

Executive Summary – Enforcement Matter – Case No. 61182
RBRK INC dba RACE RUNNER 2
RN101723005
Docket No. 2021-1069-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

RACE RUNNER 2, 22046 State Highway 155 South, Flint, Smith 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: May 13, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,352

Amount Deferred for Expedited Settlement: \$2,270

Total Paid to General Revenue: \$262

Total Due to General Revenue: \$8,820

Payment Plan: 35 payments of \$252 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: June 15, 2021

Date(s) of NOE(s): July 30, 2021

Executive Summary – Enforcement Matter – Case No. 61182
RBRK INC dba RACE RUNNER 2
RN101723005
Docket No. 2021-1069-PST-E

Violation Information

1. Failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
2. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, automatic tank gauge records showed failing results on April 30, 2021 for UST No. 1, and on May 4, 2021 for UST Nos. 1 and 2, indicating suspected releases that were not reported [30 TEX. ADMIN. CODE § 334.72].
3. Failed to investigate and confirm all suspected releases of regulated substances within 30 days. Specifically, automatic tank gauge records showed failing results on April 30, 2021 for UST No. 1, and on May 4, 2021 for UST Nos. 1 and 2, indicating suspected releases that were not investigated [30 TEX. ADMIN. CODE § 334.74].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

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

Executive Summary – Enforcement Matter – Case No. 61182
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RN101723005
Docket No. 2021-1069-PST-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Andrea Linson, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-6924; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Rupen Adhikari, Director, RBRK INC, 113 Lost Forest, Gun Barrel City, Texas 75156-4276

Keshav Lamichhane, Owner, RBRK INC, 113 Lost Forest, Gun Barrel City, Texas 75156-4276

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	2-Aug-2021	Screening	12-Aug-2021	EPA Due	
	PCW	15-Sep-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	RBRK INC dba RACE RUNNER 2
Reg. Ent. Ref. No.	RN101723005
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61182	No. of Violations	3
Docket No.	2021-1069-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Sarah Smith
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$12,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$1,250
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Notes	Reduction for High Performer classification.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$249	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.9% Adjustment	\$102
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 2.
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Final Penalty Amount	\$11,352
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,352
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DEFERRAL	20.0% Reduction Adjustment	-\$2,270
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$9,082
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Screening Date 12-Aug-2021

Docket No. 2021-1069-PST-E

PCW

Respondent RBRK INC dba RACE RUNNER 2

Policy Revision 5 (January 28, 2021)

Case ID No. 61182

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101723005

Media Petroleum Storage Tank

Enf. Coordinator Sarah Smith

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 12-Aug-2021

Docket No. 2021-1069-PST-E

PCW

Respondent RBRK INC dba RACE RUNNER 2

Policy Revision 5 (January 28, 2021)

Case ID No. 61182

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101723005

Media Petroleum Storage Tank

Enf. Coordinator Sarah Smith

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to monitor the underground storage tanks ("USTs") for releases in a manner which will detect a release at a frequency of at least once every 30 days.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	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 1

58 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 15, 2021 investigation date to the August 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 \$72

Violation Final Penalty Total \$3,406

This violation Final Assessed Penalty (adjusted for limits) \$3,406

Economic Benefit Worksheet

Respondent RBRK INC dba RACE RUNNER 2
Case ID No. 61182
Reg. Ent. Reference No. RN101723005
Media Violation No. Petroleum Storage Tank
 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)	\$1,500	15-Jun-2021	29-May-2022	0.95	\$72	n/a	\$72

Notes for DELAYED costs

Estimated delayed cost to implement a release detection method for the USTs at the Facility. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,500

TOTAL \$72

Screening Date 12-Aug-2021 **Docket No.** 2021-1069-PST-E **PCW**
Respondent RBRK INC dba RACE RUNNER 2 *Policy Revision 5 (January 28, 2021)*
Case ID No. 61182 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101723005
Media Petroleum Storage Tank
Enf. Coordinator Sarah Smith

Violation Number 2
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, automatic tank gauge ("ATG") records showed failing results on April 30, 2021 for UST No. 1, and on May 4, 2021 for UST Nos. 1 and 2, indicating suspected releases that were 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 2 103 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$5,000

Two single events are recommended (one single event for each tank with a 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 good faith criteria.

Violation Subtotal \$5,000

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

Estimated EB Amount \$107 **Violation Final Penalty Total** \$4,541

This violation Final Assessed Penalty (adjusted for limits) \$4,541

Economic Benefit Worksheet

Respondent RBRK INC dba RACE RUNNER 2
Case ID No. 61182
Reg. Ent. Reference No. RN101723005
Media Violation No. 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
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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	15-Jun-2021	29-May-2022	0.95	\$5	n/a	\$5

Notes for DELAYED costs

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

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$50	1-May-2021	12-Aug-2021	0.28	\$1	\$50	\$51
Other (as needed)	\$50	5-May-2021	12-Aug-2021	0.27	\$1	\$50	\$51

Notes for AVOIDED costs

Estimated avoided cost to report the suspected releases. The Dates Required are the dates the earliest suspected releases for each UST should have been reported, and the Final Dates are the screening date.

Approx. Cost of Compliance \$200

TOTAL \$107

Screening Date 12-Aug-2021 **Docket No.** 2021-1069-PST-E **PCW**
Respondent RBRK INC dba RACE RUNNER 2 *Policy Revision 5 (January 28, 2021)*
Case ID No. 61182 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101723005
Media Petroleum Storage Tank
Enf. Coordinator Sarah Smith

Violation Number 3
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 within 30 days. Specifically, ATG records showed failing results on April 30, 2021 for UST No. 1, and on May 4, 2021 for UST Nos. 1 and 2, indicating suspected releases that were not investigated.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 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 74 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 earliest suspected release investigation due date of May 30, 2021 to the August 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 \$70 **Violation Final Penalty Total** \$3,406

This violation Final Assessed Penalty (adjusted for limits) \$3,406

Economic Benefit Worksheet

Respondent RBRK INC dba RACE RUNNER 2
Case ID No. 61182
Reg. Ent. Reference No. RN101723005
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)	\$1,400	30-May-2021	29-May-2022	1.00	\$70	n/a	\$70

Notes for DELAYED costs

Estimated delayed cost to conduct an investigation of the suspected releases and implement appropriate corrective measures. This is determined by \$400 for testing per (tank + line) for two tanks (\$800), and \$600 for the suspected Release Determination Report. The Date Required is the date the earliest the suspected release investigation was due 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 \$1,400

TOTAL \$70

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN605820398, RN101723005, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605820398, RBRK INC **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN101723005, RACE RUNNER 2 **Classification:** HIGH **Rating:** 0.00

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 22046 State Highway 155 South, Flint, Smith County, Texas 75762-5827

TCEQ Region: REGION 05 - TYLER

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 29497

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

Date Compliance History Report Prepared: January 25, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 25, 2017 to January 25, 2022

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

Name: Sarah Smith

Phone: (512) 239-4495

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? RBRK INC OWNER OPERATOR since 7/5/2020
- 4) Who was/were the prior owner(s)/operator(s)? Natural Properties LLC, OWNER OPERATOR, 3/1/2014 to 7/4/2020

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 August 27, 2018 (1512212)

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
RBRK INC DBA RACE RUNNER 2
RN101723005**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-1069-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 RBRK INC dba RACE RUNNER 2 (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 22046 State Highway 155 South in Flint, Smith 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 \$11,352 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$262 of the penalty and \$2,270 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 \$8,820 of the undeferred penalty shall be paid in 35 monthly payments of \$252 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.

II. ALLEGATIONS

During an investigation conducted on June 15, 2021, an investigator documented that the Respondent:

1. Failed to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).
2. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, automatic tank gauge ("ATG") records showed failing results on April 30, 2021 for UST No. 1, and on May 4, 2021 for UST Nos. 1 and 2, indicating suspected releases that were not reported.
3. Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TEX. ADMIN. CODE § 334.72 within 30 days, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, ATG records showed failing results on April 30,

2021 for UST No. 1, and on May 4, 2021 for UST Nos. 1 and 2, indicating suspected releases that were not investigated.

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: RBRK INC dba RACE RUNNER 2, Docket No. 2021-1069-PST-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Implement a release detection method for the USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - ii. Develop and implement a process for timely reporting of suspected releases, in accordance with 30 TEX. ADMIN. CODE § 334.72; and
 - iii. Conduct an investigation of the suspected releases and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74.
 - 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



9/14/2022

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date


Keshav Kamichhane

03/28/22

Name (Printed or typed)
Authorized Representative of
RBRK INC dba RACE RUNNER 2

Title

owner

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