

**Executive Summary – Enforcement Matter – Case No. 61065**  
**High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS**  
**RN105984553**  
**Docket No. 2021-1007-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

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

Fuel City Fleet Express, 1720 South Town East Boulevard, Mesquite, Dallas County

**Type of Operation:**

Underground storage tank ("UST") system and an unmanned truck stop with retail sales of diesel

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 26, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$16,776

**Amount Deferred for Expedited Settlement:** \$3,355

**Total Paid to General Revenue:** \$401

**Total Due to General Revenue:** \$13,020

Payment Plan: 35 payments of \$372 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:** April 14, 2021

**Date(s) of NOE(s):** May 28, 2021

**Executive Summary – Enforcement Matter – Case No. 61065  
High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS  
RN105984553  
Docket No. 2021-1007-PST-E**

***Violation Information***

1. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, monthly inventory control ("MIC") records for the diesel tank from July through September of 2020 indicate a suspected release which was not reported [30 TEX. ADMIN. CODE § 334.72].
2. Failed to investigate and confirm all suspected releases of regulated substances within 30 days. Specifically, MIC records for the diesel tank from July through September of 2020 indicate a suspected release which was not investigated [30 TEX. ADMIN. CODE § 334.74].
3. Failed to conduct release detection for UST and piping installed after January 1, 2009 at a frequency of at least once every 30 days using interstitial monitoring. Specifically, the tank and piping were installed on January 15, 2010 and was not monitored for releases using interstitial monitoring [30 TEX. ADMIN. CODE § 334.50(b)(1)(B) and (b)(2)(A)(iii) and TEX. WATER CODE § 26.3475(c)(1)].
4. Failed to install and maintain sumps in a manner that assures that their sides, bottoms, and any penetration points are liquid tight. Specifically, the submersible turbine pump sump and several dispenser sumps were not liquid tight and contained liquid [30 TEX. ADMIN. CODE §§ 334.45(d)(1)(E)(iv)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. Implementing procedures designed to ensure timely reporting of suspected releases by January 10, 2022;
- b. Conducting a suspected release investigation by April 13, 2022;
- c. Implementing interstitial monitoring by March 7, 2022; and
- d. Repairing and testing the submersible turbine pump and dispenser sumps by October 22, 2021.

**Technical Requirements:**

N/A

**Executive Summary – Enforcement Matter – Case No. 61065**  
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**RN105984553**  
**Docket No. 2021-1007-PST-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Horus Garcia, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-1813; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Joseph Bickham, Chief Executive Officer, High Country Real Estate LLC, 801 South Riverfront Boulevard, Dallas, Texas 75207

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	1-Jun-2021	<b>Screening</b>	22-Jun-2021	<b>EPA Due</b>	
	<b>PCW</b>	18-May-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS
<b>Reg. Ent. Ref. No.</b>	RN105984553
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61065	<b>No. of Violations</b>	4
<b>Docket No.</b>	2021-1007-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>	Horus Garcia
		<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>	\$18,750
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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>	-10.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	-\$1,875
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<b>Notes</b>	Reduction for High Performer classification.
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<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$125
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$200	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,625	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$16,750
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.2%	Adjustment	\$26
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement to capture the avoided cost of compliance associated with Violation No. 1.
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<b>Final Penalty Amount</b>	\$16,776
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$16,776
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<b>DEFERRAL</b>	20.0%	Reduction	Adjustment	-\$3,355
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	\$13,421
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**Screening Date** 22-Jun-2021

**Docket No.** 2021-1007-PST-E

**PCW**

**Respondent** High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61065

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN105984553

**Media** Petroleum Storage Tank

**Enf. Coordinator** Horus Garcia

### 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** 22-Jun-2021 **Docket No.** 2021-1007-PST-E **PCW**  
**Respondent** High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61065 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN105984553  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Horus Garcia

**Violation Number** 1

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

**Violation Description** Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, monthly inventory control ("MIC") records for the diesel tank from July through September of 2020 indicate a suspected release which was not reported.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		x			10.0%

**Matrix Notes** 100% of the rule requirement was not met.

**Adjustment** \$22,500

\$2,500

**Violation Events**

Number of Violation Events 1 294 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$2,500

One single event is recommended for one underground storage tank ("UST") with an unreported suspected release.

**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** \$2,500

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$30 **Violation Final Penalty Total** \$2,253

**This violation Final Assessed Penalty (adjusted for limits)** \$2,253

# Economic Benefit Worksheet

**Respondent** High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS  
**Case ID No.** 61065  
**Reg. Ent. Reference No.** RN105984553  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	14-Apr-2021	10-Jan-2022	0.74	\$4	n/a	\$4

**Notes for DELAYED costs**

Estimated delayed cost to develop and implement procedures designed to ensure timely reporting of suspected releases. The Date Required is the investigation date and the Final Date is the 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)	\$25	1-Sep-2020	22-Jun-2021	0.81	\$1	\$25	\$26

**Notes for AVOIDED costs**

Estimated avoided cost to report a suspected release. The Date Required is the suspected release report due date and the Final Date is the screening date.

Approx. Cost of Compliance

\$125

**TOTAL**

\$30

**Screening Date** 22-Jun-2021 **Docket No.** 2021-1007-PST-E **PCW**  
**Respondent** High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61065 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN105984553  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Horus Garcia

**Violation Number** 2

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

**Violation Description**  
 Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 Tex. Admin. Code § 334.72 (relating to reporting of suspected releases) within 30 days. Specifically, MIC records for the diesel tank from July through September of 2020 indicate a suspected release which was not investigated.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

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 3 265 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$11,250

Three quarterly events are recommended from the September 30, 2020 date the suspected release should have been investigated to the June 22, 2021 screening date.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

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

**Violation Subtotal** \$11,250

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$77 **Violation Final Penalty Total** \$10,141

**This violation Final Assessed Penalty (adjusted for limits)** \$10,141



## Economic Benefit Worksheet

**Respondent** High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS  
**Case ID No.** 61065  
**Reg. Ent. Reference No.** RN105984553  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	30-Sep-2020	13-Apr-2022	1.53	\$77	n/a	\$77

**Notes for DELAYED costs**

Estimated cost to conduct a suspected release investigation and implement appropriate corrective measures. The Date Required is the date the suspected release investigation was due and the Final Date is the 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 \$1,000

**TOTAL** \$77

**Screening Date** 22-Jun-2021 **Docket No.** 2021-1007-PST-E **PCW**  
**Respondent** High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61065 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN105984553  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Horus Garcia

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.50(b)(1)(B) and (b)(2)(A)(iii) and Tex. Water Code § 26.3475(c)(1)  
**Violation Description** Failed to conduct release detection for UST and piping installed after January 1, 2009 at a frequency of at least once every 30 days using interstitial monitoring. Specifically, the tank and piping were installed on January 15, 2010 and were not monitored for releases using interstitial monitoring.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

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

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 1 69 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 April 14, 2021 investigation date to the June 22, 2021 screening date.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/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** \$67 **Violation Final Penalty Total** \$3,380

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

## Economic Benefit Worksheet

**Respondent** High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS  
**Case ID No.** 61065  
**Reg. Ent. Reference No.** RN105984553  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	14-Apr-2021	7-Mar-2022	0.90	\$67	n/a	\$67

**Notes for DELAYED costs**

Estimated delayed cost to implement interstitial monitoring as the primary release detection method for the USTs and piping at the Facility. The Date Required is the investigation date, and the Final Date is the 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

\$1,500

**TOTAL**

\$67

**Screening Date** 22-Jun-2021 **Docket No.** 2021-1007-PST-E **PCW**  
**Respondent** High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61065 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN105984553  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Horus Garcia

**Violation Number** 4  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.45(d)(1)(E)(iv)  
**Violation Description** Failed to install and maintain sumps in a manner that assures that their sides, bottoms, and any penetration points are liquid tight. Specifically, the submersible turbine pump ("STP") sump and several dispenser sumps were not liquid tight and contained liquid.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	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** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 1 69 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended from the April 14, 2021 investigation date to the June 22, 2021 screening date.

**Good Faith Efforts to Comply** 10.0% Reduction \$125

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		

**Notes** The Respondent achieved compliance by repairing and testing the STP and dispenser sumps by October 22, 2021, after the May 28, 2021 Notice of Enforcement.

**Violation Subtotal** \$1,125

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$26 **Violation Final Penalty Total** \$1,002

**This violation Final Assessed Penalty (adjusted for limits)** \$1,002

## Economic Benefit Worksheet

**Respondent** High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS  
**Case ID No.** 61065  
**Reg. Ent. Reference No.** RN105984553  
**Media** Petroleum Storage Tank  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	14-Apr-2021	22-Oct-2021	0.52	\$26	n/a	\$26

**Notes for DELAYED costs**

Estimated cost to repair and test the STP and dispenser sumps. The Date Required is the investigation date and the Final Date is the 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

\$1,000

**TOTAL**

\$26



# Compliance History Report

Compliance History Report for CN605676832, RN105984553, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

<b>Customer, Respondent, or Owner/Operator:</b>	CN605676832, High Country Real Estate LLC	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Regulated Entity:</b>	RN105984553, FUEL CITY FLEET EXPRESS	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Complexity Points:</b>	3	<b>Repeat Violator:</b> NO	
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	1720 South Town East Boulevard in Mesquite, Dallas County, Texas 75149-1131		
<b>TCEQ Region:</b>	REGION 04 - DFW METROPLEX		

<b>ID Number(s):</b>		
<b>PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 83451</b>	<b>PETROLEUM STORAGE TANK NON REGISTERED ID NUMBER R04</b>	

**Compliance History Period:** September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

**Date Compliance History Report Prepared:** July 13, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 13, 2017 to July 13, 2022

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Horus Garcia **Phone:** (512) 239-1813

**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? YES
- 3) Who is the current owner/operator? HIGH COUNTRY REAL ESTATE LLC OWNER OPERATOR since 5/28/2019
- 4) Who was/were the prior owner(s)/operator(s)? W B Diamond Investments, Inc, OWNER OPERATOR, 1/15/2010 to 5/27/2019

**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.

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  
HIGH COUNTRY REAL ESTATE  
LLC DBA FUEL CITY FLEET  
EXPRESS  
RN105984553**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2021-1007-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 High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS (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 and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and an unmanned truck stop with retail sales of diesel located at 1720 South Town East Boulevard in Mesquite, Dallas 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 \$16,776 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$401 of the penalty and \$3,355 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms



or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

The remaining amount of \$13,020 of the undeferred penalty shall be paid in 35 monthly payments of \$372 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. By implementing procedures designed to ensure timely reporting of suspected releases by January 10, 2022;
  - b. By conducting a suspected release investigation by April 13, 2022;
  - c. By implementing interstitial monitoring by March 7, 2022; and
  - d. By repairing and testing the submersible turbine pump ("STP") and dispenser sumps by October 22, 2021.

## II. ALLEGATIONS

During an investigation conducted at the Facility on April 14, 2021, an investigator documented that the Respondent:

1. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, monthly inventory control ("MIC") records for the diesel tank from July through September of 2020 indicate a suspected release which was not reported.
2. Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TEX. ADMIN. CODE § 334.72 (relating to reporting of suspected releases) within 30 days, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, MIC records for the diesel tank from July through September of 2020 indicate a suspected release which was not investigated.
3. Failed to conduct release detection for UST and piping installed after January 1, 2009 at a frequency of at least once every 30 days using interstitial monitoring, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(B) and (b)(2)(A)(iii) and TEX. WATER CODE § 26.3475(c)(1). Specifically, the tank and piping were installed on January 15, 2010 and was not monitored for releases using interstitial monitoring.
4. Failed to install and maintain sumps in a manner that assures that their sides, bottoms, and any penetration points are liquid tight, in violation of 30 TEX. ADMIN. CODE §§ 334.45(d)(1)(E)(iv). Specifically, the STP sump and several dispenser sumps were not liquid tight and contained liquid.

## 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: High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS, Docket No. 2021-1007-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

5/2/2023  
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

7-28-2022  
Date

JOSEPH BICKHAM  
Name (Printed or typed)  
Authorized Representative of  
High Country Real Estate LLC dba FUEL CITY FLEET EXPRESS

CEO  
Title

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

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