

**Executive Summary – Enforcement Matter – Case No. 61032**  
**CHIDO, INCORPORATED**  
**RN100817410**  
**Docket No. 2021-0908-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Chido, 11880 Alameda Avenue, Socorro, El Paso County

**Type of Operation:**

Out-of-service underground storage tank system

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: Respondent filed a petition for bankruptcy relief under United States Code ch. 11 on or about June 4, 2021. So long as the automatic stay is in effect in the Respondent's bankruptcy proceedings, the TCEQ will not seek to execute upon monetary judgment without first approaching the United States Bankruptcy Court where the Respondent's bankruptcy case is pending as necessary.

Interested Third-Parties: None

**Texas Register Publication Date:** February 4, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,250

**Amount Deferred for Expedited Settlement:** \$2,250

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**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:** June 8, 2021

**Date(s) of NOE(s):** July 8, 2021

**Executive Summary – Enforcement Matter – Case No. 61032**  
**CHIDO, INCORPORATED**  
**RN100817410**  
**Docket No. 2021-0908-PST-E**

***Violation Information***

Failed to make appropriate repairs or modifications to restore the electrical isolation of a protected component within 60 days after a corrosion specialist determines that the metal component is no longer adequately protected. Specifically, a cathodic protection survey conducted October 30, 2020 indicated that the corrosion protection system was not functioning adequately, and it was not repaired within 60 days [30 TEX. ADMIN. CODE § 334.49(a)(1) and (d)(1)(D) and TEX. WATER CODE § 26.3475(d)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, repair and test the corrosion protection system; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Ken Moller, Enforcement Division, Enforcement Team 7, MC 219, (512) 239-6111; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Martha O. Lopez, President, CHIDO, INCORPORATED, 11880 Alameda Avenue, Socorro, Texas 79927

**Respondent's Attorney:** E. P. Bud Kirk, 600 Sunland Park Drive, Ste. 4-400, El Paso, Texas 79912



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	12-Jul-2021			
	<b>PCW</b>	23-Nov-2021	<b>Screening</b>	12-Jul-2021	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	CHIDO, INCORPORATED
<b>Reg. Ent. Ref. No.</b>	RN100817410
<b>Facility/Site Region</b>	6-El Paso
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61032	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-0908-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Tyler Richardson
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$7,500
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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.

<b>Compliance History</b>	0.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: Enhancement for two NOVs with same/similar violations. Reduction for High Performer classification.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$569  
 Estimated Cost of Compliance: \$6,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$7,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$7,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,500
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$1,500
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$6,000
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Screening Date 12-Jul-2021

Docket No. 2021-0908-PST-E

PCW

Respondent CHIDO, INCORPORATED

Policy Revision 5 (January 28, 2021)

Case ID No. 61032

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100817410

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> )	2	10%
	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) 10%

#### >> 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 two NOVs with same/similar violations. Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

**Screening Date** 12-Jul-2021 **Docket No.** 2021-0908-PST-E **PCW**  
**Respondent** CHIDO, INCORPORATED *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61032 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN100817410  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Tyler Richardson

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 334.49(a)(1) and (d)(1)(D) and Tex. Water Code § 26.3475(d)

**Violation Description** Failed to make appropriate repairs or modifications to restore the electrical isolation of a protected component within 60 days after a corrosion specialist determines that the metal component is no longer adequately protected. Specifically, a cathodic protection survey conducted October 30, 2020 indicated that the corrosion protection system was not functioning adequately, and it was not repaired within 60 days.

**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 2 157 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

Two quarterly events are recommended from December 29, 2020, 60 days after the failed cathodic protection survey date, to the June 4, 2021 bankruptcy petition 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** \$7,500

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

**Statutory Limit Test**

**Estimated EB Amount** \$569

**Violation Final Penalty Total** \$7,500

**This violation Final Assessed Penalty (adjusted for limits)** \$7,500

# Economic Benefit Worksheet

**Respondent** CHIDO, INCORPORATED  
**Case ID No.** 61032  
**Reg. Ent. Reference No.** RN100817410  
**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	\$6,000	29-Dec-2020	8-May-2022	1.36	\$27	\$542	\$569
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated delayed cost to repair and test the corrosion protection system for the USTs at the Facility. The Date Required is 60 days after the failed cathodic protection survey 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**

\$6,000

**TOTAL**

\$569



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	12-Jul-2021	<b>Screening</b>	12-Jul-2021	<b>EPA Due</b>	
	<b>PCW</b>	23-Nov-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	CHIDO, INCORPORATED
<b>Reg. Ent. Ref. No.</b>	RN100817410
<b>Facility/Site Region</b>	6-El Paso
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61032	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-0908-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Tyler Richardson
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$3,750
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	0.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: Enhancement for two NOV's with same/similar violations. Reduction for High Performer classification.

<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

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

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,750
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$3,750
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,750
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<b>DEFERRAL</b>	20.0%	Reduction	Adjustment	-\$750
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$3,000
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Screening Date 12-Jul-2021

Docket No. 2021-0908-PST-E

PCW

Respondent CHIDO, INCORPORATED

Policy Revision 5 (January 28, 2021)

Case ID No. 61032

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100817410

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> )	2	10%
	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)** 10%

#### >> 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 two NOVs with same/similar violations. Reduction for High Performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 0%



**Screening Date** 12-Jul-2021  
**Respondent** CHIDO, INCORPORATED  
**Case ID No.** 61032  
**Reg. Ent. Reference No.** RN100817410  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Tyler Richardson

**Docket No.** 2021-0908-PST-E

**PCW**

*Policy Revision 5 (January 28, 2021)*

*PCW Revision February 11, 2021*

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 334.49(a)(1) and (d)(1)(D) and Tex. Water Code § 26.3475(d)

**Violation Description**  
 Failed to make appropriate repairs or modifications to restore the electrical isolation of a protected component within 60 days after a corrosion specialist determines that the metal component is no longer adequately protected. Specifically, a cathodic protection survey conducted October 30, 2020 indicated that the corrosion protection system was not functioning adequately, and it was not repaired within 60 days.

**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      38 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 June 4, 2021, bankruptcy petition date, to the July 12, 2021 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** \$0

**Violation Final Penalty Total** \$3,750

**This violation Final Assessed Penalty (adjusted for limits)** \$3,750

## Economic Benefit Worksheet

**Respondent** CHIDO, INCORPORATED  
**Case ID No.** 61032  
**Reg. Ent. Reference No.** RN100817410  
**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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed costs are captured in PCW No. 1, Economic Benefit Worksheet No. 1.

### 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

\$0

**TOTAL**

\$0



# Compliance History Report

Compliance History Report for CN600500045, RN100817410, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600500045, Chido, Incorporated	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Regulated Entity:</b>	RN100817410, Chido	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Complexity Points:</b>	6	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	01 - Gas Stations with convenience Stores and other Gas Stations		
<b>Location:</b>	11880 Alameda Avenue in Socorro, El Paso County, Texas		
<b>TCEQ Region:</b>	REGION 06 - EL PASO		
<b>ID Number(s):</b>			
<b>AIR NEW SOURCE PERMITS</b> Account Number EE1095W	<b>PETROLEUM STORAGE TANK REGISTRATION</b> REGISTRATION 49545		
<b>Compliance History Period:</b>	September 01, 2015 to August 31, 2020	<b>Rating Year:</b> 2020	<b>Rating Date:</b> 09/01/2020
<b>Date Compliance History Report Prepared:</b>	July 12, 2021		
<b>Agency Decision Requiring Compliance History:</b>	Enforcement		
<b>Component Period Selected:</b>	July 12, 2016 to July 12, 2021		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	Tyler Richardson		<b>Phone:</b> (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.):

N/A

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

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

- |   |              |  |           |                 |          |
|---|--------------|--|-----------|-----------------|----------|
| 1 | Date:        | 09/23/2020   | (1672606) |                 |          |
|   | Self Report? | NO   |           | Classification: | Moderate |
|   | Citation:    | 30 TAC Chapter 334, SubChapter C 334.49(c)(4)(C)<br>30 TAC Chapter 334, SubChapter C 334.54(b)(3)  |           |                 |          |
|   | Description: | Failure to inspect and test all cathodic protection systems for operability and adequacy of protection at a subsequent frequency of at least once every three years. |           |                 |          |
| 2 | Date:        | 02/05/2021   | (1701144) |                 |          |

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.49(d)(1)(D)(ii)

Description: Failure to adequately protect an underground storage tank from corrosion within 60 days of the date of a cathodic protection survey. A survey was conducted by a corrosion specialist who determined that a field-installed cathodic protection system (which meets requirements of subsection (c)(2) of this section) should be installed. A cathodic protection survey was conducted on November 4, 2020, which indicated that one of the underground storage tanks was inadequately protected.

**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  
CHIDO, INCORPORATED  
RN100817410**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2021-0908-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 CHIDO, INCORPORATED (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 owns, as defined in 30 TEX. ADMIN. CODE § 334.2(78), an out-of-service underground storage tank ("UST") system located at 11880 Alameda Avenue in Socorro, El Paso 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 \$11,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). On or about June 4, 2021, the Respondent filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code ("U.S.C."). The automatic stay imposed by the Bankruptcy Code [specifically, 11 U.S.C. § 362(a)] does not apply to the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power, by virtue of the exception set out at 11 U.S.C. § 362(b)(4). Accordingly, TCEQ [a governmental unit as defined under 11 U.S.C. § 101(27)] is expressly excepted from the automatic stay in pursuing enforcement of the State's environmental protection laws, and in seeking to enter a monetary judgment for such

violations. However, so long as the automatic stay is in effect in the Respondent's bankruptcy proceedings, the TCEQ will not seek to execute upon any monetary judgment without first approaching the United States Bankruptcy Court where the Respondent's bankruptcy case is pending as necessary. \$2,250 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. Any deferred amount will be waived only upon full compliance with all the terms and conditions of this Order.

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.

## **II. ALLEGATIONS**

During an investigation conducted January 15, 2021 and a record review conducted on June 8, 2021, an investigator documented that the Respondent failed to make appropriate repairs or modifications to restore the electrical isolation of a protected component within 60 days after a corrosion specialist determines that the metal component is no longer adequately protected, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(1) and (d)(1)(D) and TEX. WATER CODE § 26.3475(d). Specifically, a cathodic protection survey conducted October 30, 2020 indicated that the corrosion protection system was not functioning adequately, and it was not repaired within 60 days.

## **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 assessment 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 may be made payable to "TCEQ" and sent with the notation "Re: CHIDO, INCORPORATED, Docket No. 2021-0908-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 the Order, repair and test the corrosion protection system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.49.
  - 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 No. 2.a. 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  
El Paso Regional Office  
Texas Commission on Environmental Quality  
401 East Franklin Avenue, Suite 560  
El Paso, Texas 79901-1212

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.




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**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date



5/18/2022

\_\_\_\_\_  
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 is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order 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;
- 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.

Maria O Lopez  
Signature

1/10/22  
Date

Maria O Lopez

President  
Title

Name (Printed or typed)  
Authorized Representative of  
CHIDO, INCORPORATED

President

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