

Executive Summary – Enforcement Matter – Case No. 61203
Sunoco, LLC dba Mertzon Bulk Plant
RN101694164
Docket No. 2021-1254-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

No

Location(s) Where Violation(s) Occurred:

Mertzon Bulk Plant, 118 North Broadway, Mertzon, Irion 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: September 23, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$29,840

Amount Deferred for Expedited Settlement: \$5,968

Total Paid to General Revenue: \$23,872

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

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: May 13, 2021

Date(s) of NOE(s): June 18, 2021

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RN101694164
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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 investigate and confirm all suspected releases of regulated substances within 30 days. Specifically, failing monthly inventory control records for 1) the regular unleaded fuel tank from July 2020 through August 2020 and October 2020 through March 2021 and 2) the super unleaded fuel tank from April 2020 through August 2020 indicated suspected releases that were not investigated [30 TEX. ADMIN. CODE § 334.74].
3. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, failing monthly inventory control records for 1) the regular unleaded fuel tank from July 2020 through August 2020 and October 2020 through March 2021 and 2) the super unleaded fuel tank from April 2020 through August 2020 indicated suspected releases that were not reported [30 TEX. ADMIN. CODE § 334.72].
4. Failed to maintain a current and correct list of all Class C Operators who have been trained for the Facility. Specifically, no Class C Operator training records were available for review [30 TEX. ADMIN. CODE § 334.603(b)(2)].
5. Failed to inspect the impressed corrosion protection system for the UST system at least once every 60 days to ensure the rectifier and other system components are operating properly. Specifically, the Respondent was not performing the 60-day inspections of the impressed current corrosion protection system [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].
6. Failed to inspect all sumps, manways, overspill containers, and catchment basins of a UST system at least once every 60 days to ensure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris. Specifically, the Respondent was unable to provide any records that indicated spill buckets and sumps were inspected at least once every 60 days from August 2020 through December 2020 [30 TEX. ADMIN. CODE § 334.42(i) and TEX. WATER CODE § 26.3475(c)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective actions:

- a. Maintaining a current and correct list of all trained Class C Operators on September 22, 2021;

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b. Inspecting the impressed corrosion protection system for the UST system at least once every 60 days to ensure the rectifier and other system components are operating properly on July 1, 2021; and

c. Inspecting all sumps, manways, overspill containers, and catchment basins of the UST system at least once every 60 days to ensure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris on June 1, 2021.

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Implement a release detection method for the USTs;

ii. Conduct an investigation of the suspected releases and implement appropriate corrective measures; and

iii. Develop and implement procedures to ensure that suspected releases are reported timely.

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

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ken Moller, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-6111; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Joseph Kim, Chief Executive Officer, Sunoco, LLC, 811 Westchester Drive, Suite 600, Dallas, Texas 75225

Thomas Terry, Assistant Secretary, Sunoco, LLC, 811 Westchester Drive, Suite 600, Dallas, Texas 75225

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	21-Jun-2021			
	PCW	15-Sep-2021	Screening	23-Jul-2021	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Sunoco, LLC dba Mertzson Bulk Plant
Reg. Ent. Ref. No.	RN101694164
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	61203	No. of Violations	6	
Docket No.	2021-1254-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Ken Moller	
		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	\$30,250
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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	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for Compliance History.
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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	-\$462
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$252	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,295	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$29,788
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.2%	Adjustment	\$52
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided costs of compliance associated with Violation No. 3.
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Final Penalty Amount	\$29,840
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$29,840
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DEFERRAL	20.0%	Reduction	Adjustment	-\$5,968
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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	\$23,872
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Screening Date 23-Jul-2021

Docket No. 2021-1254-PST-E

PCW

Respondent Sunoco, LLC dba Mertzson Bulk Plant

Policy Revision 5 (January 28, 2021)

Case ID No. 61203

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101694164

Media Petroleum Storage Tank

Enf. Coordinator Ken Moller

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)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 23-Jul-2021

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PCW

Respondent Sunoco, LLC dba Mertzon Bulk Plant

Policy Revision 5 (January 28, 2021)

Case ID No. 61203

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101694164

Media Petroleum Storage Tank

Enf. Coordinator Ken Moller

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			Harm			Percent
	Release	Major	Moderate	Minor	15.0%	
	Actual					
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 Number of violation days 71

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the May 13, 2021 investigation date to the July 23, 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 \$68

Violation Final Penalty Total \$3,757

This violation Final Assessed Penalty (adjusted for limits) \$3,757

Economic Benefit Worksheet

Respondent Sunoco, LLC dba Mertzon Bulk Plant
Case ID No. 61203
Reg. Ent. Reference No. RN101694164
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	\$1,500	13-May-2021	11-Apr-2022	0.91	\$68	n/a	\$68
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 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

\$68

Screening Date 23-Jul-2021 **Docket No.** 2021-1254-PST-E **PCW**
Respondent Sunoco, LLC dba Mertzson Bulk Plant *Policy Revision 5 (January 28, 2021)*
Case ID No. 61203 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101694164
Media Petroleum Storage Tank
Enf. Coordinator Ken Moller

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, failing monthly inventory control records for 1) the regular unleaded fuel tank from July 2020 through August 2020 and October 2020 through March 2021 and 2) the super unleaded fuel tank from April 2020 through August 2020 indicated 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 5 389 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$18,750

Five quarterly events are recommended from the earliest suspected release investigation due date of June 29, 2020 to the July 23, 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 \$18,750

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

Estimated EB Amount \$125 **Violation Final Penalty Total** \$18,783

This violation Final Assessed Penalty (adjusted for limits) \$18,783

Economic Benefit Worksheet

Respondent Sunoco, LLC dba Mertzon Bulk Plant
Case ID No. 61203
Reg. Ent. Reference No. RN101694164
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)	\$1,400	29-Jun-2020	11-Apr-2022	1.78	\$125	n/a	\$125

Notes for DELAYED costs

Estimated delayed cost to conduct an investigation of the suspected releases from the regular unleaded and super unleaded fuel tanks and implement appropriate corrective measures (\$400 per UST for tank and line testing for two USTs and \$600 for the Release Determination Report). The Date Required is the earliest suspected release investigation due 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

\$1,400

TOTAL

\$125

Screening Date 23-Jul-2021 **Docket No.** 2021-1254-PST-E **PCW**
Respondent Sunoco, LLC dba Mertzson Bulk Plant *Policy Revision 5 (January 28, 2021)*
Case ID No. 61203 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101694164
Media Petroleum Storage Tank
Enf. Coordinator Ken Moller

Violation Number 3
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, failing monthly inventory control records for 1) the regular unleaded fuel tank from July 2020 through August 2020 and October 2020 through March 2021 and 2) the super unleaded fuel tank from April 2020 through August 2020 indicated 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

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 2 418 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 UST 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 the good faith criteria for this violation.

Violation Subtotal \$5,000

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

Estimated EB Amount \$57 **Violation Final Penalty Total** \$5,009

This violation Final Assessed Penalty (adjusted for limits) \$5,009

Economic Benefit Worksheet

Respondent Sunoco, LLC dba Mertzon Bulk Plant
Case ID No. 61203
Reg. Ent. Reference No. RN101694164
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
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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	13-May-2021	11-Apr-2022	0.91	\$5	n/a	\$5

Notes for DELAYED costs Estimated delayed cost to develop and implement procedures to ensure that suspected releases are reported timely. 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	\$25	31-May-2020	23-Jul-2021	1.15	\$1	\$25	\$26
Other (as needed)	\$25	31-Aug-2020	23-Jul-2021	0.89	\$1	\$25	\$26

Notes for AVOIDED costs Estimated avoided cost to report the suspected releases indicated for the regular unleaded and super unleaded fuel tanks. The Dates Required are the date the suspected releases should have been reported, and the Final Dates are the screening date.

Approx. Cost of Compliance \$150

TOTAL \$57

Screening Date 23-Jul-2021 **Docket No.** 2021-1254-PST-E **PCW**
Respondent Sunoco, LLC dba Mertzon Bulk Plant *Policy Revision 5 (January 28, 2021)*
Case ID No. 61203 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101694164
Media Petroleum Storage Tank
Enf. Coordinator Ken Moller

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 334.603(b)(2)
Violation Description Failed to maintain a current and correct list of all Class C Operators who have been trained for the Facility. Specifically, no Class C Operator training records were available for review.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				x	1.0%
Less than 30% of the rule requirement was not met.					

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 132 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 10.0% Reduction \$25

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

Notes: The Respondent achieved compliance on September 22, 2021, after the June 18, 2021 Notice of Enforcement ("NOE").

Violation Subtotal \$225

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

Estimated EB Amount \$1 **Violation Final Penalty Total** \$225

This violation Final Assessed Penalty (adjusted for limits) \$225

Economic Benefit Worksheet

Respondent Sunoco, LLC dba Mertzon Bulk Plant
Case ID No. 61203
Reg. Ent. Reference No. RN101694164
Media Violation No. Petroleum Storage Tank
 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	\$45	13-May-2021	22-Sep-2021	0.36	\$1	n/a	\$1
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 develop and implement a system that ensures a current and correct list of all trained Class C Operators is maintained 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 \$45

TOTAL \$1

Screening Date 23-Jul-2021 **Docket No.** 2021-1254-PST-E **PCW**
Respondent Sunoco, LLC dba Mertzson Bulk Plant *Policy Revision 5 (January 28, 2021)*
Case ID No. 61203 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101694164
Media Petroleum Storage Tank
Enf. Coordinator Ken Moller

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(2)(C) and Tex. Water Code § 26.3475(d)
Violation Description Failed to inspect the impressed corrosion protection system for the UST system at least once every 60 days to ensure the rectifier and other system components are operating properly. Specifically, the Respondent was not performing the 60-day inspections of the impressed current corrosion protection system.

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 significant amounts of pollutants that would not 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 Number of violation days 49

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the May 13, 2021 investigation date to the July 1, 2021 compliance date.

Good Faith Efforts to Comply 10.0% Reduction \$125

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

Notes The Respondent achieved compliance on July 1, 2021, after the June 18, 2021 NOE.

Violation Subtotal \$1,127

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

Estimated EB Amount \$1 **Violation Final Penalty Total** \$1,127

This violation Final Assessed Penalty (adjusted for limits) \$1,127

Economic Benefit Worksheet

Respondent Sunoco, LLC dba Mertzon Bulk Plant
Case ID No. 61203
Reg. Ent. Reference No. RN101694164
Media Violation No. Petroleum Storage Tank 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				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	13-May-2021	1-Jul-2021	0.13	\$1	n/a	\$1

Notes for DELAYED costs Estimated delayed cost to conduct inspections of the rectifier and other components of the corrosion protection system at least once every 60 days. The Date Required is the investigation date, and the Final Date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$1

Screening Date 23-Jul-2021 **Docket No.** 2021-1254-PST-E **PCW**
Respondent Sunoco, LLC dba Mertzon Bulk Plant *Policy Revision 5 (January 28, 2021)*
Case ID No. 61203 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101694164
Media Petroleum Storage Tank
Enf. Coordinator Ken Moller

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 334.42(i) and Tex. Water Code § 26.3475(c)(2)
Violation Description Failed to inspect all sumps, manways, overspill containers, and catchment basins of a UST system at least once every 60 days to ensure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris. Specifically, the Respondent was unable to provide any records that indicated spill buckets and sumps were inspected at least once every 60 days from August 2020 through December 2020.

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 significant amounts of pollutants that would not 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 19 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 May 13, 2021 investigation date to the June 1, 2021 compliance date.

Good Faith Efforts to Comply 25.0% Reduction \$312

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

Notes The Respondent achieved compliance on June 1, 2021, prior to the the June 18, 2021 NOE.

Violation Subtotal \$938

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$940

This violation Final Assessed Penalty (adjusted for limits) \$940

Economic Benefit Worksheet

Respondent Sunoco, LLC dba Mertzon Bulk Plant
Case ID No. 61203
Reg. Ent. Reference No. RN101694164
Media Violation No. Petroleum Storage Tank 6

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	13-May-2021	1-Jun-2021	0.05	\$0	n/a	\$0

Notes for DELAYED costs Estimated avoided cost to inspect all sumps, manways, overspill containers, and catchment basins of the UST system at least once every 60 days. The Date Required is the investigation date, and the Final Date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$0

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 CN604931857, RN101694164, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN604931857, Sunoco, LLC **Classification:** SATISFACTORY **Rating:** 5.28

Regulated Entity: RN101694164, Mertzon Bulk Plant **Classification:** HIGH **Rating:** 0.00

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

CH Group: 14 - Other

Location: 118 North Broadway, Mertzon, Irion County, Texas 76941

TCEQ Region: REGION 08 - SAN ANGELO

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 7621

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

Date Compliance History Report Prepared: March 4, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 4, 2017 to March 4, 2022

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

Name: Ken Moller **Phone:** (512) 239-6111

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? Sunoco, LLC OWNER OPERATOR since 5/1/2019
- 4) Who was/were the prior owner(s)/operator(s)?
SUNOCO ENERGY SERVICES LLC, OWNER OPERATOR, 9/22/2017 to 4/30/2019
Sunoco Property Company LLC, OWNER OPERATOR, 12/1/2016 to 9/21/2017
SUNOCO ENERGY SERVICES LLC, OWNER OPERATOR, 4/10/2015 to 11/30/2016

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	November 29, 2018	(1526862)
Item 2	December 17, 2018	(1536643)
Item 3	March 11, 2019	(1551526)

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
SUNOCO, LLC DBA MERTZON
BULK PLANT
RN101694164**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-1254-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 Sunoco, LLC dba Mertzon Bulk Plant (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 118 North Broadway in Mertzon, Irion 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 \$29,840 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$23,872 of the penalty and \$5,968 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.

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 has implemented the following corrective actions at the Facility:
 - a. Began maintaining a current and correct list of all trained Class C Operators for the Facility on September 22, 2021;
 - b. Began inspecting the impressed corrosion protection system for the UST system at least once every 60 days to ensure the rectifier and other system components are operating properly on July 1, 2021; and
 - c. Began inspecting all sumps, manways, overflow containers, and catchment basins of the UST system at least once every 60 days to ensure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris on June 1, 2021.

II. ALLEGATIONS

During an investigation conducted on May 13, 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 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, failing monthly inventory control records for 1) the regular unleaded fuel tank from July 2020 through August 2020 and October 2020 through March 2021 and 2) the super unleaded fuel tank from April 2020 through August 2020 indicated suspected releases that were not investigated.

3. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, failing monthly inventory control records for 1) the regular unleaded fuel tank from July 2020 through August 2020 and October 2020 through March 2021 and 2) the super unleaded fuel tank from April 2020 through August 2020 indicated suspected releases that were not reported.
4. Failed to maintain a current and correct list of all Class C Operators who have been trained for the Facility, in violation of 30 TEX. ADMIN. CODE § 334.603(b)(2). Specifically, no Class C Operator training records were available for review.
5. Failed to inspect the impressed corrosion protection system for the UST system at least once every 60 days to ensure the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d). Specifically, the Respondent was not performing the 60-day inspections of the impressed current corrosion protection system.
6. Failed to inspect all sumps, manways, overspill containers, and catchment basins of a UST system at least once every 60 days to ensure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris, in violation of 30 TEX. ADMIN. CODE § 334.42(i) and TEX. WATER CODE § 26.3475(c)(2). Specifically, the Respondent was unable to provide any records that indicated spill buckets and sumps were inspected at least once every 60 days from August 2020 through December 2020.

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: Sunoco, LLC dba Mertzson Bulk Plant, Docket No. 2021-1254-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. Conduct an investigation of the suspected releases and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74; and
 - iii. Develop and implement procedures to ensure that suspected releases are reported timely, in accordance with 30 TEX. ADMIN. CODE § 334.72.
 - 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
San Angelo Regional Office
Texas Commission on Environmental Quality
622 South Oakes, Suite K
San Angelo, Texas 76903-7035

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

3/30/2023

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

3/9/2023
Date

MARK MELESKI

Name (Printed or typed)
Authorized Representative of
Sunoco, LLC dba Mertzon Bulk Plant

MGR ENVIRONMENTAL COMPLIANCE

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.