

Executive Summary – Enforcement Matter – Case No. 61732

Verner Middleton

RN101868339

Docket No. 2022-0554-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM – PST and Used Oil

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Middleton Trans, 1316 Louisiana Street, Center, Shelby County

Type of Operation:

Temporarily out-of-service underground storage tank ("UST") system and a fleet refueling facility

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: \$8,250

Amount Deferred for Expedited Settlement: \$1,650

Total Paid to General Revenue: \$6,600

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - Unclassified

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: September 23, 2021

Date(s) of NOE(s): November 10, 2021

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Verner Middleton

RN101868339

Docket No. 2022-0554-MLM-E

Violation Information

1. Failed to designate, train, and certify at least one named individual for each class of operator – Class A, Class B, and Class C. Specifically, the Respondent had not designated, trained, and certified a Class A/B operator for the Facility [30 TEX. ADMIN. CODE § 334.602(a)].
2. Failed to provide an amended registration for any change or additional information to the agency regarding the UST system within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current ownership and operational status of the UST system at the Facility [30 TEX. ADMIN. CODE § 334.7(d)(1)(A), (d)(1)(B), and (d)(3)].
3. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].
4. Failed to provide financial assurance or conduct a site check and perform any necessary corrective actions for a temporarily out-of-service UST system in order to meet financial assurance exemption requirements [30 TEX. ADMIN. CODE § 334.54(e)(5)].
5. Failed to provide adequate corrosion protection for the UST system. Specifically, the Respondent did not provide documentation verifying the material construction of the UST system at the Facility [30 TEX. ADMIN. CODE §§ 334.54(b)(3) and 334.49(e) and TEX. WATER CODE § 26.3475(d)].
6. Failed to ensure that used oil filters are stored, processed, or disposed of in a manner that does not result in the discharge of oil into soil or water. Specifically, five used oil filters were disposed of on the ground at the Facility [30 TEX. ADMIN. CODE § 328.23(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, properly temporarily remove the UST system from service which includes:
 - i. Designating, training, and certifying a Class A/B operator;

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Verner Middleton

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Docket No. 2022-0554-MLM-E

- ii. Submitting an amended registration to reflect the current ownership and operational status of the UST system;
 - iii. Providing financial assurance; or emptying the USTs of all regulated substances and conducting a site check and performing any necessary corrective actions; and
 - iv. Providing adequate corrosion protection for the UST system including but not limited to maintaining documentation verifying the material construction of the UST system.
- b. Within 30 days, remove the used oil filters and all contaminated soil at the Facility and dispose of them at an authorized facility using appropriate corrective measures.
 - c. Within 45 days, submit written certification to demonstrate compliance with a. and b.
 - d. In lieu of a., within 195 days, permanently remove the UST system from service which includes the following actions:
 - i. Providing a Construction Notification to the TCEQ at least 30-days prior to any removal activities; and
 - ii. Employing a Licensed UST Contractor to perform all removal activities, including:
 - 1. Removing the USTs from the ground, abandoning the USTs in-place, or conducting a permanent change-in-service;
 - 2. Emptying the USTs of all regulated substances and accumulated sludges or residues and purging the USTs of all residual vapors;
 - 3. Handling, transporting, and properly disposing of the empty USTs, the regulated substances removed from the UST system, and any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility; and
 - 4. Determining whether or not there has been a release of regulated substance from the UST system, performance of a comprehensive site assessment, reporting confirmed or suspected releases to the TCEQ, preparing a detailed written record of the release determination, and compliance with all applicable corrective action requirements.
 - iii. Submitting a completely and accurately filled out registration to reflect the operational status of the UST system as permanently removed from service.
 - d. Within 210 days, submit written certification to demonstrate compliance with d.

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Verner Middleton
RN101868339
Docket No. 2022-0554-MLM-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Karolyn Kent, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-2536; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Verner Middleton, Owner, 555 East 5th Street, Apartment 527, Austin, Texas 78071-3893

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 15-Nov-2021 | Screening | 15-Nov-2021 | EPA Due | |
| | PCW | 11-May-2022 | | | | |

| | |
|--|------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Verner Middleton |
| Reg. Ent. Ref. No. | RN101868339 |
| Facility/Site Region | 10-Beaumont |
| Major/Minor Source | Minor |

| | | | |
|--|------------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 61732 | No. of Violations | 3 |
| Docket No. | 2022-0554-MLM-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | Used Oil Filter | Enf. Coordinator | Hailey Johnson |
| | | 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 | \$7,500 |
|---|-------------------|----------------|

| | | |
|--|--|--|
| 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 | \$659 | *Capped at the Total EB \$ Amount | |
| Estimated Cost of Compliance | \$13,630 | | |

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$7,500 |
|-----------------------------|-----------------------|----------------|

| | | |
|---|-----------------------------|----------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% Adjustment | \$0 |
| Reduces or enhances the Final Subtotal by the indicated percentage. | | |
| Notes | | |
| | Final Penalty Amount | \$7,500 |

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$7,500 |
|-----------------------------------|-------------------------------|----------------|

| | | | |
|---|--|-------------------|-----------------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$1,500 |
| Reduces the Final Assessed Penalty by the indicated percentage. | | | |
| Notes | Deferral offered for expedited settlement. | | |

| | |
|------------------------|----------------|
| PAYABLE PENALTY | \$6,000 |
|------------------------|----------------|

Screening Date 15-Nov-2021

Docket No. 2022-0554-MLM-E

PCW

Respondent Verner Middleton

Policy Revision 5 (January 28, 2021)

Case ID No. 61732

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101868339

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 | 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)

N/A

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 15-Nov-2021

Docket No. 2022-0554-MLM-E

PCW

Respondent Verner Middleton

Policy Revision 5 (January 28, 2021)

Case ID No. 61732

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101868339

Media Petroleum Storage Tank

Enf. Coordinator Hailey Johnson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.602(a)

Violation Description

Failed to designate, train, and certify at least one named individual for each class of operator – Class A, Class B, and Class C – for the Facility. Specifically, the Respondent had not designated, trained, and certified a Class A/B operator for the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | x | |

Percent 5.0%

>> Programmatic Matrix

| Falsification | Harm | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 53 Number of violation days

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

Violation Base Penalty \$1,250

One quarterly event is recommended from the September 23, 2021 investigation date to the November 15, 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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent Verner Middleton
Case ID No. 61732
Reg. Ent. Reference No. RN101868339
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 | \$90 | 23-Sep-2021 | 11-Sep-2022 | 0.97 | \$4 | n/a | \$4 |
| 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 designate, train, and certify a Class A/B operator for the Facility. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$90

TOTAL

\$4

Screening Date 15-Nov-2021 **Docket No.** 2022-0554-MLM-E **PCW**
Respondent Verner Middleton *Policy Revision 5 (January 28, 2021)*
Case ID No. 61732 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101868339
Media Petroleum Storage Tank
Enf. Coordinator Hailey Johnson

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 checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="10.0%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Verner Middleton
Case ID No. 61732
Reg. Ent. Reference No. RN101868339
Media Petroleum Storage Tank
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

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) | \$40 | 23-Sep-2021 | 11-Sep-2022 | 0.97 | \$2 | n/a | \$2 |

Notes for DELAYED costs

Estimated delayed cost to submit an amended UST registration to the TCEQ to indicate the current ownership and operational status of the UST system at the Facility. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$40

TOTAL \$2

Screening Date 15-Nov-2021 **Docket No.** 2022-0554-MLM-E **PCW**
Respondent Verner Middleton *Policy Revision 5 (January 28, 2021)*
Case ID No. 61732 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101868339
Media Petroleum Storage Tank
Enf. Coordinator Hailey Johnson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 334.47(a)(2), 334.54(e)(5), 334.54(b)(3) and 334.49(e) and Tex. Water Code § 26.3475(d)

Violation Description
 Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements. Also, failed to provide financial assurance or conduct a site check and perform any necessary corrective actions for a temporarily out-of-service UST system in order to meet financial assurance exemption requirements. Additionally, failed to provide adequate corrosion protection for the UST system. Specifically, the Respondent did not provide documentation verifying the material construction of the UST system at the Facility.

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 53 Number of violation days

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

Violation Base Penalty \$3,750

One quarterly event is recommended from the September 23, 2021 investigation date to the November 15, 2021 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$3,750

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

Estimated EB Amount \$653 **Violation Final Penalty Total** \$3,750

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

Economic Benefit Worksheet

Respondent Verner Middleton
Case ID No. 61732
Reg. Ent. Reference No. RN101868339
Media Petroleum Storage Tank
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|-------------|------|-------|-----|-------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 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) | \$13,500 | 23-Sep-2021 | 11-Sep-2022 | 0.97 | \$653 | n/a | \$653 |

Notes for DELAYED costs

Estimated delayed cost to permanently remove one UST from service with a capacity of 9,000 gallons at \$1.50 per gallon. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$13,500

TOTAL

\$653



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 15-Nov-2021 | | | |
| | PCW | 12-May-2022 | Screening | 15-Nov-2021 | EPA Due |

| | |
|--|------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Verner Middleton |
| Reg. Ent. Ref. No. | RN101868339 |
| Facility/Site Region | 10-Beaumont |
| Major/Minor Source | Minor |

| | | | |
|--|------------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 61732 | No. of Violations | 1 |
| Docket No. | 2022-0554-MLM-E | Order Type | 1660 |
| Media Program(s) | Used Oil Filter | Government/Non-Profit | No |
| Multi-Media | Petroleum Storage Tank | Enf. Coordinator | Hailey Johnson |
| | | EC's Team | Enforcement Team 6 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$5,000 |

Penalty Calculation Section

| | | |
|---|-------------------|-------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$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: \$24
 Estimated Cost of Compliance: \$500
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|-------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$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 | \$750 |
|-----------------------------|-------|

| | | |
|-----------------------------------|-------------------------------|-------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$750 |
|-----------------------------------|-------------------------------|-------|

| | | | | |
|-----------------|-------|-----------|-------------------|--------|
| DEFERRAL | 20.0% | Reduction | Adjustment | -\$150 |
|-----------------|-------|-----------|-------------------|--------|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

| | |
|------------------------|-------|
| PAYABLE PENALTY | \$600 |
|------------------------|-------|

Screening Date 15-Nov-2021

Docket No. 2022-0554-MLM-E

PCW

Respondent Verner Middleton

Policy Revision 5 (January 28, 2021)

Case ID No. 61732

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101868339

Media Used Oil Filter

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 | 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)

N/A

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 15-Nov-2021
Respondent Verner Middleton
Case ID No. 61732
Reg. Ent. Reference No. RN101868339
Media Used Oil Filter
Enf. Coordinator Hailey Johnson

Docket No. 2022-0554-MLM-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 328.23(a) and (b)

Violation Description Failed to ensure that used oil filters are stored, processed, or disposed of in a manner that does not result in the discharge of oil into soil or water. Specifically, five used oil filters were disposed of on the ground at the Facility.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

| | | | | | | |
|-----------|----------------|-------|-------------|-------|----------------|-------|
| OR | | | Harm | | | |
| | Release | Major | Moderate | Minor | | |
| | Actual | | | X | Percent | 15.0% |
| | Potential | | | | | |

>> Programmatic Matrix

| | | | | | | |
|--|---------------|-------|----------|-------|----------------|------|
| | Falsification | Major | Moderate | Minor | Percent | 0.0% |
| | | | | | | |

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 1 53 Number of violation days

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

Violation Base Penalty \$750

One quarterly event is recommended from the September 23, 2021 investigation date to the November 15, 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 \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$750

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

Economic Benefit Worksheet

Respondent Verner Middleton
Case ID No. 61732
Reg. Ent. Reference No. RN101868339
Media Used Oil Filter
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 | \$500 | 23-Sep-2021 | 11-Sep-2022 | 0.97 | \$24 | n/a | \$24 |
| 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 remove the used oil filters and all contaminated soil at the Facility and dispose of them at an authorized facility using appropriate corrective measures. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$24

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 CN605946458, RN101868339, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605946458, Verner Middleton **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN101868339, Middleton Trans **Classification:** UNCLASSIFIED **Rating:** -----

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

CH Group: 14 - Other

Location: 1316 Louisiana Street, Center, Shelby County, Texas 75935

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION **PETROLEUM STORAGE TANK NON REGISTERED ID**
REGISTRATION 40830 NUMBER R10101868339

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

Date Compliance History Report Prepared: May 02, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 02, 2017 to May 02, 2022

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 | September 12, 2019 | (1590515) |
| Item 2 | June 29, 2021 | (1735648) |

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
VERNER MIDDLETON
RN101868339

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0554-MLM-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 Verner Middleton (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 371 and 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, as defined in 30 TEX. ADMIN. CODE § 334.2(78), a temporarily out-of-service underground storage tank ("UST") system and a fleet refueling facility located at 1316 Louisiana Street in Center, Shelby 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. The Facility involves or involved the management used oil, as defined in TEX. HEALTH & SAFETY CODE ch. 371.
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. HEALTH & SAFETY CODE ch. 371, 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 \$8,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$6,600 of the penalty and \$1,650 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.

II. ALLEGATIONS

During an investigation conducted on September 23, 2021, an investigator documented that the Respondent:

1. Failed to designate, train, and certify at least one named individual for each class of operator - Class A, Class B, and Class C - for the Facility, in violation of 30 TEX. ADMIN. CODE § 334.602(a). Specifically, the Respondent had not designated, trained, and certified a Class A/B operator for the Facility.
2. Failed to provide an amended registration for any change or additional information to the agency regarding the UST system within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(1)(A), (d)(1)(B), and (d)(3). Specifically, the registration was not updated to reflect the current ownership and operational status of the UST system at the Facility.
3. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).
4. Failed to provide financial assurance or conduct a site check and perform any necessary corrective actions for a temporarily out-of-service UST system in order to meet financial assurance exemption requirements, in violation of 30 TEX. ADMIN. CODE § 334.54(e)(5).
5. Failed to provide adequate corrosion protection for the UST system, in violation of 30 TEX. ADMIN. CODE §§ 334.54(b)(3) and 334.49(e) and TEX. WATER CODE § 26.3475(d). Specifically, the Respondent did not provide documentation verifying the material construction of the UST system at the Facility.
6. Failed to ensure that used oil filters are stored, processed, or disposed of in a manner that does not result in the discharge of oil into soil or water, in violation of 30 TEX. ADMIN. CODE § 328.23(a) and (b). Specifically, five used oil filters were disposed of on the ground at the Facility.

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: Verner Middleton, Docket No. 2022-0554-MLM-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, properly temporarily remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.54, which includes:
 - i. Designating, training, and certifying a Class A/B operator for the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.602;
 - ii. Submitting an amended registration to reflect the current ownership and operational status of the UST system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Petroleum Storage Tank Registration Program, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - iii. Providing financial assurance, in accordance with 30 TEX. ADMIN. CODE § 37.815; or emptying the USTs of all regulated substances and conducting a site check and performing any necessary corrective actions, in accordance with 30 TEX. ADMIN. CODE § 334.54; and
 - iv. Providing adequate corrosion protection for the UST system including but not limited to maintaining documentation verifying the material construction of the UST system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.49.

- b. Within 30 days after the effective date of this Order, remove the used oil filters and all contaminated soil at the Facility and dispose of them at an authorized facility using appropriate corrective measures.
- c. Within 45 days after the effective date of this Order, submit written certification, as described in Ordering Provision No. 2.e, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b.
- d. In lieu of Ordering Provision No. 2.a, within 195 days after the effective date of this Order, permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55, which includes the following actions:
 - i. Providing a Construction Notification to the TCEQ at least 30-days prior to any removal activities; and
 - ii. Employing a Licensed UST Contractor to perform all removal activities, including:
 - 1. Removing the USTs from the ground, abandoning the USTs in-place, or conducting a permanent change-in-service;
 - 2. Emptying the USTs of all regulated substances and accumulated sludges or residues and purging the USTs of all residual vapors;
 - 3. Handling, transporting, and properly disposing of the empty USTs, the regulated substances removed from the UST system, and any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility; and
 - 4. Determining whether or not there has been a release of regulated substance from the UST system, performance of a comprehensive site assessment, reporting confirmed or suspected releases to the TCEQ, preparing a detailed written record of the release determination, and compliance with all applicable corrective action requirements.
 - iii. Submitting a completely and accurately filled out registration to reflect the operational status of the UST system as permanently removed from service, in accordance with 30 TEX. ADMIN. CODE § 334.7 to the address provided in Ordering Provision No. 2.a.ii.
- e. Within 210 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.d. 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

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



7/7/2023

For the Executive Director

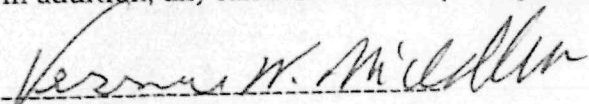
Date

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

6-20-23
Date

Verner Middleton
Name (Printed or typed)
Authorized Representative of
Verner Middleton

Property Owner
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.