

**Executive Summary – Enforcement Matter – Case No. 62128
PETROLEUM TRANSPORT, INC.
RN104565056
Docket No. 2022-0351-PST-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

No

Location(s) Where Violation(s) Occurred:

PETROLEUM TRANSPORT, INC., 3102 Clovis Road, Lubbock, Lubbock County

Type of Operation:

Common carrier

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 19, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$49,350

Amount Deferred for Expedited Settlement: \$9,870

Total Paid to General Revenue: \$39,480

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 18, 2022

Date(s) of NOE(s): March 11, 2022

**Executive Summary – Enforcement Matter – Case No. 62128
PETROLEUM TRANSPORT, INC.
RN104565056
Docket No. 2022-0351-PST-E**

Violation Information

Deposited a regulated substance into a regulated underground storage tank system that was not covered by a valid, current TCEQ delivery certificate. Specifically, the Respondent made 27 fuel deposits at a facility located at 1540 East 19th Street, Lubbock, Texas between March 4, 2020 and February 1, 2022. At the time of the fuel deposits, the facility did not possess a valid, current TCEQ delivery certificate [30 TEX. ADMIN. CODE § 334.5(b)(1)(A) and TEX. WATER CODE § 26.3467(d)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Developed and implemented a procedure for fuel delivery personnel to verify that a facility possesses a valid, current TCEQ delivery certificate prior to depositing a regulated substance into an underground storage tanks system on February 18, 2022; and
- b. Conducted training for all appropriate personnel on the requirements of the procedure developed to verify a facility's delivery certificate prior to fuel deposit on February 18, 2022.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Janet Rivera, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-4573; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: David Forbess, President, PETROLEUM TRANSPORT, INC., 3102 Clovis Road, Lubbock, Texas 79415

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	14-Mar-2022	Screening	23-Mar-2022	EPA Due	
	PCW	25-May-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	PETROLEUM TRANSPORT, INC.
Reg. Ent. Ref. No.	RN104565056
Facility/Site Region	2-Lubbock
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	62128	No. of Violations	1
Docket No.	2022-0351-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Alain Elegbe
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$52,500
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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	19.0%	Adjustment	Subtotals 2, 3, & 7	\$9,975
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Notes: Enhancement for one Agreed Order containing a denial of liability and a reduction for a notification of an intended audit.

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	-\$13,125
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$0
 Estimated Cost of Compliance: \$100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$49,350
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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	\$49,350
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$49,350
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DEFERRAL	20.0%	Reduction	Adjustment	-\$9,870
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$39,480
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Screening Date 23-Mar-2022

Docket No. 2022-0351-PST-E

PCW

Respondent PETROLEUM TRANSPORT, INC.

Policy Revision 5 (January 28, 2021)

Case ID No. 62128

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN104565056

Media Petroleum Storage Tank

Enf. Coordinator Alain Elegbe

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	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) 19%

>> 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

Enhancement for one Agreed Order containing a denial of liability and a reduction for a notification of an intended audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 19%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 19%

Screening Date 23-Mar-2022
Respondent PETROLEUM TRANSPORT, INC.
Case ID No. 62128
Reg. Ent. Reference No. RN104565056
Media Petroleum Storage Tank
Enf. Coordinator Alain Elegbe

Docket No. 2022-0351-PST-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.5(b)(1)(A) and Tex. Water Code § 26.3467(d)

Violation Description
 The Respondent deposited a regulated substance into a regulated underground storage tank ("UST") system that was not covered by a valid, current TCEQ delivery certificate. Specifically, the Respondent made 27 fuel deposits at a facility located at 1540 East 19th Street, Lubbock, Texas between March 4, 2020 and February 1, 2022. At the time of the fuel deposits, the facility did not possess a valid, current TCEQ delivery certificate.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		X			10.0%

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

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 21 27 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$52,500

Twenty-one single events are recommended, one event for each month a deposit occurred.

Good Faith Efforts to Comply

25.0%

Reduction \$13,125

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

Notes The Respondent developed and implemented a procedure to verify a facility's delivery certificate prior to fuel deposit and conducted training to fuel delivery personnel on February 18, 2022, before the March 11, 2022 Notice of Enforcement.

Violation Subtotal \$39,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$49,350

This violation Final Assessed Penalty (adjusted for limits) \$49,350

Economic Benefit Worksheet

Respondent PETROLEUM TRANSPORT, INC.
Case ID No. 62128
Reg. Ent. Reference No. RN104565056
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	\$100	18-Feb-2022	18-Feb-2022	0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to develop and implement a procedure for fuel delivery personnel to verify that a facility possesses a valid, current TCEQ delivery certificate prior to depositing a regulated substance into a UST system and to conduct training for all appropriate personnel. The Date Required is the investigation date and the Final Date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN602808958, RN104565056, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN602808958, PETROLEUM TRANSPORT, INC. **Classification:** SATISFACTORY **Rating:** 9.38

Regulated Entity: RN104565056, PETROLEUM TRANSPORT **Classification:** SATISFACTORY **Rating:** 9.38

Complexity Points: 6 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 3102 Clovis Road, Lubbock, Lubbock County, Texas 79415-161

TCEQ Region: REGION 02 - LUBBOCK

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 24618

AIR NEW SOURCE PERMITS AFS NUM 4830300030

AIR EMISSIONS INVENTORY ACCOUNT NUMBER LN0065W

AIR NEW SOURCE PERMITS ACCOUNT NUMBER LN0065W

PETROLEUM STORAGE TANK NON REGISTERED ID NUMBER R02104565056

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 31811

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

Date Compliance History Report Prepared: May 31, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 31, 2017 to May 31, 2022

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

Name: Alain Elegbe

Phone: (512) 239-6924

Site and Owner/Operator History:

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

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

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

- 1 Effective Date: 10/21/2019 ADMINORDER 2018-1640-PST-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.3467(d)
30 TAC Chapter 334, SubChapter A 334.5(b)(1)(A)
Description: Failure to make a fuel delivery to a UST System with a valid delivery certificate

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 24, 2018 | (1479207) |
| Item 2 | July 23, 2018 | (1504775) |
| Item 3 | June 14, 2019 | (1571420) |
| Item 4 | June 26, 2019 | (1577280) |
| Item 5 | September 12, 2019 | (1592360) |
| Item 6 | February 27, 2020 | (1631569) |

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:

Notice of Intent Date: 12/10/2021 (1789829)

No DOV Associated

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 PETROLEUM
TRANSPORT, INC.
RN104565056**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2022-0351-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 PETROLEUM TRANSPORT, INC. (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 is a person, as defined in 30 TEX. ADMIN. CODE § 334.2(80), who physically delivers regulated substances into underground storage tanks ("USTs") directly from a cargo tank which is affixed or mounted to a self-propelled, towable, or pushable vehicle (e.g., wagon, truck, trailer, railcar, aircraft, boat, or barge). As such, the Respondent is a common carrier as defined in 30 TEX. ADMIN. CODE § 334.2(21). The Respondent's principal place of business is at 3102 Clovis Road, Lubbock, Lubbock, County, Texas (the "Business").
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 \$49,350 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$39,480 of the penalty and \$9,870 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Business:
 - a. Developed and implemented a procedure for fuel delivery personnel to verify that a facility possesses a valid, current TCEQ delivery certificate prior to depositing a regulated substance into a UST system on February 18, 2022; and
 - b. Conducted training for all appropriate personnel on the requirements of the procedure developed to verify a facility's delivery certificate prior to fuel deposit on February 18, 2022.

II. ALLEGATIONS

During an investigation conducted at the Business on February 18, 2022, an investigator documented that the Respondent deposited a regulated substance into a regulated UST system that was not covered by a valid, current TCEQ delivery certificate, in violation of 30 TEX. ADMIN. CODE § 334.5(b)(1)(A) and TEX. WATER CODE § 26.3467(d). Specifically, the Respondent made 27 fuel deposits at a facility located at 1540 East 19th Street, Lubbock, Texas between March 4, 2020 and February 1, 2022. At the time of the fuel deposits, the facility did not possess a valid, current TCEQ delivery certificate.

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: PETROLEUM TRANSPORT, INC., Docket No. 2022-0351-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. All relief not expressly granted in this Order is denied.
3. 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 Business operations referenced in this Order.
4. 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.
5. 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.
6. 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.

7. 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

12/5/2022

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.

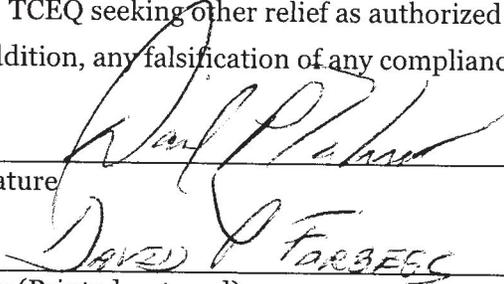
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the 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)
Authorized Representative of
PETROLEUM TRANSPORT, INC.

7/18/22

PRESIDENT

Title

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

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