

Executive Summary – Enforcement Matter – Case No. 60088
Gator's Fuel Stop, LLC dba Gators 2
RN101447746
Docket No. 2021-0228-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

No

Location(s) Where Violation(s) Occurred:

Gators 2, 4655 West Cardinal Drive, Beaumont, Jefferson County

Type of Operation:

Underground storage tank ("UST") system and a convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 6, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,514

Amount Deferred for Expedited Settlement: \$3,702

Total Paid to General Revenue: \$427

Total Due to General Revenue: \$14,385

Payment Plan: 35 payments of \$411 each

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 20, 2020

Date(s) of NOE(s): November 13, 2020

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Gator's Fuel Stop, LLC dba Gators 2
RN101447746
Docket No. 2021-0228-PST-E

Violation Information

1. Failed to report suspected releases to the TCEQ within 24 hours of discovery. Specifically, failed inventory control records for Tank 3 from October 2019 to September 2020 indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72].
2. Failed to investigate and confirm all suspected releases of regulated substances within 30 days. Specifically, failed inventory control records for Tank 3 from October 2019 to September 2020 indicated a suspected release that was not investigated [30 TEX. ADMIN. CODE § 334.74].
3. Failed to retrain a Class A/B Operator by January 1, 2020 with a course submitted to and approved by the TCEQ after April 1, 2018. Specifically, the Class A/B Operator training completed on February 6, 2019 was not a TCEQ approved UST Operator course at the time of completion [30 TEX. ADMIN. CODE § 334.605(d)].
4. Failed to monitor USTs installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Specifically, Tank 5 was installed on May 15, 2010, but the Respondent was not monitoring the tank for releases using interstitial monitoring [30 TEX. ADMIN. CODE § 334.50(b)(1)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent designated and retrained a Class A/B Operator on October 28, 2020 with a course approved by the TCEQ.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Develop and implement a process for reporting suspected releases timely;
 - ii. Conduct an investigation of the suspected release and implement appropriate corrective measures; and
 - iii. Implement interstitial monitoring release detection for Tank 5.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: John Fennell, Enforcement Division,
Enforcement Team 6, MC 219, (512) 239-2616; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

Respondent: Hien X. Nguyen, Owner, Gators 2, 4655 West Cardinal Drive,
Beaumont, Texas 77705

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	9-Nov-2020		
	PCW	28-Jan-2021	Screening	20-Nov-2020
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Gator's Fuel Stop, LLC dba Gators 2
Reg. Ent. Ref. No.	RN101447746
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60088	No. of Violations	4
Docket No.	2021-0228-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Fennell
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$20,750
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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.

Compliance History	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$2,075
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Notes	Reduction for High Performer classification.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$187
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$184	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,715	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$18,488
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.1% Adjustment	\$26
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with Violation No. 1.
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Final Penalty Amount	\$18,514
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$18,514
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DEFERRAL	20.0% Reduction Adjustment	-\$3,702
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$14,812
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Screening Date 20-Nov-2020 **Docket No.** 2021-0228-PST-E
Respondent Gator's Fuel Stop, LLC dba Gators 2
Case ID No. 60088
Reg. Ent. Reference No. RN101447746
Media Petroleum Storage Tank
Enf. Coordinator John Fennell

PCW

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

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 20-Nov-2020

Docket No. 2021-0228-PST-E

PCW

Respondent Gator's Fuel Stop, LLC dba Gators 2

Policy Revision 4 (April 2014)

Case ID No. 60088

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101447746

Media Petroleum Storage Tank

Enf. Coordinator John Fennell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, failed inventory control records for Tank 3 from October 2019 to September 2020 indicated a suspected release that was not reported.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
	100% of the rule requirement was not met.				

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 355 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

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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$30

Violation Final Penalty Total \$1,127

This violation Final Assessed Penalty (adjusted for limits) \$1,127

Economic Benefit Worksheet

Respondent Gator's Fuel Stop, LLC dba Gators 2
Case ID No. 60088
Reg. Ent. Reference No. RN101447746
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)	\$100	20-Oct-2020	5-Sep-2021	0.88	\$4	n/a	\$4

Notes for DELAYED costs

Estimated delayed cost to develop and implement a process for reporting suspected releases timely. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$25	1-Dec-2019	20-Nov-2020	0.97	\$1	\$25	\$26

Notes for AVOIDED costs

Estimated avoided cost to report the suspected release. The Date Required is the date the suspected release should have been reported, and the Final Date is the screening date.

Approx. Cost of Compliance

\$125

TOTAL

\$30

Screening Date 20-Nov-2020 Docket No. 2021-0228-PST-E

PCW

Respondent Gator's Fuel Stop, LLC dba Gators 2
Case ID No. 60088
Reg. Ent. Reference No. RN101447746

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

Media Petroleum Storage Tank
Enf. Coordinator John Fennell

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.74

Violation Description Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 Tex. Admin. Code §334.72 (relating to Reporting of Suspected Releases) within 30 days. Specifically, failed inventory control records for Tank 3 from October 2019 to September 2020 indicated a suspected release that was not investigated.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%).

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4 326 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event).

Violation Base Penalty \$15,000

Four quarterly events are recommended from the December 30, 2019 suspected release investigation due date to the November 20, 2020 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer, Extraordinary, Ordinary, N/A.

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$84

Violation Final Penalty Total \$13,519

This violation Final Assessed Penalty (adjusted for limits) \$13,519

Economic Benefit Worksheet

Respondent Gator's Fuel Stop, LLC dba Gators 2
Case ID No. 60088
Reg. Ent. Reference No. RN101447746
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)	\$1,000	30-Dec-2019	5-Sep-2021	1.68	\$84	n/a	\$84
Notes for DELAYED costs	Estimated cost (\$400 for tank and line testing and \$600 for the Release Determination Report) to conduct an investigation of the suspected release and implement appropriate corrective measures. The Date Required is the suspected release investigation due date, and the Final Date is the estimated compliance date.						

Avoided Costs

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

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

Approx. Cost of Compliance \$1,000

TOTAL \$84

Screening Date 20-Nov-2020 Docket No. 2021-0228-PST-E

PCW

Respondent Gator's Fuel Stop, LLC dba Gators 2
Case ID No. 60088
Reg. Ent. Reference No. RN101447746

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

Media Petroleum Storage Tank
Enf. Coordinator John Fennell

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.605(d)

Violation Description Failed to retrain a Class A/B Operator by January 1, 2020 with a course submitted to and approved by the TCEQ after April 1, 2018. Specifically, the Class A/B Operator training completed on February 6, 2019 was not a TCEQ approved underground storage tank ("UST") Operator course at the time of completion.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (3.0%).

>> Programmatic Matrix

Table with columns: 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 8 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), Count (x).

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$187

Table with columns: Effort Type (Extraordinary, Ordinary, N/A), Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer.

Notes The Respondent designated and retrained a Class A/B Operator on October 28, 2020 with a course approved by the TCEQ, before the November 13, 2020 Notice of Enforcement.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$489

This violation Final Assessed Penalty (adjusted for limits) \$489

Economic Benefit Worksheet

Respondent Gator's Fuel Stop, LLC dba Gators 2
Case ID No. 60088
Reg. Ent. Reference No. RN101447746
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$90	1-Jan-2020	28-Oct-2020	0.82	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to retrain the Class A/B Operator with a course approved by the TCEQ after April 1, 2018. The Date Required is the retraining due date, and the Final Date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$90

TOTAL

\$4

Screening Date 20-Nov-2020 **Docket No.** 2021-0228-PST-E
Respondent Gator's Fuel Stop, LLC dba Gators 2
Case ID No. 60088
Reg. Ent. Reference No. RN101447746
Media Petroleum Storage Tank
Enf. Coordinator John Fennell

PCW

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

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(B)

Violation Description
 Failed to monitor the USTs installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Specifically, Tank 5 was installed on May 15, 2010, but the Respondent was not monitoring the tank for releases using interstitial monitoring.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes
 Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 31 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the October 20, 2020 investigation date to the November 20, 2020 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Extraordinary	
Ordinary	
N/A	x

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$66

Violation Final Penalty Total \$3,380

This violation Final Assessed Penalty (adjusted for limits) \$3,380

Economic Benefit Worksheet

Respondent Gator's Fuel Stop, LLC dba Gators 2
Case ID No. 60088
Reg. Ent. Reference No. RN101447746
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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)	\$1,500	20-Oct-2020	5-Sep-2021	0.88	\$66	n/a	\$66

Notes for DELAYED costs

Estimated delayed cost to implement interstitial monitoring release detection method for Tank 5 at the Facility. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$66



Compliance History Report

Compliance History Report for CN604240648, RN101447746, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator:	CN604240648, Gator's Fuel Stop, LLC	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN101447746, Gators 2	Classification: HIGH	Rating: 0.00
Complexity Points:	4	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	4655 WEST CARDINAL DRIVE IN BEAUMONT, JEFFERSON COUNTY, TEXAS 77705-2609		
TCEQ Region:	REGION 10 - BEAUMONT		
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 3141		
Compliance History Period:	September 01, 2015 to August 31, 2020	Rating Year: 2020	Rating Date: 09/01/2020
Date Compliance History Report Prepared:	February 08, 2021		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	February 08, 2016 to February 08, 2021		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	John Fennell	Phone:	(512) 239-2616

Site and Owner/Operator History:

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

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

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

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
Item 1 April 17, 2018 (1481260)

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
GATOR'S FUEL STOP, LLC DBA
GATORS 2
RN101447746

§
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§
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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2021-0228-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Gator's Fuel Stop, LLC dba Gators 2 (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent operates, as defined in 30 TEX. ADMIN. CODE § 334.2(75), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 4655 West Cardinal Drive in Beaumont, Jefferson County, Texas (the "Facility"). The UST system at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the 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 the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$18,514 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$427 of the penalty and \$3,702 is deferred contingent upon the 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 of this Order.

The remaining amount of \$14,385 of the undeferred penalty shall be paid in 35 monthly payments of \$411 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 the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately

due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the 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 the Respondent agree on a settlement of the matters alleged in this enforcement action, 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 the Respondent has not complied with one or more of the terms or conditions 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 compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent designated and retrained a Class A/B Operator on October 28, 2020 with a course approved by the TCEQ.

II. ALLEGATIONS

During an investigation conducted on October 20, 2020, an investigator documented that the Respondent:

1. Failed to report suspected releases to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, failed inventory control records for Tank 3 from October 2019 to September 2020 indicated a suspected release that was not reported.
2. Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TEX. ADMIN. CODE §334.72 (relating to Reporting of Suspected Releases) within 30 days, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, failed inventory control records for Tank 3 from October 2019 to September 2020 indicated a suspected release that was not investigated.
3. Failed to retrain a Class A/B Operator by January 1, 2020 with a course submitted to and approved by the TCEQ after April 1, 2018, in violation of 30 TEX. ADMIN. CODE § 334.605(d). Specifically, the Class A/B Operator training completed on February 6, 2019 was not a TCEQ approved UST Operator course at the time of completion.
4. Failed to monitor USTs installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(B). Specifically, Tank 5 was installed on May 15, 2010, but the Respondent was not monitoring the tank for releases using interstitial monitoring.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Gator's Fuel Stop, LLC dba Gators 2, Docket No. 2021-0228-PST-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Develop and implement a process for reporting suspected releases timely, in accordance with 30 TEX. ADMIN. CODE § 334.72;
 - ii. Conduct an investigation of the suspected release and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74; and
 - iii. Implement interstitial monitoring release detection for Tank 5 at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50.
 - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.a.iii. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the 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, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the 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 Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the 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 the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term

"signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

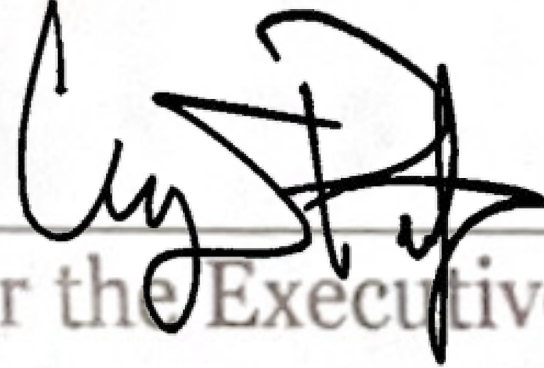
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



1/25/2022

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, if any, 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 submitted;
- 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, any falsification of any compliance documents may result in criminal prosecution.

Signature

12-14-2021
Date

Name (Printed or typed)
Authorized Representative of
Gator's Fuel Stop, LLC dba Gators 2

Manager
Title

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.