| Order Type: Default Order | |
|--|---|
| Media: PST | |
| Small Business: Yes | |
| Location(s) Where Violation(s) Occurred: 301 West Dallas Avenue, Cooper, Delta Count | ty |
| Type of Operation: out-of-service underground storage tank ("US | T") system |
| Other Significant Matters: Additional Pending Enforcement Actions: | None |
| Past-Due Penalties: | \$3,330.22 |
| Past-Due Fees: | None |
| Other: | None |
| Interested Third Parties: | None |
| Texas Register Publication Date: | June 21, 2024 |
| Comments Received: | None |
| Pen | alty Information |
| Total Penalty Assessed: | \$74,194 |
| Total Paid to General Revenue: | \$O |
| Total Falu to General Revenue. | ψΟ |
| Total Due to General Revenue: | \$74,194 |
| | + • |
| Total Due to General Revenue: Compliance History Classifications: Person/CN – Satisfactory | + • |
| Total Due to General Revenue: Compliance History Classifications: Person/CN – Satisfactory Site/RN – Satisfactory | \$74,194 |
| Total Due to General Revenue: Compliance History Classifications: Person/CN – Satisfactory Site/RN – Satisfactory Major Source: | \$74,194 No |
| Total Due to General Revenue: Compliance History Classifications: Person/CN – Satisfactory Site/RN – Satisfactory Major Source: Statutory Limit Adjustment: Applicable Penalty Policy: | \$74,194 No None April 2014 |
| Total Due to General Revenue: Compliance History Classifications: Person/CN – Satisfactory Site/RN – Satisfactory Major Source: Statutory Limit Adjustment: Applicable Penalty Policy: | \$74,194 No None |
| Total Due to General Revenue: Compliance History Classifications: Person/CN - Satisfactory Site/RN - Satisfactory Major Source: Statutory Limit Adjustment: Applicable Penalty Policy: <u>Investi</u> | \$74,194 No None April 2014 |
| Total Due to General Revenue: Compliance History Classifications: Person/CN - Satisfactory Site/RN - Satisfactory Major Source: Statutory Limit Adjustment: Applicable Penalty Policy: <u>Investi</u> Complaint Date(s): | \$74,194 No None April 2014 <i>Egation Information</i> N/A |
| Total Due to General Revenue:Compliance History Classifications:Person/CN - SatisfactorySite/RN - SatisfactoryMajor Source:Statutory Limit Adjustment:Applicable Penalty Policy:InvestiComplaint Date(s):Date(s) of Investigation: | \$74,194 No None April 2014 <i>igation Information</i> N/A January 28, 2020 |

Violation Information

- 1. Failed to adequately protect a temporarily out-of-service UST system from corrosion and failed to empty the UST system and perform a site check and any necessary corrective actions for temporarily out-of-service UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE §§ 334.49(c)(2)(C) and (c)(4)(C), 334.54(b)(3) and (e)(5)].
- 2. Failed to identify and designate for the UST facility at least one named individual for each class operator Class A, Class B, and Class C [30 TEX. ADMIN. CODE § 334.602(a)].
- 3. Failed to monitor a temporarily out-of-service UST system for releases at least once every 30 days, in violation of [Tex. WATER CODE § 26.3475(c)(1), 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A) and 334.54(c)(1), and TCEQ Docket No. 2016-0964-PST-E, Ordering Provision No. 2.b.].
- 4. Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition [30 Tex. ADMIN. CODE § 334.7(d)(1)(B) and (d)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

- 1. Within 30 days after the effective date of this Order:
 - a. Obtain the required Class A and Class B operator training and certification;
 - b. Properly temporarily remove the UST system from service, including providing release detection and corrosion protection for the UST system, and either providing financial assurance or emptying the USTs of all regulated substances and conducting a site check; or
 - c. Permanently remove the UST system from service.
- 2. Within 60 days submit an amended registration to reflect the UST system's current operational status.
- 3. Within 75 days submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Technical Requirement Nos. 1.a., 1.b., and 2 or 1.c. and 2.

| | Litigation Information |
|-------------------------|------------------------|
| Date Petition(s) Filed: | July 28, 2022 |
| Date(s) of Service: | July 30, 2022 |
| Date Answer(s) Filed: | N/A |
| | |

Contact Information

TCEQ Attorneys: David Keagle, 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: Michelle Baetz, Tyler Regional Office, (903) 535-5100

Respondent Contact: Benton Rainey, 1425 South Church Street, Paris, Texas 75460

Respondent's Attorney:N/A

| DATES Assigned 22-Jun-2020 Screening 6-Jul-2020 FPA Due RESPONDENT/FACILITY INFORMATION Respondent Benton Rainey Respondent Benton Rainey Resp. Ent. Ref. No. RNIO3395500 Facility/Site Region 5-Tyler Major/Minor Source/Minor CASE INFORMATION State Region 5-Tyler Major/Minor Source/Minor Media Program(s) Petroleum Storage Tank Order Type Findings Media Program(s) Petroleum Storage Tank Government/Mon-Profit No Multi-Hedia Subtocal 2-2 restant Order Type Findings Multi-Hedia Subtocal 2-2 restant Subtocal 1 \$61,250 Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000 Subtocal 1 \$61,250 Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000 Subtocal 2 \$61,250 Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000 Subtocal 1 \$61,250 Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000 Subtocal 2 \$61,250 Admin. Penalty \$ Limit Minimum \$0 Maximum \$20,006 Adjustment \$20totals 2, 3, & | S COM MISSIC | Policy R | Pe evision 4 (April 2014 | nalty Calcul | atio | n Worksh | neet (PC | 2 | Revision Marcl | n 26, 2014 |
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| RESPONDENT/FACILITY INFORMATION Respondent/FACILITY INFORMATION Respondent/FacIlity/Site Region 5-Tyler Facility/Site Region 5-Tyler Major/Minor Source Minor CASE INFORMATION Enf, Case ID No. 52021-0212-P5T-E Order Type Findings Media Program(5) Periodeum Storage Tank Multi-Media Case INFORMATION Media Program(5) Multi-Media Case INFORMATION Media Program(5) Multi-Media Case INFORMATION Multi-Media Case INFORMATION Multi-Media Case INFORMATION Respondent Media Multi-Media Case INFORMATION Subtotal S / Set obtained Sympholytics the Information base penalties) Subtotal S / Set obtained by multiphytics the Information base penalties) Subtotal S / Set obtained by multiphytics the Information base penalties Subtotal S / Set obtained by multiphytics the Information base penalties Subtotal S / Set obtained by multiphytics the Information base penalties Subtotal S / Set obtained by multiphytics the Information base penalty (Subtotal 1) by the indicated percentage. | DATES | | | | | | | | | |
| Respondent [Benton Rainey] Facelity/Site Region 5-Tyler CASE INFORMATION Enf, Case ID No. 52551 Docket No. 12021-0212-PST-E Order Type Findings Government/Non-Profit Media Program (s) Periodeum Storage Tank Multi-Media Case ID No. 52551 Order Type Findings Government/Non-Profit Multi-Media Case ID No. 52551 Multi-Media State ID No. 52551 Maximum State ID No. 52551 Maximum State ID No. 52551 Respondent ID Notlogia State ID Notlogia Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 State ID Notlogia Enhacement for one order with a denial of liability. Culp | | PCW | 17-Jul-2020 | Screening 6-Jul- | 2020 | EPA Due | | | | |
| Reg. Ent. Ref. No. [N102839500] Facility/Site Region STyler CASE INFORMATION Enf. / Case ID No. Enf. / Case ID No. [55591] Media Program (5) Petroleum Storage Tank Multi-Media Storage Tank Government/Non-Profit No. of Violations 4 Multi-Media Government/Non-Profit Admin. Penalty S Limit Minimum \$0 Maximum \$25,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal I Subtotals 2-7 an obtained by multipying the fotal Base Penalty (Subtotal 1) by the indicated percentage. Completioner History 20.0% ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotal 2.7 an obtained by multipying the fotal Base Penalty (Subtotal 1) by the indicated percentage. Completioner History 20.0% Notes Enhancement for one order with a denial of liability. Culpability No No dest Completioned \$11,550 Subtotal 5 Economic Benefit 0.0% Notes Final Adjustment Subtotal 5 \$0 Others or enhances the Final Subtotal by the indicated percentage. | RESPO | | | ON | | | | | | _ |
| Facility/Site Region 5-Tyler Major/Minor Source Minor CASE INFORMATION Enf, / Case ID No. 2021-0212-PST-E Docket No. 2021-0212-PST-E Media Program(s) Petroleum Storage Tank No. of Violations [4 Order Type Findings Media Program(s) Petroleum Storage Tank Government, Vion-Profit Enf. Coordinator Ef's ream Enforcement Team 7 Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 Subtotal S-7 are obtained by multiplying the fotal Base Penalty (Subtotal 1) by the indicated percentage. Compliance History 20.0% Adjustment Subtotal 2 Notes Enhancement for one order with a denial of liability. Culpability No 0.0% Enhancement Notes The Respondent does not meet the culpability criteria. Good Faith Effort to Comply Total Adjustments Subtotal 5 Economic Benefit Extimated Cost of Compliance 11.550 Votes Enhancement to capture the avoided cost of compliance associated with Violation No. 1. Final Subtotal 5 \$00 State BA Amounts \$1,550 Votes Enhancement to capture the avoided cost of compliance associated with Violation No. 1. Final Assessed Penalty \$74,194 Statutotal 5 \$00 Enhance | Per | | | | | | | | | |
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| Reduces the Final Assessed Penalty by the indicated percentage. Notes No deferral is recommended for Findings Orders. | DEFER | RRAL | | | | 0.0% | Reduction | Adjustment | | \$0 |
| | Reduces t | he Final Assessed Pe | nalty by the indicated | d percentage. | | | | 1 | | |
| ΡΔΥΔΒΙ Ε ΡΕΝΔΙ ΤΥ \$74.194 | | Notes | No c | deferral is recommend | ded for | Findings Orders | | | | |
| <i>•••••••••••••••••••••••••••••••••••••</i> | PAYA | BLE PENALTY | (| | | | | | | \$74,194 |

| | | Enf. Coc | Media Petroleum Storage Tank ordinator Tyler Richardson | | | |
|----|------|--------------------------------|--|---------------|------------------------|---|
| | | | Compliance History Worksheet | | | |
| >> | Со | mpliance Hist Component | ory Site Enhancement (Subtotal 2) | 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>) | 1 | 20% | |
| | | 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 | 0 | 0% | |
| | | Judgments and Consent | 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% | |
| | | Decrees | 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 (number of events) | 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 (number of audits for which notices were submitted) | 0 | 0% | |
| | | Addits | 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% | |
| | | | Environmental management systems in place for one year or more | No | 0% | |
| | | Other | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% | |
| | | other | 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 Per | centage (Sub | total 2) 209 | % |
| >> | Re | peat Violator | (Subtotal 3) | | | |
| | | No | | rcentage (Sub | ototal 3) 0% | ó |
| >> | Со | mpliance Hist | ory Person Classification (Subtotal 7) | | | |
| | | Satisfactory | | centage (Sub | ototal 7) 0% | ó |
| >> | Со | mpliance Hist | ory Summary | | | |
| | | Compliance History Notes | Enhancement for one order with a denial of liability. | | | |
| | Cin- | Compliance | Total Compliance History Adjustment Percentage (S | Subtotals 2, | 3, & 7) 209 | % |
| >> | 1112 | | History Adjustment Final Adjustment Percent | age *capped | at 100% 209 | % |
| | | | | | | |

Screening Date 6-Jul-2020

Case ID No. 52591

Reg. Ent. Reference No. RN102839560

Respondent Benton Rainey

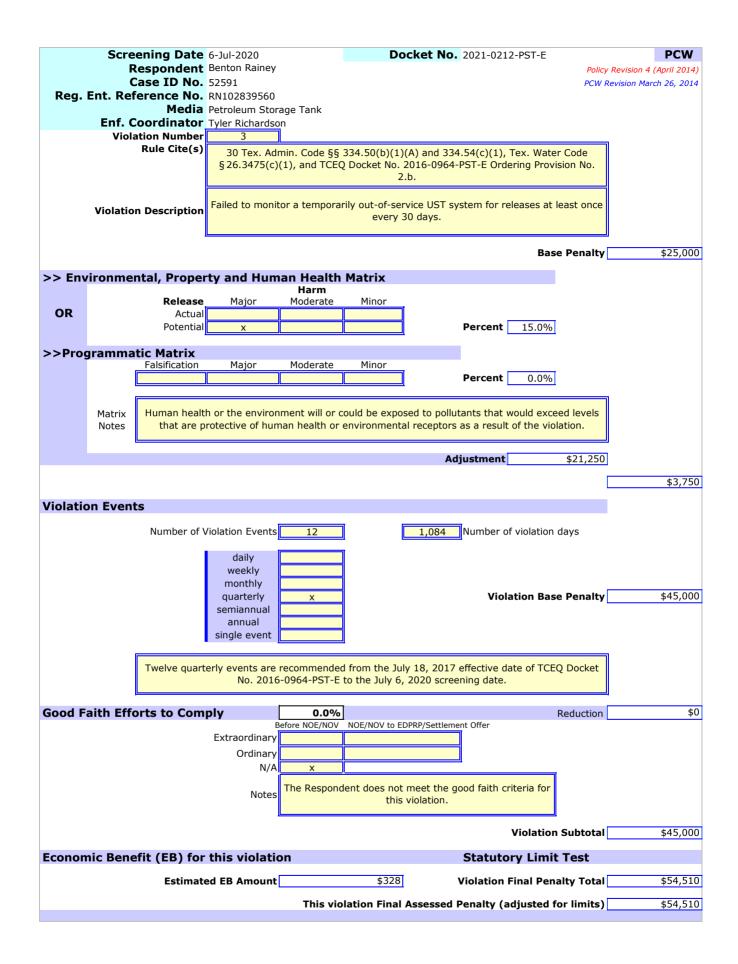
Policy Revision 4 (April 2014) PCW Revision March 26, 2014

| | | ening Date | | | Doo | cket No. 2021-0212-PST-E | | PCW |
|----------|-----------------|-----------------------------|---|--|---|---|---|-------------------------|
| | | | Benton Rainey | | | | | Revision 4 (April 2014) |
| Pog | | Case ID No. | 52591 RN102839560 | | | | PCW R | evision March 26, 2014 |
| Reg. | Lint. Kei | | Petroleum Stor | age Tank | | | | |
| | Enf. C | | Tyler Richardso | - | | | | |
| | Viola | ation Number | 1 | | | | | |
| | | Rule Cite(s) | 30 Tex. Admi | | |) and (c)(4)(C), 334.54(b)(3) a ode §26.3475(d) | nd (e)(5) | |
| | Violatio | n Description | ("UST") syste triennial corros read zero volt and any neces | m from corros sion protection tage. Also, fai ssary correctiv | sion. Specific test or bimo iled to empty ve actions for | out-of-service underground st ally, the Respondent did not co nthly rectifier inspections and th the UST sytem and perform a s a temporarily out-of-service US e exemption requirements. | nduct the he rectifier site check | |
| | | | | | | Bas | e Penalty | \$25,000 |
| >> Env | vironme | ntal, Proper | rty and Hum | | Matrix | | | |
| | | Release | Major | Harm Moderate | Minor | | | |
| OR | | Actual | | | | . <u></u> | | |
| | | Potential | x | | | Percent 15.0% | | |
| >>Prog | gramma | tic Matrix Falsification | Major | Moderate | Minor | | | |
| | | | | | | Percent 0.0% | | |
| | | | | | | | | |
| | Matrix Notes | | | | | ed to pollutants that would exc I receptors as a result of the vio | | |
| | | | | | | Adjustment | \$21,250 | |
| | | | | | | | | 10 770 |
| | | | | | | | L | \$3,750 |
| Violatio | on Even | ts | | | | | | |
| | | Number of \ | violation Events | 2 |] [| 160 Number of violation | days | |
| | | | daily weekly monthly quarterly semiannual annual single event | X | | Violation Bas | e Penalty | \$7,500 |
| | | Two quarterly | v events are rec | | om the Janua 20 screening c | ry 28, 2020 investigation date t late. | o the July | |
| Good F | aith Effo | orts to Com | | 0.0% | | | Reduction | \$0 |
| | | | | Before NOE/NOV | NOE/NOV to El | OPRP/Settlement Offer | | |
| | | | Extraordinary Ordinary | | | | | |
| | | | N/A | | | | | |
| | | | Notes | The Respond | | meet the good faith criteria for violation. | | |
| | | | | | | Violation | Subtotal | \$7,500 |
| Econon | nic Bene | fit (EB) for | this violation | on | | Statutory Limit | t Test | |
| | | | ed EB Amount | | \$1,210 | Violation Final Pen | _ | \$9,085 |
| | | LSUIIdu | | | | | | |
| | | | | This viol | ation Final A | ssessed Penalty (adjusted f | or limits) | \$9,085 |

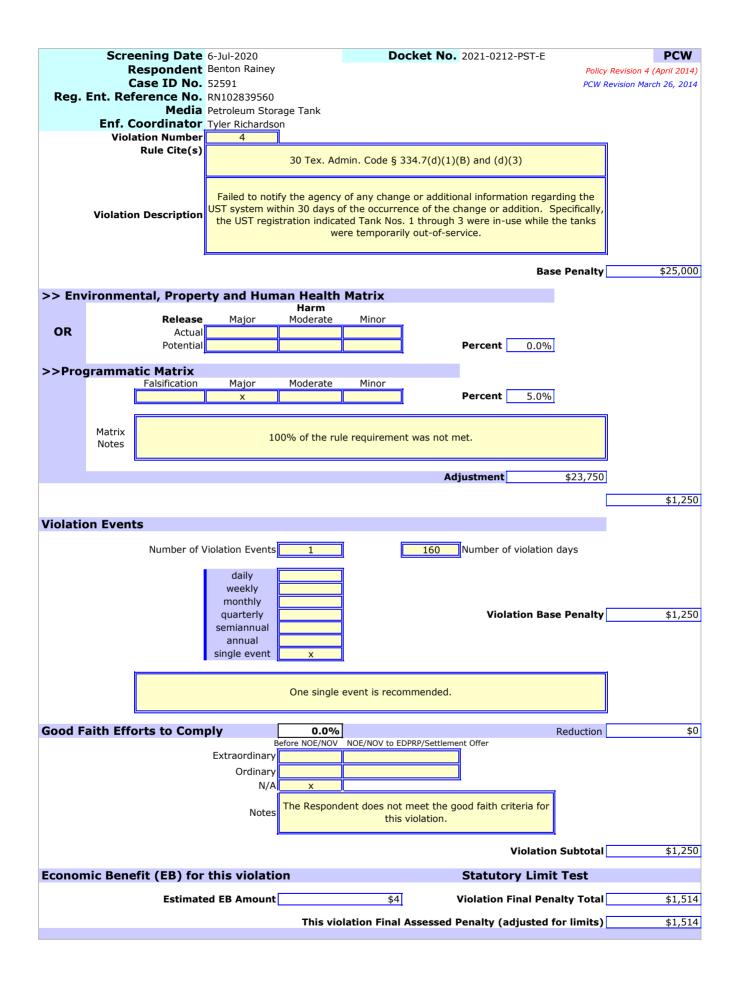
| | E | conomic | Benefit | Wo | r ksheet | | |
|---|--|---|--|---|---|---|--|
| Respondent Case ID No. | | , | | | | | |
| Reg. Ent. Reference No. | | | | | | | |
| | Petroleum Sto | | | | | Percent Interest | Years of Depreciation |
| VIOLATION NO. | 1 | | | | | 5.0 | 15 |
| | Item Cost | Date Required | Final Date | Vrc | Interest Saved | Costs Saved | EB Amount |
| Item Description | | Bute Requireu | That Date | | 11101051 54704 | | LD / mount |
| item Description | | | | | | | |
| Delayed Costs | | | | | | | |
| Equipment | 1 | 1 | 1 | 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) | | · · · · | <i>,</i> , , | 1.84 ly remov | \$516 ve the USTs from s | n/a service including per | \$516 forming a site |
| Other (as needed) Notes for DELAYED costs | Estimated de | layed cost to pro | perly temporari etection which | 1.84 ly removis addres | \$516 ve the USTs from s | n/a service including per Date Required is th | \$516 forming a site |
| | Estimated de check (and ex | elayed cost to pro ccluding release d date, an | perly temporari etection which d the Final Date | 1.84 ly removis addrese is the o | \$516 ve the USTs from s ssed in EB3). The estimated date of | n/a service including per Date Required is th | \$516 forming a site le investigation |
| Notes for DELAYED costs | Estimated de check (and ex | elayed cost to pro ccluding release d date, an | perly temporari etection which d the Final Date | 1.84 ly removis addrese is the o | \$516 ve the USTs from s ssed in EB3). The estimated date of | n/a service including per Date Required is th compliance. | \$516 forming a site le investigation |
| Notes for DELAYED costs | Estimated de check (and ex | elayed cost to pro ccluding release d date, an | perly temporari etection which d the Final Date | 1.84ly removiesis addressis is the original statetering0.000.00 | \$516 ve the USTs from s ssed in EB3). The estimated date of item (except fo | n/a service including per Date Required is th compliance. r one-time avoide \$0 \$0 | \$516 forming a site the investigation d costs) \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel | Estimated de check (and ex | elayed cost to pro ccluding release d date, an | perly temporari etection which d the Final Date | 1.84 ly removis addrese is the optimized of the second sec | \$516 ve the USTs from s ssed in EB3). The estimated date of item (except for \$0 | n/a service including per Date Required is th compliance. r one-time avoide \$0 | \$516 forming a site le investigation d costs) \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel | Estimated de check (and ex | elayed cost to pro ccluding release d date, an | perly temporari etection which d the Final Date | 1.84 ly removies is addressing is the original streng 0.00 0.00 0.00 0.00 0.00 0.00 | \$516 ye the USTs from s ssed in EB3). The estimated date of item (except for \$0 \$0 \$0 \$0 \$0 | n/a service including per Date Required is the compliance. r one-time avoide \$0 \$0 \$0 \$0 \$0 \$0 | \$516 forming a site le investigation d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling | Estimated de check (and ex ANNU/ | elayed cost to pro ccluding release d date, an ALIZE avoided c | perly temporari etection which d the Final Date osts before en | 1.84 ly removies is addressing is the original 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 | \$516 ye the USTs from s ssed in EB3). The estimated date of item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 | n/a service including per Date Required is th compliance. r one-time avoider \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$516 forming a site le investigation d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel (nspection/Reporting/Sampling Supplies/Equipment | Estimated de check (and ex ANNU/ | ALIZE avoided cost to pro ccluding release d date, an ALIZE avoided c | perly temporari etection which d the Final Date osts before en 6-Jul-2020 | 1.84 y removis addrese is the original streng tering 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 | \$516 ye the USTs from s ssed in EB3). The estimated date of item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | n/a service including per Date Required is th compliance. r one-time avoider \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$516 forming a site le investigation 4 costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/Equipment Financial Assurance | Estimated de check (and ex ANNU/ | elayed cost to pro ccluding release d date, an ALIZE avoided c | perly temporari etection which d the Final Date osts before en | 1.84 ly removies is addressing is the original 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 | \$516 ye the USTs from s ssed in EB3). The estimated date of item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 | n/a service including per Date Required is th compliance. r one-time avoider \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$516 forming a site le investigation d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel inspection/Reporting/Sampling Supplies/Equipment Financial Assurance ONE-TIME avoided costs | Estimated de check (and ex ANNU/ 500 \$100 Estimated conduct bim | ALIZE avoided cost to pro ccluding release d date, an ALIZE avoided co 28-Jan-2017 29-Nov-2019 avoided cost to co nonthly inspection he Dates Require | perly temporari etection which d the Final Date osts before en 6-Jul-2020 6-Jul-2020 onduct triennial s of the rectified d are three yea | 1.84 ly removies addressed is the end of the second sec | \$516 ye the USTs from s ssed in EB3). The estimated date of item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | n/a service including per Date Required is th compliance. r one-time avoider \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$516 forming a site investigation d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |

| | Screening Date | | Docket No. 2021-0212-PST-E | PCW |
|-----------|--------------------------------------|---|---|---|
| | Respondent Case ID No. | | | Policy Revision 4 (April 2014) PCW Revision March 26, 2014 |
| Reg. En | t. Reference No. | | | |
| | | Petroleum Storage Tank | | |
| | Enf. Coordinator Violation Number | | | |
| | Rule Cite(s) | | Tex. Admin. Code § 334.602(a) | |
| | | | nate for the UST facility at least one named individ | |
| v | iolation Description | each class of operator - Cla | class A and Class B operator for the Facility. | |
| | | | | Penalty \$25,000 |
| >> Enviro | onmental, Prope | r ty and Human Health Harm | n Matrix | |
| | Release | Major Moderate | Minor | |
| OR | Actual Potential | | Percent 5.0% | |
| >>Progra | mmatic Matrix | | | |
| | Falsification | Major Moderate | Minor Percent 0.0% | |
| | | | | |
| | latrix | eed levels that are protective | rould be exposed to significant amounts of pollutar e of human health or environmental receptors as of the violation. | |
| | | | Adjustment | \$23,750 |
| | | | | \$1,250 |
| Violation | Events | | | |
| | Number of | Violation Events 6 | Number of violation da | ys |
| | | daily weekly monthly quarterly semiannual annual single event | Violation Base F | Penalty \$7,500 |
| | Six quarterly | | om the February 23, 2019 training expiration date 2020 screening date. | to the |
| Good Fait | h Efforts to Com | ply 0.0% | Re | duction \$0 |
| | | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer | |
| | | Ordinary | | |
| | | N/A x | | |
| | | Notes The Respon | dent does not meet the good faith criteria for this violation. | |
| | | | Violation S | ubtotal \$7,500 |
| Economic | Benefit (EB) for | this violation | Statutory Limit T | est |
| | Estimat | ed EB Amount | \$8 Violation Final Penalt | y Total \$9,085 |
| | | This vi | olation Final Assessed Penalty (adjusted for | limits) \$9,085 |
| | | | | |

| | E | conomic | Benefit | Wo | rksheet | | |
|---|---------------|-------------------|-----------------|--|---|--|---|
| Respondent | Benton Rainey | / | | | | | |
| Case ID No. | 52591 | | | | | | |
| eg. Ent. Reference No. | RN102839560 | | | | | | |
| | Petroleum Sto | | | | | Percent Interest | Years of Depreciation |
| | | | | | | 5.0 | 1 |
| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Costs Saved | EB Amount |
| Item Description | | | | | | | |
| | | | | | | | |
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | \$90 | 28-Jan-2020 | 1-Dec-2021 | 1.84 | \$8 | n/a | \$8 |
| 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) | | | | | | | |
| other (as needed) | | <u> </u> | | 0.00 | \$0 | n/a | \$0 |
| Notes for DELAYED costs | Estimated de | | | Class A | and Class B opera | n/a tor training. The D I date of compliance | \$0 ate Required is |
| | | the investigation | date, and the F | Class A Final Da | and Class B opera te is the estimated item (except for | tor training. The D | \$0 ate Required is d costs) |
| Notes for DELAYED costs | | the investigation | date, and the F | Class A Final Da | and Class B opera te is the estimated item (except for \$0 | tor training. The D date of compliance one-time avoide \$0 | \$0 ate Required is d costs) \$0 |
| Notes for DELAYED costs Avoided Costs | | the investigation | date, and the F | Class A Final Da Itering 0.00 | and Class B opera te is the estimated item (except for \$0 \$0 | tor training. The D date of compliance r one-time avoide \$0 \$0 | \$0 ate Required is d costs) \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel | | the investigation | date, and the F | Class A Final Da tering 0.00 0.00 0.00 | and Class B opera te is the estimated item (except for \$0 \$0 \$0 | tor training. The D date of compliance r one-time avoide \$0 \$0 \$0 | \$0 ate Required is d costs) \$0 \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel rspection/Reporting/Sampling Supplies/Equipment | | the investigation | date, and the F | Class A Final Da tering 0.00 0.00 0.00 0.00 | and Class B opera te is the estimated item (except for \$0 \$0 \$0 \$0 | tor training. The D date of compliance r one-time avoide \$0 \$0 \$0 \$0 | \$0 ate Required is d costs) \$0 \$0 \$0 \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel nspection/Reporting/Sampling Supplies/Equipment Financial Assurance | | the investigation | date, and the F | Class A Final Da tering 0.00 0.00 0.00 0.00 0.00 | and Class B opera te is the estimated item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | tor training. The D date of compliance one-time avoide \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$0 ate Required is d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel nspection/Reporting/Sampling Supplies/Equipment Financial Assurance ONE-TIME avoided costs | | the investigation | date, and the F | Class A inal Da intering 0.00 0.00 0.00 0.00 0.00 0.00 | and Class B opera te is the estimated item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | tor training. The D date of compliance so so \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$0 ate Required is d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel nspection/Reporting/Sampling Supplies/Equipment Financial Assurance | | the investigation | date, and the I | Class A Final Da tering 0.00 0.00 0.00 0.00 0.00 | and Class B opera te is the estimated item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | tor training. The D date of compliance one-time avoide \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$0 ate Required is d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
| Notes for DELAYED costs Avoided Costs Disposal Personnel nspection/Reporting/Sampling Supplies/Equipment Financial Assurance ONE-TIME avoided costs | | the investigation | date, and the I | Class A inal Da intering 0.00 0.00 0.00 0.00 0.00 0.00 | and Class B opera te is the estimated item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | tor training. The D date of compliance so so \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$0 ate Required is d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |



| | | conomic | Benefit | Wo | rksheet | | |
|---|-----------------------|---|-----------------------------------|--|--|---|--|
| Respondent | ' | <i>,</i> | | | | | |
| Case ID No. | | | | | | | |
| Reg. Ent. Reference No. | RN102839560 | | | | | | |
| Media | Petroleum Sto | rage Tank | | | | Percent Interest | Years of |
| Violation No. | 3 | | | | | Percent Interest | Depreciation |
| | | | | | | 5.0 | 15 |
| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Costs Saved | EB Amount |
| Item Description | | | | | | | |
| | | | | | | | |
| 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 |
| Testing | | | | 0.00 | \$0 | n/a | \$0 |
| | | | | | ¢0 | n/a | \$0 |
| Other (as needed) Other (as needed) Notes for DELAYED costs | | | | | | n/a n/a te Required is the e | \$328 ffective date of |
| Other (as needed) | Estimated cos | st to provide relea | se detection for | 4.38 the US | \$328 T system. The Da | n/a | \$328 ffective date of |
| Other (as needed) | Estimated cos Agre | et to provide relea eed Order 2016-0 | se detection for 964-PST-E and | 4.38 the US the Fina | \$328 T system. The Da al Date is the estin | n/a te Required is the e | \$328 ffective date of iance. |
| Other (as needed) Notes for DELAYED costs | Estimated cos Agre | et to provide relea eed Order 2016-0 | se detection for 964-PST-E and | the US the Fina tering | \$328 T system. The Da al Date is the estin item (except for \$0 | n/a te Required is the e nated date of compl one-time avoide \$0 | \$328 iffective date of iance. d costs) \$0 |
| Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel | Estimated cos Agre | et to provide relea eed Order 2016-0 | se detection for 964-PST-E and | 4.38 the US the Fina tering 0.00 0.00 | \$328 T system. The Da al Date is the estin item (except for \$0 \$0 | n/a te Required is the e nated date of comple r one-time avoide \$0 \$0 | \$328 ffective date of iance. d costs) \$0 \$0 |
| Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling | Estimated cos Agre | et to provide relea eed Order 2016-0 | se detection for 964-PST-E and | 4.38 the US the Fina tering 0.00 0.00 | \$328 T system. The Da Date is the estin item (except for \$0 \$0 \$0 | n/a te Required is the e nated date of compli- r one-time avoide \$0 \$0 \$0 | \$328 ffective date of iance. d costs) \$0 \$0 \$0 \$0 \$0 |
| Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/Equipment | Estimated cos Agre | et to provide relea eed Order 2016-0 | se detection for 964-PST-E and | 4.38 the US the Fina 0.00 0.00 0.00 0.00 | \$328 T system. The Da Date is the estin item (except for \$0 \$0 \$0 \$0 \$0 | n/a te Required is the e hated date of comple r one-time avoide \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$328 ffective date of iance. d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
| Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/Equipment Financial Assurance | Estimated cos Agre | et to provide relea eed Order 2016-0 | se detection for 964-PST-E and | 4.38 the US the Fina 0.00 0.00 0.00 0.00 0.00 | \$328 T system. The Da al Date is the estin item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | n/a te Required is the e hated date of complete r one-time avoide \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$328 ffective date of iance. d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
| Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/Equipment Financial Assurance ONE-TIME avoided costs | Estimated cos Agre | et to provide relea eed Order 2016-0 | se detection for 964-PST-E and | 4.38 the US the Fina 0.00 0.00 0.00 0.00 0.00 | \$328 T system. The Da al Date is the estin item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | n/a te Required is the enated date of complete one-time avoide \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$328 iffective date of iance. d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
| Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/Equipment Financial Assurance | Estimated cos Agre | et to provide relea eed Order 2016-0 | se detection for 964-PST-E and | 4.38 the US the Fina 0.00 0.00 0.00 0.00 0.00 | \$328 T system. The Da al Date is the estin item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 | n/a te Required is the e hated date of complete r one-time avoide \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 | \$328 ffective date of iance. d costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 |
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| | E | conomic | Benefit | Wo | rksheet | | |
|---|---------------|----------------------|-----------------|---------|---------------------|---|-------------------|
| Respondent | Benton Rainey | / | | | | | |
| Case ID No. | , | | | | | | |
| Reg. Ent. Reference No. | | | | | | | |
| | Petroleum Sto | | | | | | Years of |
| | | laye lalik | | | | Percent Interest | Depreciation |
| Violation No. | 4 | | | | | | - |
| | | | | | | 5.0 | 15 |
| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Costs Saved | EB Amount |
| Item Description | | | | | | | |
| | | | | | | | |
| 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) | \$40 | 28-Jan-2020 | 1-Dec-2021 | 1.84 | \$4 | n/a | \$4 |
| Notes for DELAYED costs | Requ | ired is the investig | gation date and | the Fin | al Date is the esti | UST registration form mated date of comp | iance. |
| Avoided Costs | ANNU | ALIZE avoided c | osts before er | | | r one-time avoide | |
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/Equipment | | | | 0.00 | <u>\$0</u> \$0 | <u>\$0</u> \$0 | <u>\$0</u> \$0 |
| Financial Assurance ONE-TIME avoided costs | | | | 0.00 | \$0 \$0 | \$0 \$0 | \$0 \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$ U | \$ U |
| Notes for AVOIDED costs | | | | | | | |
| Approx. Cost of Compliance | | \$40 | | | TOTAL | | \$4 |



Compliance History Report

Compliance History Report for CN603631771, RN102839560, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

| Customer, Resp Owner/Operato | oondent, or CN603631771, Benton Rainey or: | Classification: SATISFACTORY | Rating: 30.00 |
|---|---|---|------------------------|
| Regulated Entit | | Classification: SATISFACTORY | Rating: 30.00 |
| Complexity Poi | nts: 3 | Repeat Violator: NO | |
| CH Group: | 01 - Gas Stations with convenience | ce Stores and other Gas Stations | |
| Location: | 301 West Dallas Avenue in Cooper | r, Delta County, Texas | |
| TCEQ Region: | REGION 05 - TYLER | | |
| | DRAGE TANK REGISTRATION REGISTRATION 29086 | | |
| Compliance His | | Ist 31, 2020 Rating Year: 2020 Ra | ating Date: 09/01/2020 |
| Date Compliance | ce History Report Prepared: Februar | ry 04, 2021 | |
| Agency Decisio | n Requiring Compliance History: | Enforcement | |
| Component Per | iod Selected: February 04, 2016 to Febr | ruary 04, 2021 | |
| TCEQ Staff Men | nber to Contact for Additional Informa | tion Regarding This Compliance History. | |
| Name: Tyle | er Richardson | Phone: (512) 756-3994 | |
| | a (known) change in ownership/operator of the s | | ' |
| A. Final Orders 1 Effectiv Class Citat Desc Class Citat Desc | s, court judgments, and consent decre ve Date: 07/18/2017 ADMINOR sification: Moderate tion: 2D TWC Chapter 26, SubChapter A 26.3 30 TAC Chapter 334, SubChapter C 334. cription: Failure to monitor the USTs for release sification: Moderate tion: 30 TAC Chapter 334, SubChapter A 334. | DER 2016-0964-PST-E (1660 Order-Agreed Ord 8475(c)(1) .50(b)(1)(A) es at a frequency of at least once per month. | |
| B. Criminal con N/A C. Chronic exc N/A | nvictions: cessive emissions events: | | |
| D. The approva | al dates of investigations (CCEDS Inv. | Track. No.): | |

N/A

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

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

N/A

F. Environmental audits:

N/A

- G. Type of environmental management systems (EMSs): N/A
- H. Voluntary on-site compliance assessment dates: N/A
- I. Participation in a voluntary pollution reduction program: $N\!\!\!/A$
- J. Early compliance: N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING BENTON RAINEY; RN102839560 **BEFORE THE**

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2021-0212-PST-E

On______, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Benton Rainey ("Respondent").

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

FINDINGS OF FACT

- 1. Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2(78), an underground storage tank ("UST") system located at 301 West Dallas Avenue in Cooper, Delta County, Texas (Facility ID No. 29086) (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 January 28, 2020, an investigator documented that Respondent:
 - a. Failed to adequately protect a temporarily out-of-service UST system from corrosion. Specifically, Respondent did not conduct the triennial corrosion protection test or bimonthly rectifier inspections and the rectifier read zero voltage. Also, Respondent failed to empty the UST system and perform a site check as well as necessary corrective actions for a temporarily out of service UST system that would meet financial assurance exemption requirements;
 - b. Failed to identify and designate for the UST facility at least one named individual for each class of operator (Class A, B, and C) for the UST facility. Specifically, Respondent did not have a Class A and Class B operator for the Facility;
 - c. Failed to monitor a temporarily out-of-service UST system for releases at least once every 30 days; and
 - d. Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition. Specifically, the UST registration indicated that Tank Nos. 1 through 3 were in use while the tanks were temporarily out-of-service.
- 3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Benton Rainey" (the "EDPRP") in the TCEQ Chief Clerk's office on July 28, 2022.

- 4. By letter dated July 28, 2022, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on July 30, 2022, as evidenced by the signature on the card.
- 5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
- 2. As evidenced by Finding of Fact No. 2.a., Respondent failed to adequately protect a temporarily out-of-service UST system from corrosion and failed to empty the UST system and perform a site check as well as necessary corrective actions for a temporarily out of service UST system that would meet financial assurance exemption requirements, in violation of Tex. WATER CODE § 26.3475(d) and 30 Tex. ADMIN. CODE §§ 334.49(c)(2)(C) and (c)(4)(C) and 334.54(b)(3) and (e)(5).
- 3. As evidenced by Finding of Fact No. 2.b., Respondent failed to identify and designate for the UST facility at least one named individual for each class of operator Class A, Class B, and Class C for the UST facility, in violation of 30 TEX. ADMIN. CODE § 334.602(a).
- 4. As evidenced by Finding of Fact No. 2.c., Respondent failed to monitor a temporarily out-of-service UST system for releases at least once every 30 days, in violation of TEX. WATER CODE § 26.3475(c)(1), 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A) and 334.54(c)(1), and TCEQ Docket No. 2016-0964-PST-E, Ordering Provision No. 2.b.
- 5. As evidenced by Finding of Fact No. 2.d., Respondent failed to notify the agency of any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(1)(B) and (d)(3).
- 6. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
- 7. 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.
- 8. 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.
- 9. An administrative penalty in the amount of \$74,194 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
- 10. 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.

Benton Rainey Docket No. 2021-0212-PST-E Page 3

ORDERING PROVISIONS

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

- 1. Respondent is assessed an administrative penalty in the amount of \$74,194 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: Benton Rainey; Docket No. 2021-0212-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. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Obtain the required Class A and Class B operator training and certification, in accordance with 30 Tex. ADMIN. CODE § 334.602;
 - ii. Properly temporarily remove the UST system from service, in accordance with 30 Tex. ADMIN. CODE § 334.54, including providing release detection and corrosion protection for the UST system, and either providing financial assurance or emptying the USTs of all regulated substances and conducting a site check, in accordance with 30 Tex. ADMIN. CODE §§ 334.49, 334.50, and 334.54; or
 - iii. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
 - b. Within 60 days after the effective date of this Order, submit an amended registration to reflect the UST system's current operational status, in accordance with 30 Tex. ADMIN. CODE § 334.7 to:

Registration and Reporting Section Permitting & Registration Support Division, MC 138 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

c. Within 75 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.
 3.a.i., 3.a.ii., and 3.b. or 3.a.iii. and 3.b. This certification shall be signed by the Respondent and shall include the following certification language:

Benton Rainey Docket No. 2021-0212-PST-E Page 4

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

4. Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Waste Section Manager Tyler Regional Office Texas Commission on Environmental Quality 2916 Teague Drive Tyler, Texas 75701-3734

- 5. All relief not expressly granted in this Order is denied.
- 6. 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.
- 7. 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.
- 8. 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.
- 9. 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.
- 10. 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.

- 11. 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.
- 12. 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.

Benton Rainey Docket No. 2021-0212-PST-E Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF DAVID KEAGLE

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Benton Rainey' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 28, 2022.

The EDPRP was mailed to Respondent's last known address on July 28, 2022, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on July 30, 2022, as evidenced by the signature on the card.

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

"My name is David Keagle, 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 this 17th day of May, 2024

and c Kengle

Declarant