

## **TCEQ Interoffice Memorandum**

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

**Thru:** JSR Jess Robinson, Senior Attorney  
Litigation Division

**From:** CS Cynthia Sirois, Staff Attorney  
Litigation Division

**Date:** February 19, 2025

**Subject:** **Backup Revision**  
**February 27, 2025 Commission Agenda**  
Item No. 15; HAQUE SALMA ENTERPRISE INC dba Poppy Food Mart  
Docket No. 2021-0193-PST-E

Enclosed please find the following:

**Page 1 of the Executive Summary:**

Information about Additional Pending Enforcement Actions for this Executive Summary has been corrected to 'None.' The previously listed Additional Pending Enforcement Action is not associated with this respondent and had been erroneously included.

Respondent Contact:

Zakir Hossain, President  
HAQUE SALMA ENTERPRISE INC  
331 West Magnolia Avenue, Apt 4  
San Antonio, Texas 78212

Please do not hesitate to call me at (512) 239-3392 if you have any questions regarding this matter.

cc: Karolyn Kent, Enforcement Division  
Jack Higginbotham, San Antonio Regional Office  
Gill Valls, Office of the General Counsel  
Michael Parrish, Enforcement Division  
Leslie Gann, Enforcement Division  
Stuart Beckley, Enforcement Division

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60353  
HAQUE SALMA ENTERPRISE INC dba Poppy Food Mart  
RN101444651  
Docket No. 2021-0193-PST-E

Page 1 of 2

**Order Type:**  
Agreed Order

**Media:**  
PST

**Small Business:**  
Yes

**Location Where Violations Occurred:**  
5407 San Pedro Avenue, San Antonio, Bexar County

**Type of Operation:**  
an underground storage tank ("UST") system and convenience store with retail sales of gasoline

**Other Significant Matters:**  
Additional Pending Enforcement Actions.: ~~Yes, 2024-0188-PST-E~~  
Past-Due Penalties: None  
Past-Due Fees: None  
Other: None  
Interested Third Parties: None

**Texas Register Publication Date:** January 10, 2025

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$11,347

**Deferred for Financial Inability to Pay:** \$9,847  
Confidential information, which may include financial information, has been provided to the Commission for its consideration.

**Total Paid to General Revenue:** \$100

**Total Due to General Revenue:** \$1,400  
Payment Plan: 14 payments of \$100

**Compliance History Classifications:**  
Person/CN - High  
Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date:** N/A

**Date of Investigation:** December 18, 2020

**Date of NOV:** N/A

**Date of NOE:** January 25, 2021

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60353  
 HAQUE SALMA ENTERPRISE INC dba Poppy Food Mart  
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Past-Due Fees:	None
Other:	None
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**Statutory Limit Adjustment:** None

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**Investigation Information**

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Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date:** N/A

**Date of Investigation:** December 18, 2020

**Date of NOV:** N/A

**Date of NOE:** January 25, 2021

**Violation Information**

1. Failed to monitor the USTs for releases in a manner which will 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 inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C)].
4. Failed to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(4)(C)].
5. Failed to designate, train, and certify at least one named individual for each class of operator – Class A, Class B, and Class C for the Facility [30 TEX. ADMIN. CODE § 334.602(a)].
6. Failed to maintain operator training certification records on-site and make them available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.606].
7. Failed to assure that all UST recordkeeping requirements are met [30 TEX. ADMIN. CODE § 334.10(b)(2)].

**Corrective Actions/Technical Requirements**

**Corrective Actions Completed:**

None

**Technical Requirements:**

Respondent no longer owns or operates the Facility as of April 1, 2021.

**Litigation Information**

<b>Date Petitions Filed:</b>	October 23, 2023
<b>Date Answer Filed:</b>	November 2, 2023
<b>SOAH Referral Date:</b>	December 5, 2023
<b>Hearing Dates:</b>	
Preliminary hearing:	February 22, 2024
Evidentiary hearing:	December 10, 2024
<b>Settlement Date:</b>	November 20, 2024

**Contact Information**

**TCEQ Attorneys:** Cynthia Sirois, 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:** Karolyn Kent, Enforcement Division, (512) 239-2536

**TCEQ Regional Contact:** Jack Higginbotham, San Antonio Regional Office, (210) 490-3096

**Respondent Contact:** Zakir Hossain, President, HAQUE SALMA ENTERPRISE INC,  
331 West Magnolia Avenue, Apt 4, San Antonio, Texas 78212

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	1-Feb-2021	<b>Screening</b>	2-Feb-2021	<b>EPA Due</b>	
	<b>PCW</b>	30-Oct-2024				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	HAQUE SALMA ENTERPRISE INC				
<b>Reg. Ent. Ref. No.</b>	RN101444651				
<b>Facility/Site Region</b>	13-San Antonio		<b>Major/Minor Source</b>	Minor	

## CASE INFORMATION

<b>Enf./Case ID No.</b>	60353	<b>No. of Violations</b>	5
<b>Docket No.</b>	2021-0193-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Karolyn Kent
		<b>EC's Team</b>	Enforcement Team 3
<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>	\$9,750
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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>	-10.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	-\$975
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<b>Notes</b>	Reduction for High Performer classification.			
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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>	0.0%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$2,572	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,536	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$8,775
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	29.3%	<b>Adjustment</b>	\$2,572
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 through 5.		
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<b>Final Penalty Amount</b>	\$11,347
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$11,347
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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>	Deferral not offered for non-expedited settlement.		
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<b>PAYABLE PENALTY</b>	\$11,347
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<b>Screening Date</b>	2-Feb-2021	<b>Docket No.</b>	2021-0193-PST-E	<b>PCW</b>
<b>Respondent</b>	HAQUE SALMA ENTERPRISE INC			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	60353			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN101444651			
<b>Media</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Karolyn Kent			

### 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%

<b>Screening Date</b>	2-Feb-2021	<b>Docket No.</b>	2021-0193-PST-E	<b>PCW</b>
<b>Respondent</b>	HAQUE SALMA ENTERPRISE INC			Policy Revision 4 (April 2014)
<b>Case ID No.</b>	60353			PCW Revision March 26, 2014
<b>Reg. Ent. Reference No.</b>	RN101444651			
<b>Media</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Karolyn Kent			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2) and Tex. Water Code § 26.3475(a) and (c)(1)			
<b>Violation Description</b>	Failed to monitor the underground storage tanks ("USTs") for releases 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 annual line leak detector and piping tightness tests.			
<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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**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events	1	Number of violation days	46
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daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$3,750

One quarterly event is recommended from the December 18, 2020 investigation date to the February 2, 2021 screening date.

**Good Faith Efforts to Comply**

	<b>0.0%</b>			
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	<b>Reduction</b>	
Extraordinary				
Ordinary				
N/A	X			

Notes	The Respondent does not meet the good faith criteria for this violation.
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**Violation Subtotal** \$3,750

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

		<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	\$1,760	<b>Violation Final Penalty Total</b>
		\$4,364

**This violation Final Assessed Penalty (adjusted for limits)** \$4,364



## Economic Benefit Worksheet

**Respondent** HAQUE SALMA ENTERPRISE INC  
**Case ID No.** 60353  
**Reg. Ent. Reference No.** RN101444651  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

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

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$236	18-Dec-2020	1-Apr-2021	0.28	\$3	\$236	\$239
Other (as needed)	\$1,500	18-Dec-2020	1-Apr-2021	0.28	\$21	\$1,500	\$1,521

Notes for AVOIDED costs

Estimated avoided cost to conduct the annual line leak detector and piping tightness tests (\$236), and to implement a release detection method for the USTs at the Facility (\$1,500). The Dates Required are the investigation date, and the Final Dates are the ownership change date.

Approx. Cost of Compliance	\$1,736	<b>TOTAL</b>	\$1,760
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<b>Screening Date</b>	2-Feb-2021	<b>Docket No.</b>	2021-0193-PST-E	<b>PCW</b>
<b>Respondent</b>	HAQUE SALMA ENTERPRISE INC	Policy Revision 4 (April 2014)		
<b>Case ID No.</b>	60353	PCW Revision March 26, 2014		
<b>Reg. Ent. Reference No.</b>	RN101444651			
<b>Media</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Karolyn Kent			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4)(C) and Tex. Water Code § 26.3475(d)			
<b>Violation Description</b>	Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly. Specifically, the Respondent was not performing 60-day inspections of the impressed current cathodic protection system. Also, failed to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the Respondent had not conducted the triennial corrosion protection test.			
<b>Base Penalty</b>				\$25,000

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

<b>OR</b>		<b>Harm</b>				
	<b>Release</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.

**Adjustment**      \$21,250

\$3,750

**Violation Events**

Number of Violation Events	1	46	Number of violation days
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	daily		
	weekly		
	monthly		
	quarterly	X	
	semiannual		
	annual		
	single event		

**Violation Base Penalty**      \$3,750

One quarterly event is recommended from the December 18, 2020 investigation date to the February 2, 2021 screening date.

**Good Faith Efforts to Comply**

	0.0%		
			<b>Reduction</b>

\$0


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

**Violation Subtotal**      \$3,750

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

<b>Estimated EB Amount</b>	\$710

**Statutory Limit Test**

<b>Violation Final Penalty Total</b>	\$4,364

**This violation Final Assessed Penalty (adjusted for limits)**      \$4,364

# Economic Benefit Worksheet

**Respondent** HAQUE SALMA ENTERPRISE INC  
**Case ID No.** 60353  
**Reg. Ent. Reference No.** RN101444651  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

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

## Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$200	18-Dec-2020	1-Apr-2021	0.28	\$3	\$200	\$203
Other (as needed)	\$500	18-Dec-2020	1-Apr-2021	0.28	\$7	\$500	\$507
Notes for AVOIDED costs	Estimated avoided cost to conduct 60-day inspections of the rectifier and other components of the corrosion protection system (\$200), and to conduct the triennial corrosion protection test (\$500). The Dates Required are the investigation date, and the Final Dates are the ownership change date.						

Approx. Cost of Compliance \$700

**TOTAL** \$710

**Screening Date** 2-Feb-2021  
**Respondent** HAQUE SALMA ENTERPRISE INC  
**Case ID No.** 60353  
**Reg. Ent. Reference No.** RN101444651  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Karolyn Kent

**Docket No.** 2021-0193-PST-E

**PCW**

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code § 334.602(a)

**Violation Description** Failed to designate, train, and certify at least one named individual for each class of operator – Class A, Class B, and Class C for the Facility. Specifically, the Facility did not have a Class C operator.

**Base Penalty** \$25,000

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

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

**Percent** 3.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0.0%

**Matrix Notes**

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$24,250

\$750

**Violation Events**

**Number of Violation Events** 1 **Number of violation days** 46

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

**Violation Base Penalty** \$750

One single event is recommended.

**Good Faith Efforts to Comply**

0.0%

**Reduction** \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	X

**Notes**

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

**Violation Subtotal** \$750

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

**Statutory Limit Test**

**Estimated EB Amount** \$10

**Violation Final Penalty Total** \$873

**This violation Final Assessed Penalty (adjusted for limits)** \$873

## Economic Benefit Worksheet

**Respondent** HAQUE SALMA ENTERPRISE INC  
**Case ID No.** 60353  
**Reg. Ent. Reference No.** RN101444651  
**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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$10	18-Dec-2020	1-Apr-2021	0.28	\$0	\$10	\$10
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to designate, train, and certify a Class C operator for the Facility. The Date Required is the investigation date, and the Final Date is the ownership change date.

Approx. Cost of Compliance \$10

**TOTAL** \$10

<b>Screening Date</b>	2-Feb-2021	<b>Docket No.</b>	2021-0193-PST-E	<b>PCW</b>
<b>Respondent</b>	HAQUE SALMA ENTERPRISE INC	Policy Revision 4 (April 2014)		
<b>Case ID No.</b>	60353	PCW Revision March 26, 2014		
<b>Reg. Ent. Reference No.</b>	RN101444651			
<b>Media</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Karolyn Kent			
<b>Violation Number</b>	4			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.606			
<b>Violation Description</b>	Failed to maintain operator training certification records on-site and make them available for inspection upon request by agency personnel. Specifically, Class A and B operator training records were not available for review.			
<b>Base Penalty</b>				\$25,000

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> 0.0%
Potential					

**>> Programmatic Matrix**

<b>Matrix Notes</b>		<b>Falsification</b>			
		Major	Moderate	Minor	
		X			<b>Percent</b> 5.0%

100% of the rule requirement was not met.

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events	1	46	Number of violation days
daily			
weekly			
monthly			
quarterly			
semiannual			
annual			
single event		X	

**Violation Base Penalty** \$1,250

One single event is recommended.

**Good Faith Efforts to Comply**

	<b>0.0%</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.		

**Violation Subtotal** \$1,250

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

<b>Estimated EB Amount</b>	<b>Statutory Limit Test</b>
\$46	
<b>Violation Final Penalty Total</b>	\$1,455
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
\$1,455	

# Economic Benefit Worksheet

**Respondent** HAQUE SALMA ENTERPRISE INC  
**Case ID No.** 60353  
**Reg. Ent. Reference No.** RN101444651  
**Media** Petroleum Storage Tank  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

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

Notes for DELAYED costs

## Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$45	18-Dec-2020	1-Apr-2021	0.28	\$1	\$45	\$46
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to maintain operator training certification records on-site and make them available for inspection upon request by agency personnel. The Date Required is the investigation date, and the Final Date is the ownership change date.

Approx. Cost of Compliance

\$45

**TOTAL**

\$46

<b>Screening Date</b>	2-Feb-2021	<b>Docket No.</b>	2021-0193-PST-E	<b>PCW</b>	
<b>Respondent</b>	HAQUE SALMA ENTERPRISE INC				<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	60353				<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN101444651				
<b>Media</b>	Petroleum Storage Tank				
<b>Enf. Coordinator</b>	Karolyn Kent				
<b>Violation Number</b>	5				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.10(b)(2)				
<b>Violation Description</b>	Failed to assure that all UST recordkeeping requirements are met. Specifically, financial assurance records were not available for review.				
		<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					
					<b>Percent</b>	0.0%

**>> Programmatic Matrix**

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

\$250

**Violation Events**

Number of Violation Events	1	46	Number of violation days
daily			
weekly			
monthly			
quarterly			
semiannual			
annual			
single event		X	
			<b>Violation Base Penalty</b>
			\$250
	One single event is recommended.		

**Good Faith Efforts to Comply**

	<b>0.0%</b>		<b>Reduction</b>
			\$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.		
		<b>Violation Subtotal</b>	\$250

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

	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	\$46
	<b>Violation Final Penalty Total</b>
	\$291
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>
	\$291



# Economic Benefit Worksheet

**Respondent** HAQUE SALMA ENTERPRISE INC  
**Case ID No.** 60353  
**Reg. Ent. Reference No.** RN101444651  
**Media** Petroleum Storage Tank  
**Violation No.** 5

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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs							

## Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$45	18-Dec-2020	1-Apr-2021	0.28	\$1	\$45	\$46
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs	Estimated avoided cost to maintain financial assurance records. The Date Required is the investigation date, and the Final Date is the ownership change date.						

Approx. Cost of Compliance \$45

**TOTAL** \$46

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 CN605779750, RN101444651, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN605779750, HAQUE SALMA ENTERPRISE INC **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN101444651, Poppy Food Mart **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 5 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 5407 San Pedro Avenue, San Antonio, Bexar County, Texas 78212-1221

**TCEQ Region:** REGION 13 - SAN ANTONIO

**ID Number(s):**  
**PETROLEUM STORAGE TANK REGISTRATION**  
REGISTRATION 28962

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

**Date Compliance History Report Prepared:** February 01, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 01, 2016 to February 01, 2021

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

**Name:** Karolyn Kent **Phone:** (512) 239-2536

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) Who is the current owner/operator? HAQUE SALMA ENTERPRISE INC OWNER OPERATOR since 1/10/2020
- 4) Who was/were the prior owner(s)/operator(s)? Zack Snack, Inc, OWNER OPERATOR, 1/1/2019 to 1/9/2020  
RRL Ventures, Inc., OWNER OPERATOR, 7/1/2006 to 12/31/2018

## 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 January 25, 2018 (1465038)

### **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  
HAQUE SALMA ENTERPRISE INC  
DBA POPPY FOOD MART;  
RN101444651

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER

DOCKET NO. 2021-0193-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 HAQUE SALMA ENTERPRISE INC dba Poppy 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 owned and operated, as defined in 30 TEX. ADMIN. CODE § 334.2, an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 5407 San Pedro Avenue in San Antonio, Bexar County, Texas (Facility ID No. 28962) (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 they contain 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 \$11,347 is assessed by the Commission in settlement of the Violations alleged in Section II. The Revenue Operations Section of TCEQ's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay all or part of the penalty. Therefore, \$9,847 of the penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions contained in this Order.

Respondent paid \$100 of the \$1,500 undeferred penalty. The remaining amount of \$1,400 of the undeferred penalty shall be paid in 14 monthly payments of \$100 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 her 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 and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

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.
9. The Executive Director recognizes that Respondent no longer owns or operates the Facility as of April 1, 2021.

## II. ALLEGATIONS

1. During an investigation conducted on December 18, 2020, an investigator documented that Respondent:
  - a. Failed to monitor the USTs for releases in a manner which will 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 the annual line leak detector and piping tightness tests;
  - c. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C). Specifically, Respondent was not performing 60-day inspections of the impressed current cathodic protection system;
  - d. Failed to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(4)(C). Specifically, Respondent had not conducted the triennial corrosion protection test;
  - e. Failed to designate, train, and certify at least one named individual for each class of operator – Class A, Class B, and Class C for the Facility, in violation of 30 TEX. ADMIN. CODE § 334.602(a). Specifically, the Facility did not have a Class C operator;
  - f. Failed to maintain operator training certification records on-site and make them available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.606. Specifically, Class A and B operator training records were not available for review; and
  - g. Failed to assure that all UST recordkeeping requirements are met, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2). Specifically, financial assurance records were not available for review.

### 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 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 not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: HAQUE SALMA ENTERPRISE INC dba Poppy Food Mart, Docket No. 2021-0193-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. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent.
4. 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.
5. 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.
6. 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.
7. 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.

8. 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



\_\_\_\_\_  
January 27, 2025

\_\_\_\_\_  
For the Executive Director

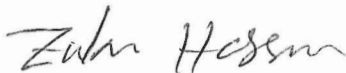
\_\_\_\_\_  
Date

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.



\_\_\_\_\_  
Signature - Zakir Hossain, President  
HAQUE SALMA ENTERPRISE INC  
331 West Magnolia Avenue, Apt 4  
San Antonio, Texas 78212

  
\_\_\_\_\_  
Date

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