

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 61532  
FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS  
RN102548492  
Docket No. 2021-1451-PST-E**

**Order Type:**  
Default Order

**Media:**  
PST

**Small Business:**  
Yes

**Location(s) Where Violation(s) Occurred:**  
217 East 2nd Street, Jayton, Kent County

**Type of Operation:**  
underground storage tank ("UST") system and a farmers' cooperative

**Other Significant Matters:**

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Other: None

Interested Third Parties: None

**Texas Register Publication Date:** December 8, 2023

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$12,500

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$12,500

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** January 28, 2021

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** September 8, 2021

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** October 29, 2021

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 61532  
FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS  
RN102548492  
Docket No. 2021-1451-PST-E**

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**Violation Information**

1. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
2. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE §334.49(c)(2)(C)].
3. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(4)(C)].
4. Failed to monitor the USTs for releases at a frequency of at least once every 30 days [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
5. Failed to provide release detection for the pressurized piping associated with the UST system [TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)].
6. Failed to maintain required operator training certification records and make them available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.606].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

No longer owns/operates the Facility as of April 4, 2023.

**Technical Requirements:**

None

**Litigation Information**

**Date Petition(s) Filed:** April 26, 2023; May 12, 2023

**Date(s) of Service:** Unclaimed; May 17, 2023

**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Jennifer Peltier, 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:** Stephanie McCurley, Enforcement Division, (512) 239-2607

**TCEQ Regional Contact:** Cliff Moore, Abilene Regional Office, (325) 698-9674

**Respondent Contact:** Gary Myers, FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS, 700  
County Road 419, Aspermont, Texas 79502

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	1-Nov-2021	<b>Screening</b>	5-Nov-2021	<b>EPA Due</b>	
	<b>PCW</b>	20-Apr-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS
<b>Reg. Ent. Ref. No.</b>	RN102548492
<b>Facility/Site Region</b>	3-Abilene
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	61532	<b>No. of Violations</b>	4
<b>Docket No.</b>	2021-1451-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Stephanie McCurley
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

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

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

<b>Compliance History</b>	<b>0.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
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Notes: No adjustment for compliance history.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$3,272  
 Estimated Cost of Compliance: \$8,469  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$12,500</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$12,500</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$12,500</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction Adjustment	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$12,500</b>
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**Screening Date** 5-Nov-2021

**Docket No.** 2021-1451-PST-E

**PCW**

**Respondent** FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 61532

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN102548492

**Media** Petroleum Storage Tank

**Enf. Coordinator** Stephanie McCurley

### 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 5-Nov-2021

Docket No. 2021-1451-PST-E

PCW

Respondent FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS

Policy Revision 5 (January 28, 2021)

Case ID No. 61532

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102548492

Media Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 37.815(a) and (b)

Violation Description

Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks ("USTs"). Specifically, the financial assurance policy expired on March 8, 2021.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 1

242 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,438

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

# Economic Benefit Worksheet

**Respondent** FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS  
**Case ID No.** 61532  
**Reg. Ent. Reference No.** RN102548492  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,300	8-Sep-2021	28-Aug-2022	0.97	\$160	n/a	\$160

**Notes for DELAYED costs**

Estimated delayed cost to provide financial assurance for the petroleum USTs (\$660 per tank). 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	\$3,300	8-Mar-2021	5-Nov-2021	0.66	\$90	\$2,188	\$2,278
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Estimated avoided cost to provide financial assurance for the petroleum USTs (\$660 per tank). The Date Required is the date the policy expired and the Final Date is the screening date.

**Approx. Cost of Compliance**

\$5,488

**TOTAL**

\$2,438

**Screening Date** 5-Nov-2021 **Docket No.** 2021-1451-PST-E **PCW**  
**Respondent** FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61532 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN102548492  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Stephanie McCurley

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4)(C) and Tex. Water Code § 26.3475(d)

**Violation Description** Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="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**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

One quarterly event is recommended from the September 8, 2021 investigation date to the November 5, 2021 screening date.

**Good Faith Efforts to Comply**  Reduction

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

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

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS  
**Case ID No.** 61532  
**Reg. Ent. Reference No.** RN102548492  
**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
Inspection	\$100	8-Sep-2021	28-Aug-2022	0.97	\$5	n/a	\$5
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)	\$500	8-Sep-2021	28-Aug-2022	0.97	\$24	n/a	\$24

**Notes for DELAYED costs**

Estimated delayed cost to implement the required bimonthly inspections of the cathodic protection system (\$100) and conduct the triennial cathodic protection test (\$500). The Dates Required are the investigation date and the Final Dates are 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	\$100	8-Sep-2021	5-Nov-2021	0.16	\$1	\$100	\$101
Other (as needed)	\$500	8-Sep-2021	5-Nov-2021	0.16	\$4	\$500	\$504

**Notes for AVOIDED costs**

Estimated avoided cost to conduct bimonthly inspections of the cathodic protection system (\$100) and conduct the triennial cathodic protection test (\$500). The Dates Required are the investigation date the Final Dates are the screening date.

Approx. Cost of Compliance

\$1,200

**TOTAL**

\$634



**Screening Date** 5-Nov-2021 **Docket No.** 2021-1451-PST-E **PCW**  
**Respondent** FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61532 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN102548492  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Stephanie McCurley

**Violation Number** 3

**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)

**Violation Description**  
 Failed to monitor the USTs for releases at a frequency of at least once every 30 days. Also, failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the Respondent had not conducted the annual line leak detector and piping tightness testing.

**Base Penalty** \$25,000

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

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

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 1 58 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$3,750

One quarterly event is recommended from the September 8, 2021 investigation date to the November 5, 2021 screening date.

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

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

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

**Violation Subtotal** \$3,750

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

**Estimated EB Amount** \$198 **Violation Final Penalty Total** \$3,750

**This violation Final Assessed Penalty (adjusted for limits)** \$3,750

## Economic Benefit Worksheet

**Respondent** FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS  
**Case ID No.** 61532  
**Reg. Ent. Reference No.** RN102548492  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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	8-Sep-2021	28-Aug-2022	0.97	\$6	n/a	\$6
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	8-Sep-2021	28-Aug-2022	0.97	\$73	n/a	\$73

**Notes for DELAYED costs**

Estimated delayed cost to implement a method of release detection for the USTs at the Facility (\$1,500) and conduct the annual line leak detector and piping tightness testing (\$118). The Dates Required are the investigation date and the Final Dates are 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	8-Sep-2021	5-Nov-2021	0.16	\$1	\$118	\$119
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 testing for the USTs at the Facility. The Date Required is the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$1,736

**TOTAL**

\$198

**Screening Date** 5-Nov-2021 **Docket No.** 2021-1451-PST-E **PCW**  
**Respondent** FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61532 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN102548492  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Stephanie McCurley

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

**>> Programmatic Matrix**

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

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

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

**Notes**

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS  
**Case ID No.** 61532  
**Reg. Ent. Reference No.** RN102548492  
**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	\$45	8-Sep-2021	28-Aug-2022	0.97	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated delayed cost to begin maintaining all UST operator training certification records and make them immediately available for inspection upon request by agency personnel. 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 \$45

**TOTAL** \$2

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 CN601567142, RN102548492, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN601567142, FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS **Classification:** SATISFACTORY **Rating:** 3.38

**Regulated Entity:** RN102548492, Farmers Cooperative Society 1 Of Jayton Texas **Classification:** SATISFACTORY **Rating:** 3.38

**Complexity Points:** 9 **Repeat Violator:** NO

**CH Group:** 12 - Agriculture, Forestry, Fishing, and Hunting

**Location:** 217 East 2nd Street in Jayton, Kent County, Texas

**TCEQ Region:** REGION 03 - ABILENE

**ID Number(s):**

**PETROLEUM STORAGE TANK REGISTRATION**

REGISTRATION 20816

**AIR NEW SOURCE PERMITS** PERMIT 54176

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER KE0001V

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

**Date Compliance History Report Prepared:** February 11, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 11, 2017 to February 11, 2022

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

**Name:** Stephanie McCurley

**Phone:** (512) 239-2607

**Site and Owner/Operator History:**

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

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

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

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1 November 15, 2018 (1525416)

**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  
FARMERS COOPERATIVE SOCIETY  
NO. 1 OF JAYTON, TEXAS;  
RN102548492

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER

DOCKET NO. 2021-1451-PST-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS ("Respondent").

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

### FINDINGS OF FACT

1. Respondent owned and operated, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and a farmers' cooperative located at 217 East 2nd Street in Jayton, Kent County, Texas (Facility ID No. 20816) (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 contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on September 8, 2021, an investigator documented that Respondent:
  - a. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs. Specifically, the financial assurance policy expired on March 8, 2021;
  - b. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly;
  - c. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years;
  - d. Failed to monitor the USTs for releases at a frequency of at least once every 30 days;
  - e. Failed to provide release detection for the pressurized piping associated with the UST system. Specifically, Respondent had not conducted the annual line leak detector and piping tightness testing; and
  - f. Failed to maintain required operator training certification records and make them available for inspection upon request by agency personnel.
3. The Executive Director recognizes that Respondent no longer owns/operates the Facility as of April 4, 2023.

4. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS ” (the “EDPRP”) in the TCEQ Chief Clerk’s office on April, 26, 2023.
5. The EDPRP was mailed to Respondent’s last known address on April, 26, 2023, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as “unclaimed.”
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk’s office on May 12, 2023.
7. By letter dated May 12, 2023, sent to Respondent’s last known addresses via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt “green cards,” Respondent received notice of the EDPRP on May 17, 2023 and May 18, 2023, as evidenced by the signatures on the cards.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

#### 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 demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(4)(C).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to monitor the USTs for releases at a frequency of at least once every 30 days, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to provide release detection for the pressurized piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2).
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to maintain required operator training certification records and make them available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.606.
8. As evidenced by Findings of Fact Nos. 4 through 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).



9. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
10. Pursuant to TEX. WATER CODE § 7.051, the Commission 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.
11. An administrative penalty in the amount of twelve thousand five hundred dollars (\$12,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
12. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of twelve thousand five hundred dollars (\$12,500.00) 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.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS; Docket No. 2021-1451-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
3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
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.
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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent 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. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

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Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF JENNIFER PELTIER

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of FARMERS COOPERATIVE SOCIETY NO. 1 OF JAYTON, TEXAS' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on April 26, 2023.

The EDPRP was mailed to Respondent's last known addresses on April 26, 2023 via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on May 12, 2023.

The EDPRP was mailed to Respondent's last known address on May 12, 2023, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green cards," Respondent received notice of the EDPRP on May 17, 2023 and May 18, 2023, as evidenced by the signature on the cards.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

"My name is Jennifer Peltier and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,

State of Texas,

on the 23rd day of October, 2023

A handwritten signature in cursive script, appearing to read "J Peltier".

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Declarant