	Number of violation days		
		57			
	daily				
	weekly				
	monthly	x			
	quarterly				
	semiannual				
	annual				
	single event				
<b>Violation Base Penalty</b>			\$15,000		
Two monthly events are recommended from the July 20, 2020 release confirmation date to the September 15, 2020 screening date.					
<b>Good Faith Efforts to Comply</b>		0.0%	<b>Reduction</b>		
		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.				
<b>Violation Subtotal</b>			\$15,000		
<b>Economic Benefit (EB) for this violation</b>					
<b>Statutory Limit Test</b>					
<b>Estimated EB Amount</b>		\$15,216	<b>Violation Final Penalty Total</b>		
			\$26,250		

## Economic Benefit Worksheet

**Respondent** Samay Piya Enterprise Inc dba Seminary Food Mart  
**Case ID No.** 59860  
**Reg. Ent. Reference No.** RN102387107  
**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
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
Piping component Replacement	\$500	20-Jul-2020	29-Jul-2020	0.02	\$1	n/a	\$1
Initial Response Procedures	\$100	20-Jul-2020	5-Jul-2021	0.96	\$5	n/a	\$5
Abatement	\$87,232	9-Aug-2020	5-Jul-2021	0.90	\$3,943	n/a	\$3,943
Site Assessment	\$25,000	3-Sep-2020	5-Jul-2021	0.84	\$1,045	n/a	\$1,045
Notes for DELAYED costs	Estimated delayed cost to replace the metallic piping components in the unleaded STP sump. The Date Required is the investigation date, and the Final Date is the compliance date. Estimated delayed cost to develop and implement procedures to perform initial response actions of a release, timely. The Date Required is the investigation date, and the Final Date is the estimated compliance date. Estimated delayed cost, per TCEQ contractor invoice, to conduct abatement actions at the Facility. The Date Required is the investigation date, and the Final Date is the estimated compliance date. Also, estimated cost to conduct the site assessment at the 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
Initial Response Actions	\$10,144	20-Jul-2020	15-Sep-2020	0.16	\$78	\$10,144	\$10,222
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs	Estimated avoided cost, per TCEQ contractor invoice, to conduct initial release response actions within 24 hours. The Date Required is the release confirmation date, and the Final Date is the screening date.						
Approx. Cost of Compliance	\$122,976			TOTAL		\$15,216	

<b>Screening Date</b>	15-Sep-2020	<b>Docket No.</b>	2021-0017-PST-E	<b>PCW</b>
<b>Respondent</b>	Samay Piya Enterprise Inc dba Seminary Food Mart	Policy Revision 4 (April 2014)		
<b>Case ID No.</b>	59860	PCW Revision March 26, 2014		
<b>Reg. Ent. Reference No.</b>	RN102387107			
<b>Media</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	John Fennell			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.48(c)			
<b>Violation Description</b>	Failed to conduct inventory control procedures for the USTs at a retail service station.			
<b>Base Penalty</b>				\$25,000

  

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>		<b>Release</b>	<b>Harm</b>		
		Major	Moderate	Minor	
	Actual				
	Potential	x			<b>Percent</b> 15.0%

  

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 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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<b>Adjustment</b>	\$21,250
\$3,750	

  

**Violation Events**

Number of Violation Events	1	57	Number of violation days
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	daily				
	weekly				
	monthly				
	quarterly	x			<b>Violation Base Penalty</b> \$3,750
	semiannual				
	annual				
	single event				

  

One quarterly event is recommended from the July 20, 2020 investigation date to the September 15, 2020 screening date.

  

**Good Faith Efforts to Comply**

<b>0.0%</b>	<b>Reduction</b>			
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.			
<b>Violation Subtotal</b>				\$3,750

  

**Economic Benefit (EB) for this violation**

<b>Estimated EB Amount</b>	\$24	<b>Statutory Limit Test</b>
		<b>Violation Final Penalty Total</b> \$6,563
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$6,563

## Economic Benefit Worksheet

**Respondent** Samay Piya Enterprise Inc dba Seminary Food Mart  
**Case ID No.** 59860  
**Reg. Ent. Reference No.** RN102387107  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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)	\$500	20-Jul-2020	5-Jul-2021	0.96	\$24	n/a	\$24

Notes for DELAYED costs

Estimated delayed cost to conduct inventory control procedures for the USTs. 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

\$500

**TOTAL**

\$24



# Compliance History Report

Compliance History Report for CN603974965, RN102387107, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

<b>Customer, Respondent, or Owner/Operator:</b>	CN603974965, Samay Piya Enterprise Inc	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	34.00
<b>Regulated Entity:</b>	RN102387107, Seminary Food Mart	<b>Classification:</b>	UNSATISFACTORY	<b>Rating:</b>	68.00
<b>Complexity Points:</b>	4	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	01 - Gas Stations with convenience Stores and other Gas Stations				
<b>Location:</b>	300 EAST SEMINARY DRIVE FORT WORTH, TARRANT COUNTY, TEXAS 76115-2633				
<b>TCEQ Region:</b>	REGION 04 - DFW METROPLEX				
<b>ID Number(s):</b>					
<b>AIR QUALITY NON PERMITTED ID NUMBER</b>	R04102387107	<b>LEAKING PETROLEUM STORAGE TANKS REMEDIATION ID NUMBER</b>	121001		
<b>PETROLEUM STORAGE TANK REGISTRATION</b>	REGISTRATION 40252	<b>PETROLEUM STORAGE TANK STAGE II REGISTRATION</b>	0040252		
<b>Compliance History Period:</b>	September 01, 2015 to August 31, 2020	<b>Rating Year:</b>	2020	<b>Rating Date:</b>	09/01/2020
<b>Date Compliance History Report Prepared:</b>	March 30, 2021				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	March 30, 2016 to March 30, 2021				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	John Fennell		<b>Phone:</b>	(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?       | 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:**

- |   |   |   |
|---|---|---|
| 1 | Effective Date: 08/05/2019  | ADMINORDER 2018-0914-PST-E (Findings Order-Default) |
|   | Classification: Moderate  |   |
|   | Citation: 30 TAC Chapter 115, SubChapter C 115.246(a)(7)  |   |
|   | 5C THSC Chapter 382 382.085(b)  |   |
|   | Description: Failure of an owner or operator of any gasoline dispensing facility subject to the control requirements of this division to maintain the following records: copies of all notifications and records sufficient to demonstrate compliance with the applicable decommissioning steps listed in §115.241 of this title (relating to Decommissioning of Stage II Vapor Recovery Equipment), including all required test results, kept on site for five years following the completion of the decommissioning activity. |   |
|   | Classification: Major   |   |
|   | Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)   |   |
|   | 30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)  |   |
|   | Description: Failure to monitor underground storage tanks in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring).  |   |
|   | Classification: Major   |   |
|   | Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)  |   |
|   | 30 TAC Chapter 334, SubChapter C 334.50(b)(2)   |   |
|   | Description: Failure to monitor piping in an underground storage tank system in a manner which will detect a release from any portion of the piping system.   |   |
|   | Classification: Minor   |   |
|   | Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(2)   |   |
|   | Description: Failure to maintain legible copies of all required records pertaining to an underground storage tank system in   |   |



a secure location on the premises of the UST facility. The records must be immediately accessible for reference and use by the UST system operator, and must be 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.):**

Item 1	September 18, 2019	(1592793)
Item 2	December 17, 2019	(1612711)

**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  
SAMAY PIYA ENTERPRISE INC  
DBA SEMINARY FOOD MART;  
RN102387107

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER

DOCKET NO. 2021-0017-PST-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended 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 and corrective action of the respondent, and revocation of the facility's/station's fuel delivery certificate. The respondent made the subject of this Order is Samay Piya Enterprise Inc dba Seminary Food Mart ("Respondent").

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

### FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 300 East Seminary Drive, in Fort Worth, Tarrant County, Texas (Facility ID No. 40252) (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 July 20, 2020, an investigator documented that Respondent:
  - a. Failed to ensure that the UST system is operated, maintained and managed in a manner that will prevent releases of regulated substances from the systems due to structural failure or corrosion. Specifically, a confirmed release of gasoline from a corrosion hole in a metallic elbow piping component in the unleaded submersible turbine pump sump resulted in Lower Explosive Limit ("LEL") readings ranging from 47% to 100% in the sanitary sewer and a LEL reading of 65% at the sewer cleanout of a residence. Respondent also failed to perform initial response actions within 24 hours of a release. Specifically, Respondent did not initiate the required response actions after a confirmed release of gasoline on July 20, 2020. Also, Respondent failed to conduct initial abatement measures and submit a report detailing remediation activities at the Facility. Furthermore, Respondent failed to conduct the required site assessment actions.
  - b. Failed to conduct inventory control procedures for the USTs at a retail service station.
3. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Samay Piya Enterprise Inc dba Seminary Food Mart" (the "EDFARP") in the TCEQ Chief Clerk's office on December 7, 2023.

4. The EDFARP was mailed to Respondent's last known address on December 7, 2023 via certified mail, return receipt requested, postage prepaid. The Respondent received the mail according to the signed USPS receipt on December 11, 2023.
5. More than 20 days have elapsed since Respondent received notice of the EDFARP. 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 ensure that the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances from the system due to structural failure or corrosion, in violation of 30 TEX. ADMIN. CODE § 334.48(a). Respondent failed to perform initial response actions within 24 hours of a release, in violation of TEX. WATER CODE § 26.121 and 30 TEX. ADMIN. CODE § 334.76. Respondent failed to conduct initial abatement measures and submit a report detailing remediation activities at the Facility, in violation of 30 TEX. ADMIN. CODE § 334.77. Respondent failed to conduct the required site assessment actions, in violation of 30 TEX. ADMIN. CODE § 334.78.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to conduct inventory control procedures for the USTs at a retail service station, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
4. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(d).
5. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of \$32,812 is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
9. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.
10. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 through 5, and Conclusions of Law Nos. 2 through 5.

#### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of \$32,812 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: Samay Piya Enterprise Inc dba Seminary Food Mart; Docket No. 2021-0017-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. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements of this Order, including payment of the administrative penalty in full.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
5. Within 10 days after the effective date of this Order, Respondent shall send the Facility's UST fuel delivery certificate to:  

Petroleum Storage Tank Registration Team, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
6. Within 15 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 7.e. to demonstrate compliance with Ordering Provision Nos. 4 and 5.
7. Respondent shall undertake the following technical requirements:
  - a. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
  - b. Within 15 days after obtaining a new fuel delivery certificate pursuant to Ordering Provision No. 4, submit written certification in accordance with Ordering Provision No. 7.c. to demonstrate compliance with Ordering Provision No. 7.a.
  - c. Within 30 days after the effective date of this Order:
    - i. Develop and implement procedures to perform initial response actions of a release, timely;
    - ii. Complete abatement actions at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 334.76 and 334.77; and
    - iii. Conduct inventory control procedures for the USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.48.
  - d. Within 45 days after the effective date of this Order, conduct the site assessment and site classification actions at the Facility, in accordance with 30 TEX. ADMIN. CODE 334.78; and

- e. Within 60 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. 7.b. and 7.c.i. through 7.c.iii. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

8. All relief not expressly granted in this Order is denied.
9. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
10. 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.
11. 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.
12. 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.

13. 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.
14. 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.
15. 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**

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For the Commission

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Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF MARILYN A. NORROD

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Samay Piya Enterprise Inc dba Seminary Food Mart' (the "EDFARP") was filed in the TCEQ Chief Clerk's office on December 7, 2023.

The EDFARP was mailed to Respondent's last known address on December 7, 2023; via certified mail, return receipt requested, postage prepaid. The Respondent received the EDFARP on December 11, 2023, according to USPS receipt.

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

"My name is Marilyn A. Norrod, 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 13<sup>th</sup> day of June, 2024

Marilyn A. Norrod