

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60735
Vernon Session and Ruby Session
RN101294189
Docket No. 2021-0621-PST-E

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Order Type:
Default Order

Media:
PST

Small Business:
Yes

Location Where Violation Occurred:
201 North Avenue East, Haskell, Haskell County

Type of Operation:
temporarily out-of-service underground storage tank ("UST") system and a former retail refueling station

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: \$1,278.48
Other: None
Interested Third Parties: None

Texas Register Publication Date: December 30, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,575

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$1,575

Compliance History Classifications: (CN602827495)

Person/CN - High
Site/RN - High

Compliance History Classifications: (CN602827503)

Person/CN - High
Site/RN - High

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date: N/A

Dates of Investigation: July 17, 2020; March 23, 2021

Date of NOV: August 28, 2020

Date of NOE: April 22, 2021

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60735
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RN101294189
Docket No. 2021-0621-PST-E

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Violation Information

1. 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 [30 TEX. ADMIN. CODE § 334.602(a)].
2. Failed to provide UST records immediately upon request by TCEQ personnel [30 TEX. ADMIN. CODE § 334.10(b)(2)].

Corrective Actions/Technical Requirements

Corrective Action Completed:

None

Technical Requirements:

1. Immediately begin maintaining UST records at the Facility, including corrosion protection records and records demonstrating compliance with technical and installation standards.
2. Within 30 days ensure that at least one individual successfully completes the required UST Class A, Class B, and Class C operator training for the Facility.
3. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1. and 2.

Litigation Information

Date Petitions Filed:

March 14, 2022; December 15, 2022

Date Green Cards Signed:

Unclaimed; December 19, 2022

Date Answer Filed:

N/A

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: Ken Moller, Enforcement Division, (512) 239-6111

TCEQ Regional Contact: Michael Taylor, Abilene Regional Office, (325) 698-9674

Respondent Contact: Vernon Session and Ruby Session, 902 South 2nd Street, Haskell, Texas 79521

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	26-Apr-2021	Screening	5-May-2021	EPA Due	
	PCW	6-Oct-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	Vernon Session and Ruby Session				
Reg. Ent. Ref. No.	RN101294189				
Facility/Site Region	3-Abilene	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	60735	No. of Violations	2
Docket No.	2021-0621-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Tyler Richardson
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

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

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

Compliance History	-5.0%	Adjustment	Subtotals 2, 3, & 7	-\$75
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Notes: Enhancement for one NOV with same/similar violations. Reduction for High Performer classification.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$14
Estimated Cost of Compliance: \$180
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,425
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OTHER FACTORS AS JUSTICE MAY REQUIRE	10.5%	Adjustment	\$150
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to offset the reduction for High Performer compliance history classification.

Final Penalty Amount	\$1,575
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,575
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$1,575
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Screening Date	5-May-2021	Docket No.	2021-0621-PST-E	PCW
Respondent	Vernon Session and Ruby Session			Policy Revision 5 (January 28, 2021)
Case ID No.	60735			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN101294189			
Media	Petroleum Storage Tank			
Enf. Coordinator	Tyler Richardson			

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>)	1	5%
	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) 5%

>> 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

Enhancement for one NOV with same/similar violations. Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -5%

Screening Date 5-May-2021 Respondent Vernon Session and Ruby Session Case ID No. 60735 Reg. Ent. Reference No. RN101294189 Media Petroleum Storage Tank Enf. Coordinator Tyler Richardson Violation Number 1 Rule Cite(s) 30 Tex. Admin. Code § 334.602(a) Violation Description 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.	Docket No. 2021-0621-PST-E PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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	Base Penalty
	\$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential		x		Percent 5.0%

>> Programmatic Matrix

Matrix Notes		Falsification			
		Major	Moderate	Minor	
					Percent 0.0%

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
	\$23,750

	Adjustment
	\$1,250

Violation Events

Number of Violation Events	1	43	Number of violation days
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daily							
weekly							
monthly							
quarterly		x					
semiannual							
annual							
single event							

One quarterly event is recommended from the March 23, 2021 record review date to the May 5, 2021 screening date.

Good Faith Efforts to Comply	0.0%	
		Reduction
		\$0

Extraordinary						
Ordinary						
N/A		x				

Notes: The Respondents do 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	Violation Final Penalty Total
\$7	\$1,313

This violation Final Assessed Penalty (adjusted for limits)	\$1,313
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Economic Benefit Worksheet

Respondent Vernon Session and Ruby Session
Case ID No. 60735
Reg. Ent. Reference No. RN101294189
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)	\$90	17-Jul-2020	20-Feb-2022	1.60	\$7	n/a	\$7

Notes for DELAYED costs

Estimated delayed cost to obtain the required Class A, Class B, and Class C operator training. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$90

TOTAL

\$7

Screening Date 5-May-2021 Respondent Vernon Session and Ruby Session Case ID No. 60735 Reg. Ent. Reference No. RN101294189 Media Petroleum Storage Tank Enf. Coordinator Tyler Richardson	Docket No. 2021-0621-PST-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	2	
Rule Cite(s)		30 Tex. Admin. Code § 334.10(b)(2)
Violation Description	Failed to provide UST records immediately upon request by TCEQ personnel. Specifically, corrosion protection records and records demonstrating compliance with technical and installation standards were not made available for review.	

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	x	Percent <input type="text" value="1.0%"/>
Matrix Notes	Less than 30% of the rule requirement was not met.				

Adjustment	\$24,750
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	\$250
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Violation Events

Number of Violation Events	1	43	Number of violation days
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	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$250"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	x	

One single event is recommended.	
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Good Faith Efforts to Comply

0.0%	Reduction <input type="text" value="\$0"/>
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	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	x	<input type="text"/>	
Notes	The Respondents do not meet the good faith criteria for this violation.		

Violation Subtotal	\$250
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Economic Benefit (EB) for this violation

Estimated EB Amount <input type="text" value="\$7"/>	Statutory Limit Test
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Violation Final Penalty Total	\$263
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This violation Final Assessed Penalty (adjusted for limits)	\$263
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Economic Benefit Worksheet

Respondent Vernon Session and Ruby Session
Case ID No. 60735
Reg. Ent. Reference No. RN101294189
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	\$90	17-Jul-2020	20-Feb-2022	1.60	\$7	n/a	\$7
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to maintain corrosion protection records and records demonstrating compliance with technical and installation standards (\$45 per record type). The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$90

TOTAL

\$7



Compliance History Report

Compliance History Report for CN602827503, RN101294189, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN602827503, Vernon Session	Classification:	HIGH	Rating:	0.00
Regulated Entity:	RN101294189, Northside Conoco	Classification:	HIGH	Rating:	0.00
Complexity Points:	3	Repeat Violator:	NO		
CH Group:	01 - Gas Stations with convenience Stores and other Gas Stations				
Location:	201 North Avenue East in Haskell, Haskell County, Texas				
TCEQ Region:	REGION 03 - ABILENE				
ID Number(s):					
AIR NEW SOURCE PERMITS REGISTRATION	39542	MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER	ABU00002		
TIRES REGISTRATION	16056	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION	16992		
PETROLEUM STORAGE TANK NON REGISTERED ID NUMBER	R03101294189				
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012	Rating Date:	09/01/2012
Date Compliance History Report Prepared:	July 16, 2021				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	July 16, 2016 to July 16, 2021				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Tyler Richardson		Phone:	(512) 756-3994	

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	May 25, 2017	(1410478)
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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.

1	Date:	08/28/2020	(1671801)	
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 334, SubChapter N 334.602(a) 30 TAC Chapter 334, SubChapter N 334.603(b) 30 TAC Chapter 334, SubChapter N 334.606		
	Description:	Failure to have at least one person associated with the facility, who has completed		

Self Report?	NO	Class A, B, and C Operator Training.	Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.49(e)			
Description:	Failure to provide tank material verification or corrosion protection (CP) test results.			

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



Compliance History Report

Compliance History Report for CN602827495, RN101294189, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN602827495, Ruby Session	Classification:	HIGH	Rating:	0.00
Regulated Entity:	RN101294189, Northside Conoco	Classification:	HIGH	Rating:	0.00
Complexity Points:	3	Repeat Violator:	NO		
CH Group:	01 - Gas Stations with convenience Stores and other Gas Stations				
Location:	201 North Avenue East in Haskell, Haskell County, Texas				
TCEQ Region:	REGION 03 - ABILENE				
ID Number(s):					
AIR NEW SOURCE PERMITS	REGISTRATION 39542	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER		
TIRES	REGISTRATION 16056		ABU00002		
PETROLEUM STORAGE TANK NON REGISTERED	ID NUMBER	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		
	R03101294189		16992		
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012	Rating Date:	09/01/2012
Date Compliance History Report Prepared:	July 16, 2021				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	July 16, 2016 to July 16, 2021				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Tyler Richardson		Phone:	(512) 756-3994	

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	May 25, 2017	(1410478)
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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.

- | | | | | | |
|---|--------------|--|-----------|-----------------|-------|
| 1 | Date: | 08/28/2020 | (1671801) | | |
| | Self Report? | NO | | Classification: | Minor |
| | Citation: | 30 TAC Chapter 334, SubChapter N 334.602(a)
30 TAC Chapter 334, SubChapter N 334.603(b)
30 TAC Chapter 334, SubChapter N 334.606 | | | |
| | Description: | Failure to have at least one person associated with the facility, who has completed | | | |

Self Report?	NO	Class A, B, and C Operator Training.	Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.49(e)			
Description:	Failure to provide tank material verification or corrosion protection (CP) test results.			

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
VERNON SESSION
AND RUBY SESSION;
RN101294189

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2021-0621-PST-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondents. The respondents made the subject of this Order are Vernon Session and Ruby Session ("Respondents").

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

FINDINGS OF FACT

1. Respondents own, as defined in 30 TEX. ADMIN. CODE § 334.2(78), a temporarily out-of-service underground storage tank ("UST") system and a former retail refueling station located at 201 North Avenue East in Haskell, Haskell County, Texas (Facility ID No. 16992) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on July 17, 2020, and a record review conducted on March 23, 2021, an investigator documented that Respondents:
 - a. 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; and
 - b. Failed to provide UST records immediately upon request by TCEQ personnel. Specifically, corrosion protection records and records demonstrating compliance with technical and installation standards were not made available for review.
3. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Vernon Session and Ruby Session" (the "EDFARP") in the TCEQ Chief Clerk's office on March 14, 2022.
4. The EDFARP was mailed to Respondents' last known address on March 14, 2022, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDFARP sent by certified mail as "unclaimed."
5. The Executive Director re-filed the EDFARP in the TCEQ Chief Clerk's office on December 15, 2022.
6. By letter dated December 15, 2022, sent to Respondents' last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondents with notice of the EDFARP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondents received notice of the EDFARP on December 19, 2022.

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

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are 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., Respondents 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, in violation of 30 TEX. ADMIN. CODE § 334.602(a).
3. As evidenced by Finding of Fact No. 2.b., Respondents failed to provide UST records immediately upon request by TCEQ personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2).
4. As evidenced by Findings of Fact Nos. 3 through 6, the Executive Director timely served Respondents with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 7, Respondents 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 Respondents and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051 the Commission has the authority to assess an administrative penalty against Respondents for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of one thousand five hundred seventy-five dollars (\$1,575.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondents are assessed an administrative penalty in the amount of one thousand five hundred seventy-five dollars (\$1,575.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondents' 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: Vernon Session and Ruby Session; Docket No. 2021-0621-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. Respondents shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, begin maintaining UST records at the Facility, including corrosion protection records and records demonstrating compliance with technical and installation standards, in accordance with 30 TEX. ADMIN. CODE § 334.10.
 - b. Within 30 days after the effective date of this Order, ensure that at least one individual successfully completes the required UST Class A, Class B, and Class C operator training for the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.602.
 - c. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be signed by the Respondents 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 fine and imprisonment for knowing violations.”

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Waste Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive 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.
7. If Respondents fail 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction

that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

8. 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 Respondents if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF CYNTHIA K. SIROIS

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Vernon Session and Ruby Session' (the "EDFARP") was filed in the TCEQ Chief Clerk's office on March 14, 2022.

The EDFARP was mailed to Respondents' last known address on March 14, 2022, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDFARP sent by certified mail as "unclaimed."

The Executive Director re-filed the EDFARP in the TCEQ Chief Clerk's office on December 15, 2022.

By letter dated December 15, 2022, sent to Respondents' last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondents with notice of the EDFARP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondents received notice of the EDFARP on December 19, 2022. More than 20 days have elapsed since Respondents received notice of the EDFARP. Respondents failed to file an answer and failed to request a hearing.

"My name is Cynthia K Sirois, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,
on the 11th day of January, 2023

A handwritten signature in cursive script that reads "Cynthia K Sirois".

Declarant