

Executive Summary – Enforcement Matter – Case No. 61699
Southwestern Bell Telephone Company
RN102392420, RN102392875, and RN102398351
Docket No. 2022-0349-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

No

Location(s) Where Violation(s) Occurred:

941 Co Whitehall Bldg T43115, RN102392420, 214 West 9th Street, Dallas, Dallas County (“Whitehall Facility”)

Clay Dial Building WK2318, 1200 Clay Street, Houston, Harris County (“Clay Dial Facility”)

Channelview Glendale 452 W76003, 204 Sheldon Road, Channelview, Harris County (“Glendale Facility”)

Type of Operation:

Underground storage tank (“UST”) systems that supply emergency generators

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 21, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,576

Amount Deferred for Expedited Settlement: \$2,315

Total Paid to General Revenue: \$4,631

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$4,630

Name of SEP: Armand Bayou Nature Center, Inc. (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Executive Summary – Enforcement Matter – Case No. 61699
Southwestern Bell Telephone Company
RN102392420, RN102392875, and RN102398351
Docket No. 2022-0349-PST-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 23, 2021, October 5, 2021, and November 9, 2021

Date(s) of NOE(s): May 21, 2021, December 1, 2021, and December 15, 2021

Violation Information

Whitehall Facility

1. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days [30 TEX. ADMIN CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].

Clay Dial Facility

2. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days [30 TEX. ADMIN CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].

3. Failed to provide release detection for the suction piping associated with the UST system. Specifically, the Respondent had not conducted the triennial testing of the suction piping associated with the UST system [30 TEX. ADMIN CODE § 334.50(b)(2)(B) and TEX. WATER CODE § 26.3475(b)].

4. Failed to assure that all UST recordkeeping requirements are met. Specifically, corrosion protection records were not available at the time of the investigation [30 TEX. ADMIN CODE § 334.10(b)(2)].

Glendale Facility

5. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days [30 TEX. ADMIN CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Executive Summary – Enforcement Matter – Case No. 61699
Southwestern Bell Telephone Company
RN102392420, RN102392875, and RN102398351
Docket No. 2022-0349-PST-E

2. The Order will also require the Respondent to:

a. Within 30 days, implement a method of release detection for the USTs at the Facilities.

b. For Clay Dial Facility:

i. Immediately, begin maintaining UST records including, but not limited to, corrosion protection records, and make them immediately available for inspection upon request by agency personnel; and

ii. Within 30 days, conduct the triennial testing of the suction piping associated with the UST system.

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

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Courtney Gooris, Enforcement Division, Enforcement Team 3, MC 219, (817) 588-5863; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

SEP Third-Party Administrator: Armand Bayou Nature Center, Inc., P.O. Box 58828, Houston, Texas 77258

Respondent: David C. Nichols, Director, Southwestern Bell Telephone Company, 816 Congress Avenue, Austin, Texas 78701

Don Harris, Assistant Secretary, Southwestern Bell Telephone Company, 816 Congress Avenue, Austin, Texas 78701

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	6-Dec-2021	Screening	18-Jan-2022	EPA Due	
	PCW	11-May-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Southwestern Bell Telephone Company (Whitehall Bldg)
Reg. Ent. Ref. No.	RN102392420
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61699	No. of Violations	1
Docket No.	2022-0349-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Fennell
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$126
 Estimated Cost of Compliance: \$1,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$3,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,750
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DEFERRAL	20.0%	Reduction	Adjustment	-\$750
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,000
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Screening Date 18-Jan-2022

Docket No. 2022-0349-PST-E

PCW

Respondent Southwestern Bell Telephone Company (Whitehall Bldg)

Policy Revision 5 (January 28, 2021)

Case ID No. 61699

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102392420

Media Petroleum Storage Tank

Enf. Coordinator John Fennell

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 18-Jan-2022 **Docket No.** 2022-0349-PST-E **PCW**
Respondent Southwestern Bell Telephone Company (Whitehall Bldg) *Policy Revision 5 (January 28, 2021)*
Case ID No. 61699 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN102392420
Media Petroleum Storage Tank
Enf. Coordinator John Fennell

Violation Number 1

Rule Cite(s) 30 Tex. Admin Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to monitor the underground storage tanks ("USTs") in a manner which will detect a release at a frequency of at least once every 30 days.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	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 57 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 November 22, 2021 record review date to the January 18, 2022 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$126 **Violation Final Penalty Total** \$3,750

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

Economic Benefit Worksheet

Respondent Southwestern Bell Telephone Company (Whitehall Bldg)
Case ID No. 61699
Reg. Ent. Reference No. RN102392420
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	23-Apr-2021	29-Dec-2022	1.68	\$126	n/a	\$126

Notes for DELAYED costs

Estimated delayed cost to implement a release detection method for the USTs at the Facility. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$126



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	3-Jan-2022			
	PCW	29-Apr-2022	Screening	18-Jan-2022	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Southwestern Bell Telephone Company (Clay Dial)
Reg. Ent. Ref. No.	RN102392875
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	61699	No. of Violations	2	
Docket No.	2022-0349-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	John Fennell	
		EC's Team	Enforcement Team 6	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,000
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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	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$168
Estimated Cost of Compliance	\$1,695

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1.9%	Adjustment	\$76
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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. 1.

Final Penalty Amount	\$4,076
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,076
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DEFERRAL	20.0%	Reduction	Adjustment	-\$815
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,261
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Screening Date 18-Jan-2022

Docket No. 2022-0349-PST-E

PCW

Respondent Southwestern Bell Telephone Company (Clay Dial)

Policy Revision 5 (January 28, 2021)

Case ID No. 61699

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102392875

Media Petroleum Storage Tank

Enf. Coordinator John Fennell

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 18-Jan-2022

Docket No. 2022-0349-PST-E

PCW

Respondent Southwestern Bell Telephone Company (Clay Dial)

Policy Revision 5 (January 28, 2021)

Case ID No. 61699

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102392875

Media Petroleum Storage Tank

Enf. Coordinator John Fennell

Violation Number 1

Rule Cite(s) 30 Tex. Admin Code § 334.50(b)(1)(A) and (b)(2)(B) and Tex. Water Code § 26.3475(b) and (c)(1)

Violation Description Failed to monitor the underground storage tanks ("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 suction piping associated with the UST system. Specifically, the Respondent had not conducted the triennial testing of the suction piping associated with the UST system.

Base Penalty \$25,000

>> 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.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 70

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the November 9, 2021 investigation date to the January 18, 2022 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$165

Violation Final Penalty Total \$3,821

This violation Final Assessed Penalty (adjusted for limits) \$3,821

Economic Benefit Worksheet

Respondent Southwestern Bell Telephone Company (Clay Dial)
Case ID No. 61699
Reg. Ent. Reference No. RN102392875
Media Violation No. Petroleum Storage Tank
 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$75	9-Nov-2021	29-Dec-2022	1.14	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	9-Nov-2021	29-Dec-2022	1.14	\$85	n/a	\$85

Notes for DELAYED costs

Estimated delayed cost to conduct the triennial testing of the suction piping associated with the UST system (\$75). The Date Required is the investigation date, and the Final Date is the estimated compliance date.

Estimated delayed cost to implement a release detection method for the USTs at the Facility (\$1,500). The Date Required is the investigation date, and the Final Date is the estimated compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$75	9-Nov-2021	18-Jan-2022	0.19	\$1	\$75	\$76
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct the triennial testing of the suction piping associated with the UST system. The Date Required is the investigation date, and the Final Date is the screening date.

Approx. Cost of Compliance \$1,650

TOTAL \$165

Screening Date 18-Jan-2022 **Docket No.** 2022-0349-PST-E **PCW**
Respondent Southwestern Bell Telephone Company (Clay Dial) *Policy Revision 5 (January 28, 2021)*
Case ID No. 61699 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN102392875
Media Petroleum Storage Tank
Enf. Coordinator John Fennell

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text" value="1.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Southwestern Bell Telephone Company (Clay Dial)
Case ID No. 61699
Reg. Ent. Reference No. RN102392875
Media Violation No. Petroleum Storage Tank
 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	9-Nov-2021	29-Dec-2022	1.14	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to maintain corrosion protection records. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$45

TOTAL \$3



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	6-Dec-2021	Screening	18-Jan-2022	EPA Due	
	PCW	29-Apr-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Southwestern Bell Telephone Company (Glendale)
Reg. Ent. Ref. No.	RN102398351
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61699	No. of Violations	1
Docket No.	2022-0349-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Fennell
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,750
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
---------------------------	------	------------	--------------------------------	-----

Notes: No adjustment for compliance history.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	----	------	-------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	------	--------------	-------------------	-----

Total EB Amounts: \$92
 Estimated Cost of Compliance: \$1,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,750
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$3,750
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,750
-----------------------------------	-------------------------------	---------

DEFERRAL	20.0%	Reduction	Adjustment	-\$750
-----------------	-------	-----------	------------	--------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,000
------------------------	---------

Screening Date 18-Jan-2022

Docket No. 2022-0349-PST-E

PCW

Respondent Southwestern Bell Telephone Company (Glendale)

Policy Revision 5 (January 28, 2021)

Case ID No. 61699

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102398351

Media Petroleum Storage Tank

Enf. Coordinator John Fennell

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 18-Jan-2022

Docket No. 2022-0349-PST-E

PCW

Respondent Southwestern Bell Telephone Company (Glendale)

Policy Revision 5 (January 28, 2021)

Case ID No. 61699

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102398351

Media Petroleum Storage Tank

Enf. Coordinator John Fennell

Violation Number 1

Rule Cite(s) 30 Tex. Admin Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to monitor the underground storage tanks ("USTs") in a manner which will detect a release at a frequency of at least once every 30 days.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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 1 105 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty \$3,750

One semiannual event is recommended from the October 5, 2021 investigation date to the January 18, 2022 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$92

Violation Final Penalty Total \$3,750

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

Economic Benefit Worksheet

Respondent Southwestern Bell Telephone Company (Glendale)
Case ID No. 61699
Reg. Ent. Reference No. RN102398351
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	5-Oct-2021	29-Dec-2022	1.23	\$92	n/a	\$92

Notes for DELAYED costs

Estimated delayed cost to implement a release detection method for the USTs at the Facility. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$92

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 CN605433374, RN102392420, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN605433374, Southwestern Bell Telephone Company	Classification: SATISFACTORY	Rating: 2.36
Regulated Entity:	RN102392420, 941 CO WHITEHALL BLDG T43115	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	3	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	214 W 9TH ST DALLAS, TX 75208-4417, DALLAS COUNTY		
TCEQ Region:	REGION 04 - DFW METROPLEX		

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 19509

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

Date Compliance History Report Prepared: April 29, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 29, 2017 to April 29, 2022

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

Name: John Fennell

Phone: (512) 239-2616

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) Who is the current owner/operator? Southwestern Bell Telephone Company OWNER OPERATOR since 9/24/2018
- 4) Who was/were the prior owner(s)/operator(s)? Southwestern Bell Telephone Company, OWNER OPERATOR, 12/1/2015 to 9/23/2018

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 November 29, 2017 (1454420)

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



Compliance History Report

Compliance History Report for CN605433374, RN102392875, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN605433374, Southwestern Bell Telephone Company	Classification: SATISFACTORY	Rating: 2.36
Regulated Entity:	RN102392875, CLAY DIAL BUILDING WK2318	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	3	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	1200 CLAY ST HOUSTON, TX 77002-7612, HARRIS COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION
 REGISTRATION 19576

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

Date Compliance History Report Prepared: April 29, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 29, 2017 to April 29, 2022

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

Name: John Fennell **Phone:** (512) 239-2616

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) Who is the current owner/operator? Southwestern Bell Telephone Company OWNER OPERATOR since 9/24/2018
- 4) Who was/were the prior owner(s)/operator(s)? Southwestern Bell Telephone Company, OWNER OPERATOR, 12/1/2015 to 9/23/2018

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 December 21, 2018 (1525671)

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

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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 CN605433374, RN102398351, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN605433374, Southwestern Bell Telephone Company	Classification: SATISFACTORY	Rating: 2.36
Regulated Entity:	RN102398351, CHANNELVIEW GLENDALE 452 W76003	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	3	Repeat Violator: NO	
CH Group:	14 - Other		
Location:	204 SHELDON RD CHANNELVIEW, TX 77530-4214, HARRIS COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 49386

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

Date Compliance History Report Prepared: April 29, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 29, 2017 to April 29, 2022

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

Name: John Fennell

Phone: (512) 239-2616

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) Who is the current owner/operator? Southwestern Bell Telephone Company OWNER OPERATOR since 9/24/2018
- 4) Who was/were the prior owner(s)/operator(s)? Southwestern Bell Telephone Company, OWNER OPERATOR, 12/1/2015 to 9/23/2018

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 September 10, 2018 (1504470)

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
SOUTHWESTERN BELL TELEPHONE
COMPANY
RN102392420, RN102392875, AND
RN102398351

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

AGREED ORDER DOCKET NO. 2022-0349-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 Southwestern Bell Telephone Company (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), underground storage tank ("UST") systems that supply emergency generators at the following locations (collectively referred to as the "Facilities"):
 - a. 941 Co Whitehall Bldg T43115, 214 West 9th Street in Dallas, Dallas County, Texas ("Whitehall Facility");
 - b. Clay Dial Building WK2318, 1200 Clay Street in Houston, Harris County, Texas ("Clay Dial Facility"); and
 - c. Channelview Glendale 452 W76003, 204 Sheldon Road in Channelview, Harris County, Texas ("Glendale Facility").

The UST systems at the Facilities are 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 \$11,576 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$4,631 of the penalty and \$2,315 of the penalty 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. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$4,630 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

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

1. During an investigation conducted on April 23, 2021 and a record review conducted on November 22, 2021 at the Whitehall Facility, an investigator documented that the 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 30 TEX. ADMIN CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).
2. During an investigation conducted on November 9, 2021 at the Clay Dial Facility, an investigator documented that the Respondent:
 - a. 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 30 TEX. ADMIN CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).
 - b. Failed to provide release detection for the suction piping associated with the UST system, in violation of 30 TEX. ADMIN CODE § 334.50(b)(2)(B) and TEX. WATER CODE § 26.3475(b). Specifically, the Respondent had not conducted the triennial testing of the suction piping associated with the UST system.
 - c. Failed to assure that all UST recordkeeping requirements are met, in violation of 30 TEX. ADMIN CODE § 334.10(b)(2). Specifically, corrosion protection records were not available at the time of the investigation.

3. During an investigation conducted on October 5, 2021 at the Glendale Facility, an investigator documented that the 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 30 TEX. ADMIN CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).

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: Southwestern Bell Telephone Company, Docket No. 2022-0349-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 implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$4,630 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days of the effective date of this Order, implement a method of release detection for the USTs at the Facilities, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - b. For Clay Dial Facility:
 - i. Immediately upon the effective date of this Order, begin maintaining UST records including, but not limited to, corrosion protection records, and make them immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10; and
 - ii. Within 30 days after the effective date of this Order, conduct the triennial testing of the suction piping associated with the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.50.
 - c. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos.

3.a and 3.b. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

and:

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

4. All relief not expressly granted in this Order is denied.
5. 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 operations at the Facilities referenced in this Order.
6. 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.
7. 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.

8. 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.
9. 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.
10. 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

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 OAG 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 OAG 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

Date

Name (Printed or typed)

Title

Authorized Representative of
Southwestern Bell Telephone Company

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.

Attachment A

Docket Number: 2022-0349-PST-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Southwestern Bell Telephone Company
Payable Penalty Amount:	\$9,261
SEP Offset Amount:	\$4,630
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Armand Bayou Nature Center, Inc.
Project Name:	<i>Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project</i>
Total Project Budget:	\$573,969
Location of SEP:	Harris County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Armand Bayou Nature Center, Inc.** for the *Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project* (the “Project”). The Project is to manage the Armand Bayou Nature Center (“ABNC”), which comprises of 2500 acres located in southeast Harris County. ABNC contains three unique and vanishing ecosystems: coastal tallgrass prairie, forested wetland, and the tidal marsh stream of Armand Bayou. Prescribed burning is one stewardship tool used to maintain a tallgrass prairie ecosystem. If the prairie is not maintained, it can be destroyed by invasive species, which primarily include the Chinese tallow tree and other woody plants. In addition, prescribed mowing shall be conducted on a rotational basis as needed for maintenance of native species and removal of non-native species. The Third-Party Administrator shall propagate terrestrial and aquatic native plants and install them to restore the Coastal Prairie, Tidal Marsh, and Forested Wetlands. The Third-Party Administrator will pay for the labor and material costs associated with conducting prescribed burns, mowing, removing non-native trees, and for planting native trees and plants. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent’s signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

The ecological services provided by the restoration and management of the Coastal Prairie, Tidal Marsh, and Forested Wetlands ecosystems working in concert will help minimize pollution, reduce the amount of pollutants reaching the environment, and enhance water quality and wildlife habitat.

Coastal prairie grasslands are considered fire-dependent plant communities and require frequent exposure to fire effects for full ecological function. Prescribed fire in prairies helps control invasive species, minimize accumulated grass thatch, promote enrichment of soil nutrients and improve prairie plant vigor. One additional benefit of controlled prescribed burns is the reduction of fuels and the prevention of wildfires. This is particularly critical in the urban environment to protect human life and property and to minimize the release of large amounts of particulate matter resulting from uncontrolled wildfires. This treatment ensures that these coastal prairie grasslands will perform at their highest ecological function and provide the maximum potential ecological service to benefit water quality.

Mowing and targeted application of specialized herbicides will also help manage prairie species and remove non-native species. Propagation and installation of native plants will restore the natural balance to these ecosystems, reduce erosion, and increase habitat for wildlife. Plant installation in the Forested Wetland and Tidal Marsh will improve water quality by restoring depleted oxygen levels, providing habitat and nourishment for aquatic organisms, and reclaiming the area for native plants.

Proper management and restoration of these ecosystems will maximize the ecological services that they provide to Armand Bayou and Galveston Bay.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to Third-Party Administrator. The Respondent shall make the check payable to **Armand Bayou Nature Center, Inc. SEP** and shall mail the contribution with a copy of the Agreed Order to:

Southwestern Bell Telephone Company
Docket No. 2022-0349-PST-E
Agreed Order - Attachment A

Armand Bayou Nature Center, Inc.
Attention: Chris Smith, Biologist
P.O. Box 58828
Houston, Texas 77258

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3, above the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ.** Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.