

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 56559
HENDERSON DRIVE INN, INC.
RN10246224
Docket No. 2021-1425-PST-E

Page 1 of 2

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order

Media:

PST

Small Business:

Yes

Location Where Violations Occurred:

103 Henderson Street, Palacios, Matagorda County

Type of Operation:

an underground storage tank ("UST") system and a convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third Parties:	None

Texas Register Publication Date: August 1, 2025

Comments Received: None

Penalty Information

Total Penalty Assessed: \$86,455

Total Paid to General Revenue: \$2,420

Total Due to General Revenue: \$84,035

Payment Plan: 35 payments of \$2,401

Compliance History Classifications:

Person/CN - Unsatisfactory
Site/RN - Unsatisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date: N/A

Date of Investigation: July 7, 2021

Date of NOV: N/A

Date of NOE: August 24, 2021

Violation Information

1. Failed to provide corrosion protection for the UST system [TEX. WATER CODE § 26.3475(d), 30 TEX. ADMIN. CODE § 334.49(a)(1), and TCEQ Agreed Order, Docket No. 2018-1142-PST-E, Ordering Provision No. 2.b.i].
2. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days [TEX. WATER CODE § 26.3475(c)(1), 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), and TCEQ Agreed Order, Docket No. 2018-1142-PST-E, Ordering Provision No. 2.b.ii].
3. Failed to provide release detection for the piping associated with the UST system [TEX. WATER CODE § 26.3475(a), 30 TEX. ADMIN. CODE § 334.50(b)(2), and TCEQ Agreed Order, Docket No. 2018-1142-PST-E, Ordering Provision No. 2.b.iii].
4. Failed to assure that all UST recordkeeping requirements are met [30 TEX. ADMIN. CODE § 334.10(b)(2) and TCEQ Agreed Order, Docket No. 2018-1142-PST-E, Ordering Provision No. 2.a].
5. Failed to designate, train, and certify at least one named individual for each class of operator – Class A, Class B, and Class C – for the Facility [30 TEX. ADMIN. CODE § 334.602(a)].

Corrective Actions/Technical Requirements

Corrective Actions Completed:

1. Provided corrosion protection for the UST system, as of August 30, 2021.
2. Provided release detection for the piping associated with the UST system, as of August 16, 2021.
3. Designated, trained, and certified at least one individual for each class of operator – Class A, Class B, and Class C – for the Facility, as of March 20, 2023.

Technical Requirements:

1. Immediately, begin maintaining UST records, including spill and overfill protection records, and make them available for inspection upon request by agency personnel.
2. Within 30 days implement a release detection method for all USTs at the Facility.
3. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1 and 2.

Litigation Information

Date Petition Filed: May 3, 2022
Dates of Service: May 5, 2022
Settlement Date: June 24, 2025

Contact Information

TCEQ Attorneys: William Hogan, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Eresha DeSilva, Enforcement Division, (512) 239-5084

TCEQ Regional Contact: Katie Phillips, Houston Regional Office, (713) 767-3500

Respondent Contact: Amy Nguyen, HENDERSON DRIVE INN, INC., 103 Henderson Street, Palacios, Texas 77465

Respondent's Attorney: Jennifer Chau Ascension, Ascension Law Group, P.C., P.O. Box 990, Palacios, Texas 77465



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	30-Aug-2021	Screening	2-Sep-2021	EPA Due	
	PCW	2-Sep-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	HENDERSON DRIVE INN, INC.
Reg. Ent. Ref. No.	RN102462249
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	56559	No. of Violations	4
Docket No.	2021-1425-PST-E	Order Type	Findings
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Eresha DeSilva
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$69,000
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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	30.0%	Adjustment	Subtotals 2, 3, & 7	\$20,700
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Notes: Enhancement for one Agreed Order containing a denial of liability and Unsatisfactory 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	-\$3,375
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$1,225
Estimated Cost of Compliance \$7,881
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$86,325
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.2%	Adjustment	\$130
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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. 2.

Final Penalty Amount	\$86,455
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$86,455
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$86,455
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Screening Date	2-Sep-2021	Docket No.	2021-1425-PST-E	PCW
Respondent	HENDERSON DRIVE INN, INC.			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	56559			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN102462249			
Media	Petroleum Storage Tank			
Enf. Coordinator	Eresha DeSilva			

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>)	1	20%
	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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one Agreed Order containing a denial of liability and Unsatisfactory Performer Classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 2-Sep-2021 Respondent HENDERSON DRIVE INN, INC. Case ID No. 56559 Reg. Ent. Reference No. RN102462249 Media Petroleum Storage Tank Enf. Coordinator Eresha DeSilva	Docket No. 2021-1425-PST-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	1	
Rule Cite(s)		30 Tex. Admin. Code § 334.49(a)(1) and (c)(4)(C) and Tex. Water Code § 26.3475(d) and TCEQ Agreed Order, Docket No. 2018-1142-PST-E, Ordering Provision No. 2.b.i
Violation Description		Failed to provide corrosion protection for the underground storage tank ("UST") system. Specifically, the rectifier was missing from the impressed current cathodic protection systems.

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Release	Harm		
		Major	Moderate	Minor	
	Actual				Percent
	Potential	X			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent

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.
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Adjustment	\$21,250
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	\$3,750
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Violation Events

Number of Violation Events	9	742	Number of violation days
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	daily		Violation Base Penalty
	weekly		
	monthly		
	quarterly	X	
	semiannual		
	annual		
	single event		

Nine quarterly events are commended from the August 19, 2019 effective date of the previous order to the August 30, 2021 date of compliance.
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Good Faith Efforts to Comply

	10.0%	
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		

Notes	Respondent installed a rectifier and tested the corrosion protection system by August 30, 2021, before the May 3, 2022 EDPRP.
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Violation Subtotal	\$30,375
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$854	
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Statutory Limit Test

Violation Final Penalty Total	\$40,561
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This violation Final Assessed Penalty (adjusted for limits)	\$40,561
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Economic Benefit Worksheet

Respondent HENDERSON DRIVE INN, INC.
Case ID No. 56559
Reg. Ent. Reference No. RN102462249
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$6,000	19-Aug-2019	30-Aug-2021	2.03	\$41	\$813	\$854
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install a rectifier and test the corrosion protection system for the UST system at the Facility. The Date Required is the effective date of the Order, 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

\$6,000

TOTAL

\$854

Screening Date 2-Sep-2021 Respondent HENDERSON DRIVE INN, INC. Case ID No. 56559 Reg. Ent. Reference No. RN102462249 Media Petroleum Storage Tank Enf. Coordinator Eresha DeSilva	Docket No. 2021-1425-PST-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	2	
Rule Cite(s)		30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2) and Tex. Water Code § 26.3475(a) and (c)(1) and TCEQ Agreed Order, Docket No. 2018-1142-PST-E, Ordering Provision No. 2.b.ii and b.iii
Violation Description		Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days. Also, failed to provide release detection for the piping associated with the UST system. Specifically, the Respondent had not conducted the annual line leak detector and piping tightness tests.

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	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.
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Adjustment	\$21,250
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	\$3,750
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Violation Events

Number of Violation Events	9	745	Number of violation days
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	daily			
	weekly			
	monthly			
	quarterly	X		Violation Base Penalty
	semiannual			\$33,750
	annual			
	single event			

Nine quarterly events are recommended from the August 19, 2019 effective date of the Order to the September 2, 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	\$33,750
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$356
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Statutory Limit Test

Violation Final Penalty Total	\$43,941
This violation Final Assessed Penalty (adjusted for limits)	\$43,941

Economic Benefit Worksheet

Respondent HENDERSON DRIVE INN, INC.
Case ID No. 56559
Reg. Ent. Reference No. RN102462249
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$118	19-Aug-2019	16-Aug-2021	1.99	\$12	n/a	\$12
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	19-Aug-2019	26-Jun-2022	2.85	\$214	n/a	\$214

Notes for DELAYED costs

Estimated delayed cost to conduct the annual line lead detector and piping tightness tests (\$118). The Date Required is the effective date of the order and the Final Date is the date of compliance.

Estimated delayed cost to implement a method of release detection for the UST system (\$1,500). The Date Required is the effective date of the order 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	\$118	19-Aug-2019	16-Aug-2021	1.99	\$12	\$118	\$130
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct the annual line leak detector and piping tightness tests. The Date Required is the effective date of the Order, and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$1,736

TOTAL

\$356

Screening Date 2-Sep-2021 Respondent HENDERSON DRIVE INN, INC. Case ID No. 56559 Reg. Ent. Reference No. RN102462249 Media Petroleum Storage Tank Enf. Coordinator Eresha DeSilva	Docket No. 2021-1425-PST-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	3	Rule Cite(s)	30 Tex. Admin. Code 334.10(b)(2) and TCEQ Agreed Order, Docket No. 2018-1142-PST-E, Ordering Provision No. 2.a
Violation Description	Failed to assure that all UST recordkeeping requirements are met. Specifically, spill and overfill protection records were not available at the time of the investigation.		

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				
	Potential				
Percent 0.0%					

>> Programmatic Matrix

OR	Falsification	Major	Moderate	Minor	Percent
Percent 1.0%					

Matrix Notes	Less than 30% of the rule requirement was not met.
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Adjustment \$24,750

\$250

Violation Events

Number of Violation Events	1	745	Number of violation days
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	daily		Violation Base Penalty
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event		

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

	0.0%	Reduction	\$0
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	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A			

Notes	The Respondent does not meet the good faith criteria for this violation.
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Violation Subtotal \$250

Economic Benefit (EB) for this violation

Estimated EB Amount	\$6	Statutory Limit Test
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Violation Final Penalty Total	\$325
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This violation Final Assessed Penalty (adjusted for limits) \$325

Economic Benefit Worksheet

Respondent HENDERSON DRIVE INN, INC.
Case ID No. 56559
Reg. Ent. Reference No. RN102462249
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	\$45	19-Aug-2019	26-Jun-2022	2.85	\$6	n/a	\$6
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 cost to maintain spill and overfill protection records and make them available for inspection upon request by agency personnel. The Date Required is the effective date of the Order, 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 \$6

Screening Date 2-Sep-2021 Respondent HENDERSON DRIVE INN, INC. Case ID No. 56559 Reg. Ent. Reference No. RN102462249 Media Petroleum Storage Tank Enf. Coordinator Eresha DeSilva	Docket No. 2021-1425-PST-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	4	
Rule Cite(s)		30 Tex. Admin. Code § 334.602(a)
Violation Description	Failed to designate, train, and certify at least one named individual for each class of operator – Class A, Class B, and Class C – for the Facility.	

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential		X		Percent 5.0%

>> Programmatic Matrix

Matrix Notes		Falsification	Major	Moderate	Minor	
						Percent 0.0%
	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
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	\$1,250
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Violation Events

Number of Violation Events 1	57	Number of violation days
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	daily				Violation Base Penalty \$1,250
	weekly				
	monthly				
	quarterly	X			
	semiannual				
	annual				
	single event				

One quarterly event is recommended from the July 7, 2021 investigation date to the September 2, 2021 screening date.
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Good Faith Efforts to Comply

	0.0%	
	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	\$1,250
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$9
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Statutory Limit Test

Violation Final Penalty Total	\$1,627
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This violation Final Assessed Penalty (adjusted for limits)	\$1,627
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Economic Benefit Worksheet

Respondent HENDERSON DRIVE INN, INC.
Case ID No. 56559
Reg. Ent. Reference No. RN102462249
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)	\$100	7-Jul-2021	30-Mar-2023	1.73	\$9	n/a	\$9
Notes for DELAYED costs	Estimated delayed cost to designate, train, and certify one named individual for each class of operator - Class A/B (\$90) and Class C (\$10) - for 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

\$100

TOTAL

\$9

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 CN604356394, RN102462249, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN604356394, HENDERSON DRIVE INN, INC. **Classification:** UNSATISFACTORY **Rating:** 60.00

Regulated Entity: RN102462249, HENDERSON DRIVE IN **Classification:** UNSATISFACTORY **Rating:** 60.00

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

CH Group: 14 - Other

Location: 103 Henderson Street, Palacios, Matagorda County, Texas 77465-3945

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 38900

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

Date Compliance History Report Prepared: February 03, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 03, 2017 to February 03, 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? | NO |

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

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

- | | | |
|---|---|--|
| 1 | Effective Date: 08/19/2019 | ADMINORDER 2018-1142-PST-E (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d) | |
| | 30 TAC Chapter 334, SubChapter C 334.49(a)(1) | |
| | Description: Failed to provide corrosion protection for the UST system | |
| | Classification: Moderate | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1) | |
| | 30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A) | |
| | Description: Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days | |
| | Classification: Moderate | |
| | Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a) | |
| | 30 TAC Chapter 334, SubChapter C 334.50(b)(2) | |
| | Description: Failed to provide release detection for the pressurized piping associated with the UST system | |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(2) | |
| | Description: Failed to assure that all UST recordkeeping requirements are met | |

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	June 06, 2018	(1489820)
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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
HENDERSON DRIVE INN, INC.;
RN102462249

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§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2021-1425-PST-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding HENDERSON DRIVE INN, INC. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Jennifer Chau of The Chau Law Firm, presented this Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

It is further understood and agreed that 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. The duties and responsibilities imposed by this Order are binding upon Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(75) and (78), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 103 Henderson Street in Palacios, Matagorda County, Texas (Facility ID No. 38900) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and they contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on and around July 7, 2021, an investigator documented that Respondent:
 - a. Failed to provide corrosion protection for the UST system. Specifically, the rectifier was missing from the impressed current cathodic protection system;
 - b. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days;
 - c. Failed to provide release detection for the piping associated with the UST system. Specifically, Respondent had not conducted the annual line leak detector and piping tightness tests;
 - d. Failed to assure that all UST recordkeeping requirements are met. Specifically, spill and overfill protection records were not available at the time of the investigation; and
 - e. Failed to designate, train, and certify at least one named individual for each class of operator – Class A, Class B, and Class C – for the Facility.

3. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. Provided corrosion protection for the UST system, as of August 30, 2021 (Conclusion of Law No. 2);
 - b. Provided release detection for the piping associated with the UST system, as of August 16, 2021 (Conclusion of Law No. 4); and
 - c. Designated, trained, and certified at least one individual for each class of operator - Class A, Class B, and Class C - for the Facility, as of March 20, 2023 (Conclusion of Law No. 6).

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to provide corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d), 30 TEX. ADMIN. CODE § 334.49(a)(1), and TCEQ Agreed Order Docket No. 2018-1142-PST-E, Ordering Provision No. 2.b.i.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days, in violation of TEX. WATER CODE § 26.3475(c)(1), 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), and TCEQ Agreed Order Docket No. 2018-1142-PST-E, Ordering Provision No. 2.b.ii.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to provide release detection for the piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a), 30 TEX. ADMIN. CODE § 334.50(b)(2), and TCEQ Agreed Order Docket No. 2018-1142-PST-E, Ordering Provision No. 2.b.iii.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to assure that all UST recordkeeping requirements are met, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2) and TCEQ Agreed Order Docket No. 2018-1142-PST-E, Ordering Provision No. 2.a.
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to designate, train, and certify at least one named individual for each class of operator - Class A, Class B, and Class C - for the Facility, in violation of 30 TEX. ADMIN. CODE § 334.602(a).
7. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of \$86,455 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid \$2,420 of the penalty. The remaining amount of \$84,035 shall be paid in 35 monthly payments of two thousand four hundred one dollars \$2,401 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 Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 8 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions 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: HENDERSON DRIVE INN, INC., Docket No. 2021-1425-PST-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this order, begin maintaining UST records, including spill and overfill protection records, and make them available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10 (Conclusion of Law No. 5).
 - b. Within 30 days after the effective date of the Commission order, implement a release detection method for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50 (Conclusion of Law No. 3).
 - c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by 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 fine and imprisonment for knowing violations."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and:

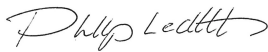
Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

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 Respondent. 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. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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 Enforcement Division at the address listed above.
6. If 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.
10. 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.
11. 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

August 11, 2025

For the Executive Director

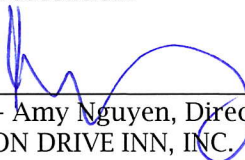
Date

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.

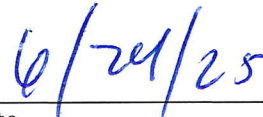
I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Amy Nguyen, Director
HENDERSON DRIVE INN, INC.
103 Henderson Street
Palacios, Texas 77465



Date

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