

Executive Summary – Enforcement Matter – Case No. 60756
SHERBANO VENTURE, INC. dba Brownies
RN102051794
Docket No. 2021-0722-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Brownies, 5324 Trail Lake Drive, Fort Worth, Tarrant 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: October 29, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,375

Amount Deferred for Expedited Settlement: \$2,675

Total Paid to General Revenue: \$305

Total Due to General Revenue: \$10,395

Payment Plan: 35 payments of \$297 each

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 25, 2021

Date(s) of NOE(s): April 28, 2021

Executive Summary – Enforcement Matter – Case No. 60756
SHERBANO VENTURE, INC. dba Brownies
RN102051794
Docket No. 2021-0722-PST-E

Violation Information

1. Failed to report a suspected release to the TCEQ within 72 hours of discovery. Specifically, the statistical inventory reconciliation analyses for Tank 1 from March 2020 to February 2021 indicated a suspected release due to "Inconclusive" results that was not reported [30 TEX. ADMIN. CODE §§ 334.50(d)(9)(A)(v) and 334.72].
2. Failed to investigate and confirm all suspected releases of regulated substances by conducting a system test within 30 days. Specifically, the statistical inventory reconciliation analyses for Tank 1 from March 2020 to February 2021 indicated a suspected release due to "Inconclusive" results that was not investigated by the May 15, 2020 due date [30 TEX. ADMIN. CODE § 334.74(1)].
3. Failed to file a report not later than 45 days after the first observation of a suspected release which contains a detailed description of the investigative procedures followed in addressing the suspected release. Specifically, the Respondent did not submit a Release Determination Report by the May 30, 2020 due date [30 TEX. ADMIN. CODE § 334.74(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Reported the suspected release to the TCEQ and implemented procedures to report suspected releases timely on March 26, 2021;
- b. Conducted an investigation of the suspected release by performing the line leak detector and piping tightness tests and tank tightness tests with passing results on March 30, 2021; and
- c. Submitted the Release Determination Report to the TCEQ on May 14, 2021.

Technical Requirements:

N/A

Executive Summary – Enforcement Matter – Case No. 60756
SHERBANO VENTURE, INC. dba Brownies
RN102051794
Docket No. 2021-0722-PST-E

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: Salimah Ramhtullah, President, SHERBANO VENTURE, INC., 2400
Salmon Run Lane, Euless, Texas 76039-6094

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	3-May-2021			
	PCW	26-Aug-2021	Screening	13-May-2021	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	SHERBANO VENTURE, INC. dba Brownies				
Reg. Ent. Ref. No.	RN102051794				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	60756	No. of Violations	3		
Docket No.	2021-0722-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	\$20,000
---	-------------------	----------

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	-\$2,000
---------------------------	--------	------------	--------------------------------	----------

Notes	Reduction for High Performer Classification.			
--------------	--	--	--	--

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	----	------	-------------	-------------------	-----

Notes	The Respondent does not meet the culpability criteria.			
--------------	--	--	--	--

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$4,625
--	-------------------	----------

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	------	--------------	-------------------	-----

Total EB Amounts	\$51	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,375
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
Final Penalty Amount	\$13,375

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,375
-----------------------------------	-------------------------------	----------

DEFERRAL	20.0%	Reduction	Adjustment	-\$2,675
-----------------	-------	-----------	------------	----------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
--------------	--

PAYABLE PENALTY	\$10,700
------------------------	----------

Screening Date

13-May-2021

Docket No.

2021-0722-PST-E

PCW

Respondent

SHERBANO VENTURE, INC. dba Brownies

Case ID No.

60756

Reg. Ent. Reference No.

RN102051794

Media

Petroleum Storage Tank

Enf. Coordinator

John Fennell

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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

13-May-2021

Docket No.

2021-0722-PST-E

PCW

Respondent

SHERBANO VENTURE, INC. dba Brownies

Policy Revision 5 (January 28, 2021)

Case ID No.

60756

PCW Revision February 11, 2021

Reg. Ent. Reference No.

RN102051794

Media

Petroleum Storage Tank

Enf. Coordinator

John Fennell

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code §§ 334.50(d)(9)(A)(v) and 334.72

Violation Description

Failed to report a suspected release to the TCEQ within 72 hours of discovery. Specifically, the statistical inventory reconciliation ("SIR") analyses for Tank 1 from March 2020 to February 2021 indicated a suspected release due to "Inconclusive" results that was not reported.

Base Penalty

\$25,000

>> Environmental, Property and Human Health Matrix

OR

Release

Major

Moderate

Minor

Actual

Potential

Percent

0.0%

>>Programmatic Matrix

Falsification

Major

Moderate

Minor

x

Percent

10.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment

\$22,500

\$2,500

Violation Events

Number of Violation Events

1

363

Number of violation days

daily

weekly

monthly

quarterly

semiannual

annual

single event

x

Violation Base Penalty

\$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction

\$625

Before NOE/NOV

NOE/NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

x

N/A

Notes

The Respondent reported the suspected release to the TCEQ and implemented procedures to report suspected releases timely on March 26, 2021, before the April 28, 2021 Notice of Enforcement ("NOE").

Violation Subtotal

\$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$5

Violation Final Penalty Total

\$1,625

This violation Final Assessed Penalty (adjusted for limits)

\$1,625

Economic Benefit Worksheet

Respondent Case ID No. SHERBANO VENTURE, INC. dba Brownies 60756
Reg. Ent. Reference No. RN102051794
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
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	18-Apr-2020	26-Mar-2021	0.94	\$5	n/a	\$5
Notes for DELAYED costs	Estimated delayed cost to implement procedures to report suspected releases timely. The Date Required is the date the suspected release should have been reported, and the Final Date is the date the suspected release was reported to the TCEQ.						

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	\$100	TOTAL	\$5
----------------------------	-------	-------	-----

Screening Date	13-May-2021	Docket No.	2021-0722-PST-E	PCW	
Respondent	SHERBANO VENTURE, INC. dba Brownies			<i>Policy Revision 5 (January 28, 2021)</i>	
Case ID No.	60756			<i>PCW Revision February 11, 2021</i>	
Reg. Ent. Reference No.	RN102051794				
Media	Petroleum Storage Tank				
Enf. Coordinator	John Fennell				
Violation Number	2				
Rule Cite(s)	30 Tex. Admin. Code § 334.74(1)				
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) by conducting a system test within 30 days. Specifically, the SIR analyses for Tank 1 from March 2020 to February 2021 indicated a suspected release due to "Inconclusive" results that was not investigated by the May 15, 2020 due date.				
		Base Penalty	\$25,000		
>> Environmental, Property and Human Health Matrix					
OR	Release	Major	Moderate	Minor	
	Actual				
	Potential	x			Percent 15.0%
>> 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	4	Number of violation days	319	
	Frequency	daily			
		weekly			
		monthly			
		quarterly	x		
		semiannual			
		annual			
		single event			
			Violation Base Penalty	\$15,000	
	Four quarterly events are recommended from the May 15, 2020 suspected release investigation due date to the March 30, 2021 compliance date.				
Good Faith Efforts to Comply		25.0%	Reduction	\$3,750	
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer			
	Extraordinary				
	Ordinary	x			
	N/A				
Notes	The Respondent conducted the line leak detector, piping tightness, and tank tightness tests with passing results on March 30, 2021, before the April 28, 2021 NOE.				
		Violation Subtotal	\$11,250		
Economic Benefit (EB) for this violation			Statutory Limit Test		
	Estimated EB Amount	\$17	Violation Final Penalty Total	\$9,750	
	This violation Final Assessed Penalty (adjusted for limits)			\$9,750	

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. SHERBANO VENTURE, INC. dba Brownies 60756 RN102051794 Petroleum Storage Tank 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$400	15-May-2020	30-Mar-2021	0.87	\$17	n/a	\$17
Notes for DELAYED costs	Estimated delayed cost to conduct an investigation of the suspected release by performing the line leak detector and piping tightness tests and tank tightnes tests with passing results. The Date Required is the date the suspected release investigation was due, 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	\$400	TOTAL	\$17
----------------------------	-------	-------	------

Screening Date	13-May-2021	Docket No.	2021-0722-PST-E	PCW
Respondent	SHERBANO VENTURE, INC. dba Brownies			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	60756			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN102051794			
Media	Petroleum Storage Tank			
Enf. Coordinator	John Fennell			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 334.74(3)			
Violation Description	Failed to file a report not later than 45 days after the first observation of a suspected release which contains a detailed description of the investigative procedures followed in addressing the suspected release. Specifically, the Respondent did not submit a Release Determination Report ("RDR") by the May 30, 2020 due date.			
Base Penalty				\$25,000
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major	Moderate	Minor
	Actual			
	Potential			
				Percent 0.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
				Percent 10.0%
Matrix Notes	100% of the rule requirement was not met.			
Adjustment				\$22,500
				\$2,500
Violation Events				
Number of Violation Events		1	304	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
				Violation Base Penalty \$2,500
One single event is recommended.				
Good Faith Efforts to Comply		10.0%	Reduction \$250	
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
	Extraordinary			
	Ordinary		x	
	N/A			
Notes	The Respondent submitted the Release Determination Report to the TCEQ on May 14, 2021, after the April 28, 2021 NOE.			
Violation Subtotal				\$2,250
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$29	Violation Final Penalty Total \$2,000	
This violation Final Assessed Penalty (adjusted for limits)				\$2,000

Economic Benefit Worksheet

Respondent Case ID No. SHERBANO VENTURE, INC. dba Brownies 60756
Reg. Ent. Reference No. RN102051794
Media Violation No. Petroleum Storage Tank 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$600	30-May-2020	14-May-2021	0.96	\$29	n/a	\$29
Notes for DELAYED costs	Estimated delayed cost to submit a Release Determination Report ("RDR") to the TCEQ. The Date Required is the date the RDR was due, 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	\$600	TOTAL	\$29
----------------------------	-------	-------	------



Compliance History Report

Compliance History Report for CN604623736, RN102051794, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator:	CN604623736, SHERBANO VENTURE, INC.	Classification:	HIGH	Rating:	0.00
Regulated Entity:	RN102051794, Brownies	Classification:	HIGH	Rating:	0.00
Complexity Points:	4	Repeat Violator:	NO		
CH Group:	01 - Gas Stations with convenience Stores and other Gas Stations				
Location:	5324 TRAIL LAKE DRIVE IN FORT WORTH, TARRANT COUNTY, TEXAS 76133-1931				
TCEQ Region:	REGION 04 - DFW METROPLEX				
ID Number(s):					
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	PETROLEUM STORAGE TANK NON REGISTERED	ID NUMBER		
42771		R04102051794			
Compliance History Period:	September 01, 2015 to August 31, 2020	Rating Year:	2020	Rating Date:	09/01/2020
Date Compliance History Report Prepared:	June 18, 2021				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	June 18, 2016 to June 18, 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	January 12, 2018	(1453594)
--------	------------------	-----------

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
SHERBANO VENTURE, INC. DBA
BROWNIES
RN102051794**

**§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2021-0722-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 SHERBANO VENTURE, INC. dba Brownies (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 5324 Trail Lake Drive in Fort Worth, Tarrant 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 \$13,375 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$305 of the penalty and \$2,625 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 \$10,395 of the undeferred penalty shall be paid in 35 monthly payments of \$297 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 implemented the following corrective measures at the Facility:
 - a. Reported the suspected release to the TCEQ and implemented procedures to report suspected releases timely on March 26, 2021;
 - b. Conducted an investigation of the suspected release by performing the line leak detector and piping tightness tests and tank tightness tests with passing results on March 30, 2021; and
 - c. Submitted the Release Determination Report ("RDR") to the TCEQ on May 14, 2021.

II. ALLEGATIONS

During an investigation conducted on March 25, 2021, an investigator documented that the Respondent:

1. Failed to report a suspected release to the TCEQ within 72 hours of discovery, in violation of 30 TEX. ADMIN. CODE §§ 334.50(d)(9)(A)(v) and 334.72. Specifically, the statistical inventory reconciliation ("SIR") analyses for Tank 1 from March 2020 to February 2021 indicated a suspected release due to "Inconclusive" results 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) by conducting a system test within 30 days, in violation of 30 TEX. ADMIN. CODE § 334.74(1). Specifically, the SIR analyses for Tank 1 from March 2020 to February 2021 indicated a suspected release due to "Inconclusive" results that was not investigated by the May 15, 2020 due date.
3. Failed to file a report not later than 45 days after the first observation of a suspected release which contains a detailed description of the investigative procedures followed in addressing the suspected release, in accordance with 30 TEX. ADMIN. CODE § 334.74(3). Specifically, the Respondent did not submit a RDR by the May 30, 2020 due date.

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: SHERBANO VENTURE, INC. dba Brownies, Docket No. 2021-0722-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. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon 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.
4. 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.
5. 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.

6. 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.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date


For the Executive Director

6/8/2022

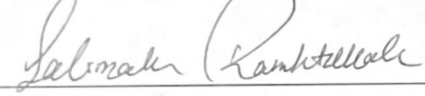
Date

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

04-28-22
Date

SALIMAH RAMTULLAH
Name (Printed or typed)

OWNER
Title

Authorized Representative of
SHERBANO VENTURE, INC. dba Brownies

☐ 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.