

Executive Summary – Enforcement Matter – Case No. 61219
Saeb Kutob dba ARP FOOD STORE
RN105187041
Docket No. 2021-1113-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

No

Location(s) Where Violation(s) Occurred:

ARP FOOD STORE, 111 South Main Street, Arp, 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: April 22, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,686

Amount Deferred for Expedited Settlement: \$2,537

Total Paid to General Revenue: \$256

Total Due to General Revenue: \$9,893

Payment Plan: 34 payments of \$285 each and one final payment of \$203

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 16, 2021

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

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Docket No. 2021-1113-PST-E

Violation Information

1. Failed to monitor the UST in a manner which will detect a release at a frequency of at least once every 30 days. Specifically, the Respondent was not conducting monthly inventory control as a form of release detection for the UST [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
2. Failed to maintain required operator training certification records and make them available for inspection upon request by agency personnel. Specifically, the Respondent failed to provide Class A, B, and C operator training records at the time of investigation [30 TEX. ADMIN. CODE § 334.606].
3. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2019 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
4. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the regulated USTs. Specifically, one fuel delivery was accepted without a valid, current TCEQ delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
5. Failed to assure that all UST recordkeeping requirements are met. Specifically, financial assurance documentation, UST piping release detection documentation, and overfill verification documentation, including the 60-day spill bucket inspection logs and proof of overfill prevention, was not provided at the time of investigation [30 TEX. ADMIN. CODE § 334.10(b)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent submitted valid financial assurance and UST piping release detection documentation on February 17, 2022.

Technical Requirements:

The Order will require the Respondent to:

a. Immediately:

i. Begin maintaining all UST operator training records; and

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- ii. Begin maintaining all UST records, including, but not limited to, overfill verification documentation, including the 60-day spill bucket inspection logs and proof of overfill prevention.

- b. Within 30 days:
 - i. Implement a release detection method for the UST at the Facility; and
 - ii. Submit a properly completed UST registration and self-certification form to obtain a valid, current delivery certificate.

- c. Within 45 days, submit written certification to demonstrate compliance with a. and b.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Courtney Gooris, Enforcement Division, Enforcement Team 7, MC 219, (512) 239-1118; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Saeb Kutob, Owner, ARP FOOD STORE, 17705 Sunshine Lane, Troup, Texas 75789

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	17-Aug-2021	EPA Due	
	PCW	30-Aug-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Saeb Kutob dba ARP FOOD STORE
Reg. Ent. Ref. No.	RN105187041
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61219	No. of Violations	5
Docket No.	2021-1113-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Courtney Gooris
		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	\$14,000
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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	-\$1,400
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Notes: Reduction for High Performer classification.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$168
 Estimated Cost of Compliance: \$1,845
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.7% Adjustment	\$86
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation No. 3.

Final Penalty Amount	\$12,686
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,686
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DEFERRAL	20.0% Reduction Adjustment	-\$2,537
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$10,149
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Screening Date 17-Aug-2021

Docket No. 2021-1113-PST-E

PCW

Respondent Saeb Kutob dba ARP FOOD STORE

Policy Revision 5 (January 28, 2021)

Case ID No. 61219

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN105187041

Media Petroleum Storage Tank

Enf. Coordinator Courtney Gooris

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 17-Aug-2021 **Docket No.** 2021-1113-PST-E **PCW**
Respondent Saeb Kutob dba ARP FOOD STORE *Policy Revision 5 (January 28, 2021)*
Case ID No. 61219 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105187041
Media Petroleum Storage Tank
Enf. Coordinator Courtney Gooris

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

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

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Saeb Kutob dba ARP FOOD STORE
Case ID No. 61219
Reg. Ent. Reference No. RN105187041
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)	\$1,500	16-Jun-2021	29-May-2022	0.95	\$71	n/a	\$71

Notes for DELAYED costs

Estimated delayed cost to implement a release detection method for the UST 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

\$71

Screening Date 17-Aug-2021 **Docket No.** 2021-1113-PST-E **PCW**
Respondent Saeb Kutob dba ARP FOOD STORE *Policy Revision 5 (January 28, 2021)*
Case ID No. 61219 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105187041
Media Petroleum Storage Tank
Enf. Coordinator Courtney Gooris

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Saeb Kutob dba ARP FOOD STORE
Case ID No. 61219
Reg. Ent. Reference No. RN105187041
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	\$45	16-Jun-2021	29-May-2022	0.95	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to maintain UST operator training records. 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

\$45

TOTAL

\$2

Screening Date 17-Aug-2021 **Docket No.** 2021-1113-PST-E **PCW**
Respondent Saeb Kutob dba ARP FOOD STORE *Policy Revision 5 (January 28, 2021)*
Case ID No. 61219 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105187041
Media Petroleum Storage Tank
Enf. Coordinator Courtney Gooris

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)

Violation Description Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2019.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		

100% of the rule requirement was not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 2 717 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$5,000

Two annual events are recommended from the August 31, 2019 expiration date of the previous delivery certificate to the August 17, 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 \$5,000

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

Estimated EB Amount \$88 **Violation Final Penalty Total** \$4,531

This violation Final Assessed Penalty (adjusted for limits) \$4,531

Economic Benefit Worksheet

Respondent Saeb Kutob dba ARP FOOD STORE
Case ID No. 61219
Reg. Ent. Reference No. RN105187041
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)	\$40	16-Jun-2021	29-May-2022	0.95	\$2	n/a	\$2

Notes for DELAYED costs

Estimated delayed cost to renew a delivery certificate by submitting a properly completed UST registration and self-certification form to obtain a valid, current TCEQ delivery certificate. 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	\$40	31-Aug-2019	17-Aug-2021	1.96	\$4	\$40	\$44
Other (as needed)	\$40	31-Aug-2020	17-Aug-2021	0.96	\$2	\$40	\$42

Notes for AVOIDED costs

Estimated avoided costs to renew a delivery certificate by submitting a properly completed UST registration and self-certification form to obtain a valid, current TCEQ delivery certificate. The Dates Required are the expiration dates based on the previously issued delivery certificate and the Final Dates are the screening date.

Approx. Cost of Compliance

\$120

TOTAL

\$88

Screening Date 17-Aug-2021 **Docket No.** 2021-1113-PST-E **PCW**
Respondent Saeb Kutob dba ARP FOOD STORE *Policy Revision 5 (January 28, 2021)*
Case ID No. 61219 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105187041
Media Petroleum Storage Tank
Enf. Coordinator Courtney Gooris

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)
Violation Description Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the regulated USTs. Specifically, one fuel delivery was accepted without a valid, current TCEQ delivery certificate.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10.0%
100% of the rule requirement was not met.					

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply 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 \$2,500

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$2,265

This violation Final Assessed Penalty (adjusted for limits) \$2,265

Economic Benefit Worksheet

Respondent Saeb Kutob dba ARP FOOD STORE
Case ID No. 61219
Reg. Ent. Reference No. RN105187041
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
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit is included in Violation No. 3.

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

Screening Date 17-Aug-2021 **Docket No.** 2021-1113-PST-E **PCW**
Respondent Saeb Kutob dba ARP FOOD STORE *Policy Revision 5 (January 28, 2021)*
Case ID No. 61219 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN105187041
Media Petroleum Storage Tank
Enf. Coordinator Courtney Gooris

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)(2)
Violation Description Failed to assure that all UST recordkeeping requirements are met. Specifically, financial assurance documentation, UST piping release detection documentation, and overfill verification documentation, including the 60-day spill bucket inspection logs and proof of overfill prevention, was not provided at the time of investigation.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1.0%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 62 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

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 \$250

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

Estimated EB Amount \$7 **Violation Final Penalty Total** \$227

This violation Final Assessed Penalty (adjusted for limits) \$227

Economic Benefit Worksheet

Respondent Saeb Kutob dba ARP FOOD STORE
Case ID No. 61219
Reg. Ent. Reference No. RN105187041
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$90	16-Jun-2021	17-Feb-2022	0.67	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$90	16-Jun-2021	29-May-2022	0.95	\$4	n/a	\$4

Notes for DELAYED costs

Estimated delayed cost to maintain financial assurance documentation (\$45) and UST piping release detection documentation (\$45). The Date Required is the investigation date and the Final Date is the date of the corrective action.

Estimated delayed cost to maintain overfill verification documentation, including the 60-day spill bucket inspection logs (\$45) and proof of overfill prevention (\$45). 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

\$180

TOTAL

\$7

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 CN603166273, RN105187041, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN603166273, Saeb Kutob **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN105187041, ARP FOOD STORE **Classification:** HIGH **Rating:** 0.00

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 111 South Main Street, Arp, Smith County, Texas 75750

TCEQ Region: REGION 05 - TYLER

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 78481

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

Date Compliance History Report Prepared: February 23, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 23, 2017 to February 23, 2022

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Courtney Gooris **Phone:** (817) 588-5863

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	August 31, 2018	(1512642)
Item 2	October 29, 2021	(1770828)

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
SAEB KUTOB DBA ARP FOOD
STORE
RN105187041**

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

AGREED ORDER DOCKET NO. 2021-1113-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 Saeb Kutob dba ARP FOOD STORE (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 111 South Main Street in Arp, 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 \$12,686 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$256 of the penalty and \$2,537 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$9,893 of the undeferred penalty shall be paid in 34 monthly payments of \$285 each and one final payment of \$203. 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 submitted valid financial assurance and UST piping release detection documentation on February 17, 2022.

II. ALLEGATIONS

During an investigation conducted on June 16, 2021, an investigator documented that the Respondent:

1. Failed to monitor the UST 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). Specifically, the Respondent was not conducting monthly inventory control ("MIC") as a form of release detection for the UST at the Facility.
2. Failed to maintain required operator training certification records and make them available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN.

CODE § 334.606. Specifically, the Respondent failed to provide Class A, B, and C operator training records at the time of investigation.

3. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii). Specifically, the delivery certificate expired on August 31, 2019.
4. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the regulated USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a). Specifically, one fuel delivery was accepted without a valid, current TCEQ delivery certificate.
5. Failed to assure that all UST recordkeeping requirements are met, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2). Specifically, financial assurance documentation, UST piping release detection documentation, and overfill verification documentation, including the 60-day spill bucket inspection logs and proof of overfill prevention, was not provided at the time of investigation.

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: Saeb Kutob dba ARP FOOD STORE, Docket No. 2021-1113-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. Immediately upon the effective date of this Order:
 - i. Begin maintaining all UST operator training records, in accordance with 30 TEX. ADMIN. CODE § 334.606; and
 - ii. Begin maintaining all UST records, including, but not limited to, overfill verification documentation, including the 60-day spill bucket inspection logs and proof of overfill prevention, in accordance with 30 TEX. ADMIN. CODE § 334.10.
- b. Within 30 days after the effective date of this Order:
 - i. Implement a release detection method for the UST at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - ii. Submit a properly completed UST registration and self-certification form to obtain a valid, current delivery certificate, in accordance with 30 TEX. ADMIN. CODE § 334.8.
- c. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b. 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.

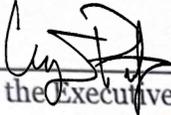
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

1/5/2023

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.

x 

Signature

12/18/22
Date

x Saeb A Kutob

Name (Printed or typed)
Authorized Representative of
Saeb Kutob dba ARP FOOD STORE

owner
Title

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