

**Executive Summary – Enforcement Matter – Case No. 61725**  
**INDUSTRIAL GOLD RUSH LTD. dba Fuel City II**  
**RN101566479**  
**Docket No. 2021-1648-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Fuel City II, 801 South Riverfront Boulevard, Dallas, Dallas County

**Type of Operation:**

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

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 20, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$27,677

**Amount Deferred for Expedited Settlement:** \$5,535

**Total Paid to General Revenue:** \$617

**Total Due to General Revenue:** \$21,525

Payment Plan: 35 payments of \$615 each

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** Yes

**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:** November 4, 2021

**Date(s) of NOE(s):** November 30, 2021

**Executive Summary – Enforcement Matter – Case No. 61725**  
**INDUSTRIAL GOLD RUSH LTD. dba Fuel City II**  
**RN101566479**  
**Docket No. 2021-1648-PST-E**

***Violation Information***

1. Failed to report suspected releases to the agency within 24 hours of discovery. Specifically, inventory control records for the regular unleaded UST for May 2021 through October 2021, for the super unleaded UST for June 2021 through September 2021, and for the diesel UST for July 2021 through August 2021 indicated suspected releases that were not reported [30 TEX. ADMIN. CODE § 334.72].

2. Failed to investigate and confirm all suspected releases of regulated substances within 30 days. Specifically, inventory control records for the regular unleaded UST for May 2021 through October 2021, for the super unleaded UST for June 2021 through September 2021, and for the diesel UST for July 2021 through August 2021 indicated suspected releases that were not investigated [30 TEX. ADMIN. CODE § 334.74].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

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

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Hailey Johnson, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-1756; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Ana Flores, General Manager, INDUSTRIAL GOLD RUSH LTD., 801 South Riverfront Boulevard, Dallas, Texas 75207

**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> | 6-Dec-2021 | <b>Screening</b> | 16-Dec-2021 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 6-Jan-2021 |                  |             |                |  |

|  |  |
|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |  |
| <b>Respondent</b>                      | INDUSTRIAL GOLD RUSH LTD. dba Fuel City II |
| <b>Reg. Ent. Ref. No.</b>              | RN101566479                                |
| <b>Facility/Site Region</b>            | 4-Dallas/Fort Worth                        |
| <b>Major/Minor Source</b>              | Major                                      |

|                          |                        |                              |                    |          |
|--------------------------|------------------------|------------------------------|--------------------|----------|
| <b>CASE INFORMATION</b>  |                        |                              |                    |          |
| <b>Enf./Case ID No.</b>  | 61725                  | <b>No. of Violations</b>     | 2                  |          |
| <b>Docket No.</b>        | 2021-1648-PST-E        | <b>Order Type</b>            | 1660               |          |
| <b>Media Program(s)</b>  | Petroleum Storage Tank | <b>Government/Non-Profit</b> | No                 |          |
| <b>Multi-Media</b>       |                        | <b>Enf. Coordinator</b>      | Hailey Johnson     |          |
|                          |                        | <b>EC's Team</b>             | Enforcement Team 6 |          |
| <b>Admin. Penalty \$</b> | <b>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> | \$30,000 |
|---|-------------------|----------|

### 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> | -8.0% Adjustment | <b>Subtotals 2, 3, &amp; 7</b> | -\$2,400 |
|---------------------------|------------------|--------------------------------|----------|

Notes: Enhancement for one NOV with dissimilar violations. Reduction for High Performer classification.

|                    |    |                  |                   |     |
|--------------------|----|------------------|-------------------|-----|
| <b>Culpability</b> | No | 0.0% Enhancement | <b>Subtotal 4</b> | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

|  |                   |     |
|--|-------------------|-----|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | \$0 |
|--|-------------------|-----|

|                         |                   |                   |     |
|-------------------------|-------------------|-------------------|-----|
| <b>Economic Benefit</b> | 0.0% Enhancement* | <b>Subtotal 6</b> | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts: \$98  
 Estimated Cost of Compliance: \$1,975  
 \*Capped at the Total EB \$ Amount

|                             |                       |          |
|-----------------------------|-----------------------|----------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$27,600 |
|-----------------------------|-----------------------|----------|

|   |      |                   |      |
|---|------|-------------------|------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.3% | <b>Adjustment</b> | \$77 |
|---|------|-------------------|------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation No. 1.

|                             |          |
|-----------------------------|----------|
| <b>Final Penalty Amount</b> | \$27,677 |
|-----------------------------|----------|

|                                   |                               |          |
|-----------------------------------|-------------------------------|----------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$27,677 |
|-----------------------------------|-------------------------------|----------|

|                 |       |           |                   |          |
|-----------------|-------|-----------|-------------------|----------|
| <b>DEFERRAL</b> | 20.0% | Reduction | <b>Adjustment</b> | -\$5,535 |
|-----------------|-------|-----------|-------------------|----------|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

|                        |          |
|------------------------|----------|
| <b>PAYABLE PENALTY</b> | \$22,142 |
|------------------------|----------|

Screening Date 16-Dec-2021

Docket No. 2021-1648-PST-E

PCW

Respondent INDUSTRIAL GOLD RUSH LTD. dba Fuel City II

Policy Revision 5 (January 28, 2021)

Case ID No. 61725

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101566479

Media Petroleum Storage Tank

Enf. Coordinator Hailey Johnson

### 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   | 1      | 2%      |
| 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) 2%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

#### >> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations. Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -8%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% -8%

Screening Date 16-Dec-2021

Docket No. 2021-1648-PST-E

PCW

Respondent INDUSTRIAL GOLD RUSH LTD. dba Fuel City II

Policy Revision 5 (January 28, 2021)

Case ID No. 61725

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101566479

Media Petroleum Storage Tank

Enf. Coordinator Hailey Johnson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report suspected releases to the agency within 24 hours of discovery. Specifically, inventory control ("IC") records for the regular unleaded underground storage tank ("UST") for May 2021 through October 2021, for the super unleaded UST for June 2021 through September 2021, and for the diesel UST for July 2021 through August 2021 indicated suspected releases that were not reported.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (20.0%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$20,000

\$5,000

Violation Events

Number of Violation Events 3 168 Number of violation days

Table with frequency categories: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with X).

Violation Base Penalty \$15,000

Three single events are recommended (one single event for each UST in which a suspected release occurred).

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with categories: Extraordinary, Ordinary, N/A (marked with X).

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$82

Violation Final Penalty Total \$13,839

This violation Final Assessed Penalty (adjusted for limits) \$13,839

# Economic Benefit Worksheet

**Respondent** INDUSTRIAL GOLD RUSH LTD. dba Fuel City II  
**Case ID No.** 61725  
**Reg. Ent. Reference No.** RN101566479  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### 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 | 4-Nov-2021 | 2-Oct-2022 | 0.91 | \$5 | n/a | \$5 |

**Notes for DELAYED costs**

Estimated delayed cost to develop and implement a process for reporting suspected releases 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        | \$75 | 1-Jul-2021 | 16-Dec-2021 | 0.46 | \$2 | \$75 | \$77 |
| Other (as needed)             |      |            |             | 0.00 | \$0 | \$0  | \$0  |

**Notes for AVOIDED costs**

Estimated avoided cost to report the suspected releases for three USTs (\$25 per report). The Date Required is the earliest date the suspected releases should have been reported, and the Final Date is the screening date.

**Approx. Cost of Compliance**

\$175

**TOTAL**

\$82

**Screening Date** 16-Dec-2021 **Docket No.** 2021-1648-PST-E **PCW**  
**Respondent** INDUSTRIAL GOLD RUSH LTD. dba Fuel City II *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 61725 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN101566479  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Hailey Johnson

**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, IC records for the regular unleaded UST for May 2021 through October 2021, for the super unleaded UST for June 2021 through September 2021, and for the diesel UST for July 2021 through August 2021 indicated suspected releases that were not investigated.

**Base Penalty** \$25,000

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

| OR | Release   | Harm  |          |       | Percent |
|----|-----------|-------|----------|-------|---------|
|    |           | Major | Moderate | Minor |         |
|    | Actual    |       |          |       | 30.0%   |
|    | 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** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 2 139 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | x |
| semiannual   |   |
| annual       |   |
| single event |   |

**Violation Base Penalty** \$15,000

Two quarterly events are recommended from the earliest suspected release investigation due date of July 30, 2021 to the December 16, 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** \$15,000

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

**Estimated EB Amount** \$16 **Violation Final Penalty Total** \$13,839

**This violation Final Assessed Penalty (adjusted for limits)** \$13,839

## Economic Benefit Worksheet

**Respondent** INDUSTRIAL GOLD RUSH LTD. dba Fuel City II  
**Case ID No.** 61725  
**Reg. Ent. Reference No.** RN101566479  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### 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)        | \$1,800 | 30-Jul-2021 | 2-Oct-2021 | 0.18 | \$16 | n/a | \$16 |

**Notes for DELAYED costs**  
 Estimated delayed cost (\$1,200 for testing (\$400 per tank plus line x 3 = \$1,200) and \$600 for the Release Determination Report) to conduct an investigation of the suspected releases and implement appropriate corrective measures. 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 \$1,800

**TOTAL** \$16



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 CN600830020, RN101566479, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN600830020, INDUSTRIAL GOLD RUSH LTD. **Classification:** HIGH **Rating:** 0.00  
**Regulated Entity:** RN101566479, Fuel City II **Classification:** HIGH **Rating:** 0.00  
**Complexity Points:** 4 **Repeat Violator:** NO  
**CH Group:** 14 - Other  
**Location:** 801 South Riverfront Boulevard, Dallas, Dallas County, Texas 75207-4510  
**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**

**PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 74362 **ON SITE SEWAGE FACILITY PERMIT** 0570079

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

**Date Compliance History Report Prepared:** December 16, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 16, 2016 to December 16, 2021

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

**Name:** Hailey Johnson

**Phone:** (512) 239-1756

**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 | April 23, 2018  | (1480985) |
| Item 2 | August 16, 2021 | (1749287) |

**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.

- 1 Date: 11/30/2021 (1774774)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)  
Description: The facility failed to comply with 30 TAC 334.50(b)(1)(A), ) Release Detection. Specifically, failure to perform a release detection method every 30 days not to exceed 35 days between monitoring; the facility did not perform release detection on the super tank.

**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  
INDUSTRIAL GOLD RUSH LTD.  
DBA FUEL CITY II  
RN101566479**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2021-1648-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 INDUSTRIAL GOLD RUSH LTD. dba Fuel City II (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 801 South Riverfront Boulevard in Dallas, Dallas 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 \$27,677 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$617 of the penalty and \$5,535 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$21,525 of the undeferred penalty shall be paid in 35 monthly payments of \$615 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than

30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

## **II. ALLEGATIONS**

During an investigation conducted on November 4, 2021, an investigator documented that the Respondent:

1. Failed to report suspected releases to the agency within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, inventory control ("IC") records for the regular unleaded UST for May 2021 through October 2021, for the super unleaded UST for June 2021 through September 2021, and for the diesel UST for July 2021 through August 2021 indicated suspected releases that were not reported.
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, IC records for the regular unleaded UST for May 2021 through October 2021, for the super unleaded UST for June 2021 through September 2021, and for the diesel UST for July 2021 through August 2021 indicated suspected releases that were not investigated.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: INDUSTRIAL GOLD RUSH LTD. dba Fuel City II, Docket No. 2021-1648-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. Develop and implement a process for reporting suspected releases timely, in accordance with 30 TEX. ADMIN. CODE § 334.72; and
    - ii. Conduct an investigation of the suspected releases and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74.
  - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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

\_\_\_\_\_  
9/14/2022

\_\_\_\_\_  
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

\_\_\_\_\_  
4-4-2022  
Date

\_\_\_\_\_  
JOSEPH BICKHAM  
Name (Printed or typed)

\_\_\_\_\_  
PRESIDENT  
Title

Authorized Representative of

INDUSTRIAL GOLD RUSH LTD. dba Fuel City II

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