

**Executive Summary – Enforcement Matter – Case No. 62372**

**LUFKIN LLC dba Gas N Go**

**RN102355864**

**Docket No. 2022-0619-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

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

Gas N Go, 401 North Timberland Drive, Lufkin, Angelina County

**Type of Operation:**

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

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 12, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$7,876

**Amount Deferred for Expedited Settlement:** \$1,575

**Total Paid to General Revenue:** \$6,301

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**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:** April 4, 2022

**Date(s) of NOE(s):** May 6, 2022

**Executive Summary – Enforcement Matter – Case No. 62372**  
**LUFKIN LLC dba Gas N Go**  
**RN102355864**  
**Docket No. 2022-0619-PST-E**

***Violation Information***

1. Failed to test the spill prevention equipment at least once every three years to ensure that the equipment is liquid tight. Specifically, the Respondent had not conducted the triennial spill bucket test [30 TEX. ADMIN. CODE § 334.48(g)(1)(A)(ii) and TEX. WATER CODE 26.3475(c)(2)].
2. Failed to inspect the overfill prevention equipment at least once every three years to ensure that the overfill prevention equipment is set to activate at the correct level. Specifically, the Respondent had not conducted the triennial testing of the overfill prevention equipment [30 TEX. ADMIN. CODE § 334.48(g)(1)(B) and TEX. WATER CODE § 26.3475(c)(2)].
3. Failed to conduct a walkthrough inspections of the spill prevention equipment and release detection equipment every 30 days [30 TEX. ADMIN. CODE §334.48(h)(1)(A) and TEX. WATER CODE § 26.3475(c)(1) and (c)(2)].
4. Failed to conduct the annual inspection of the containment sumps for regulated substance releases in the containment sump and the environment [30 TEX. ADMIN. CODE § 334.48(h)(1)(B) and TEX. WATER CODE § 26.3475(c)(2)].
5. Failed to have the corrosion protection system tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the Respondent had not conducted the triennial testing of the cathodic protection system [30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d)].
6. Failed to conduct effective inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].
7. Failed to monitor the UST installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring [30 TEX. ADMIN. CODE § 334.50(b)(1)(B) and TEX. WATER CODE § 26.3475(c)(1)].
8. Failed to test the line leak detector for performance and operational reliability at least once per year. Specifically, the Respondent had not conducted the annual line leak detector test [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent conducted the following corrective measures:

- a. The triennial testing of the spill buckets on April 8, 2022;

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**Docket No. 2022-0619-PST-E**

- b. The triennial testing of the overfill prevention equipment on April 8, 2022;
- c. The annual inspection of the containment sumps on April 8, 2022;
- d. The 30-day walkthrough inspections of the spill prevention equipment and release detection equipment on April 8, 2022;
- e. The triennial testing of the cathodic protection system on April 8, 2022; and
- f. The annual testing of the line leak detectors for performance and operational reliability on April 8, 2022.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days:
  - i. Begin conducting manual or automatic effective inventory control procedures for the USTs; and
  - ii. Implement interstitial monitoring release detection method for the USTs.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Tiffany Chu, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5891; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Barkat Rajab Momin, Manager, Gas N Go, 5116 Bellevue Falls Lane, Sugarland, Texas 77479

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	9-May-2022			
	<b>PCW</b>	20-Jan-2022	<b>Screening</b>	20-May-2022	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	LUFKIN LLC dba Gas N Go				
<b>Reg. Ent. Ref. No.</b>	RN102355864				
<b>Facility/Site Region</b>	10-Beaumont		<b>Major/Minor Source</b>	Minor	

## CASE INFORMATION

<b>Enf./Case ID No.</b>	62372	<b>No. of Violations</b>	3
<b>Docket No.</b>	2022-0619-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Tiffany Chu
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$8,750
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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.

<b>Compliance History</b>	<b>-10.0%</b>	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	-\$875
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<b>Notes</b>	Reduction for High Performer classification.			
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<b>Culpability</b>	No	<b>0.0%</b>	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.			
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$1,249
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<b>Economic Benefit</b>	<b>0.0%</b>	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,442	<i>*Capped at the Total EB \$ Amount</i>
Estimated Cost of Compliance	\$3,250	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,626
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>18.9%</b>	<b>Adjustment</b>	\$1,250
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement to capture the avoided cost of compliance associated with Violation Nos. 1, 2 and 3.		
	<b>Final Penalty Amount</b>	\$7,876	

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,876
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<b>DEFERRAL</b>	<b>20.0%</b>	<b>Reduction</b>	<b>Adjustment</b>	-\$1,575
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral offered for expedited settlement.		
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<b>PAYABLE PENALTY</b>	\$6,301
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Screening Date

20-May-2022

Docket No.

2022-0619-PST-E

PCW

Respondent

LUFKIN LLC dba Gas N Go

Case ID No.

62372

Reg. Ent. Reference No.

RN102355864

Media

Petroleum Storage Tank

Enf. Coordinator

Tiffany Chu

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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)

High Performer

Adjustment Percentage (Subtotal 7)

-10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

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

-10%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%

-10%

<b>Screening Date</b> 20-May-2022		<b>Docket No.</b> 2022-0619-PST-E		<b>PCW</b>	
<b>Respondent</b> LUFKIN LLC dba Gas N Go		<i>Policy Revision 5 (January 28, 2021)</i>			
<b>Case ID No.</b> 62372		<i>PCW Revision February 11, 2021</i>			
<b>Reg. Ent. Reference No.</b> RN102355864					
<b>Media</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Tiffany Chu					
<b>Violation Number</b>		1			
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 334.48(g)(1)(A)(ii), (g)(1)(B), (h)(1)(A), and (h)(1)(B) and Tex. Water Code § 26.3475(c)(1) and (c)(2)			
<b>Violation Description</b>		Failed to test the spill prevention equipment at least once every three years to ensure that the equipment is liquid tight. Specifically, the Respondent had not conducted the triennial spill bucket test. Also, failed to inspect the overfill prevention equipment at least once every three years to ensure that the overfill prevention equipment is set to activate at the correct level. Specifically, the Respondent had not conducted the triennial testing of the overfill prevention equipment. In addition, failed to conduct a walkthrough inspection of the spill prevention equipment and release detection equipment every 30 days. Furthermore, failed to conduct the annual inspection of the containment sumps for regulated substance releases in the containment sump and the environment.			
		<b>Base Penalty</b>		\$25,000	
>> Environmental, Property and Human Health Matrix					
OR	<b>Release</b>		<b>Harm</b>		
		Major	Moderate	Minor	
	Actual				
	Potential		x		<b>Percent</b> 5.0%
>>Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 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.			
		<b>Adjustment</b>		\$23,750	
				\$1,250	
Violation Events					
Number of Violation Events		1		4 Number of violation days	
	daily				
	weekly				
	monthly				
	quarterly	x		<b>Violation Base Penalty</b> \$1,250	
	semiannual				
	annual				
	single event				
		One quarterly event is recommended from the April 4, 2022 investigation date to the April 8, 2022 date of compliance.			
<b>Good Faith Efforts to Comply</b>		25.0%		<b>Reduction</b> \$312	
		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer			
	Extraordinary				
	Ordinary	x			
	N/A				
	Notes	The Respondent conducted the triennial testing of the spill buckets, conducted the triennial overfill equipment testing, conducted walkthrough inspections of the spill prevention equipment and release detection equipment, and conducted the annual inspection of the containment sumps on April 8, 2022, prior to the May 6, 2022 Notice of Enforcement ("NOE").			
		<b>Violation Subtotal</b>		\$938	
Economic Benefit (EB) for this violation					
		<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>		\$675		<b>Violation Final Penalty Total</b> \$966	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$966	

# Economic Benefit Worksheet

**Respondent** LUFKIN LLC dba Gas N Go  
**Case ID No.** 62372  
**Reg. Ent. Reference No.** RN102355864  
**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
Other (as needed)				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## 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	\$675	4-Apr-2022	8-Apr-2022	0.01	\$0	\$675	\$675
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct the triennial testing of the spill buckets (\$75, \$25 per spill bucket), to conduct the triennial inspection of the overfill prevention equipment (\$300, \$100 per ball float), to conduct inspections of the spill prevention equipment and release detection equipment at least once every 30 days (\$200, \$100 per inspection type), and to conduct the annual inspection of the containment sumps (\$100).  
The Date Required is the investigation date and the Final Date is the date of compliance.

Approx. Cost of Compliance \$675

**TOTAL** \$675

Screening Date		20-May-2022		Docket No.		2022-0619-PST-E		PCW	
Respondent		LUFKIN LLC dba Gas N Go							
Case ID No.		62372							
Reg. Ent. Reference No.		RN102355864							
Media		Petroleum Storage Tank							
Enf. Coordinator		Tiffany Chu							
Violation Number		2							
Rule Cite(s)		30 Tex. Admin. Code § 334.49(c)(4)(C) and Tex. Water Code § 26.3475(d)							
Violation Description		Failed to have the corrosion protection system tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the Respondent had not conducted the triennial testing of the cathodic protection system.							
Base Penalty								\$25,000	
>> Environmental, Property and Human Health Matrix									
OR	Release		Harm						
			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		4		Number of violation days			
		daily							
		weekly							
		monthly							
		quarterly							
		semiannual							
		annual							
		single event	x						
Violation Base Penalty								\$3,750	
One single event is recommended.									
Good Faith Efforts to Comply		25.0%		Reduction		\$937			
		Before NOE/NOV		NOE/NOV to EDPRP/Settlement Offer					
Extraordinary									
Ordinary		x							
N/A									
Notes		The investigator was provided documentation verifying that triennial testing of the cathodic protection system was conducted at the Facility on April 8, 2022, prior to the May 6, 2022 NOE.							
Violation Subtotal								\$2,813	
Economic Benefit (EB) for this violation					Statutory Limit Test				
Estimated EB Amount		\$500		Violation Final Penalty Total		\$2,898			
This violation Final Assessed Penalty (adjusted for limits)								\$2,898	



Economic Benefit Worksheet

Respondent LUFKIN LLC dba Gas N Go  
Case ID No. 62372  
Reg. Ent. Reference No. RN102355864  
Media Petroleum Storage Tank  
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided CostsANNUALIZE 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	\$500	4-Apr-2022	8-Apr-2022	0.01	\$0	\$500	\$500
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs	Estimated avoided cost to conduct the triennial testing of the corrosion protection system. The Date Required is the investigation date and the Final Date is the date of compliance.						

Approx. Cost of Compliance	\$500	TOTAL	\$500
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<b>Screening Date</b> 20-May-2022 <b>Respondent</b> LUFKIN LLC dba Gas N Go <b>Case ID No.</b> 62372 <b>Reg. Ent. Reference No.</b> RN102355864 <b>Media</b> Petroleum Storage Tank <b>Enf. Coordinator</b> Tiffany Chu		<b>Docket No.</b> 2022-0619-PST-E <b>PCW</b> <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>																	
<b>Violation Number</b> 3 <b>Rule Cite(s)</b> 30 Tex. Admin. Code §§ 334.48(c), 334.50(b)(1)(B) and (b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a) and (c)(1)																			
<b>Violation Description</b> Failed to conduct effective inventory control procedures for all underground storage tanks ("USTs") involved in the retail sale of petroleum substances used as motor fuel. Also, failed to monitor the UST installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. In addition, failed to test the line leak detector for performance and operational reliability at least once per year. Specifically, the Respondent had not conducted the annual line leak detector test.																			
		<b>Base Penalty</b> \$25,000																	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																			
OR	<table border="1"> <tr> <td></td> <td colspan="3"><b>Harm</b></td> </tr> <tr> <td><b>Release</b></td> <td>Major</td> <td>Moderate</td> <td>Minor</td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td>x</td> <td></td> <td></td> </tr> </table>			<b>Harm</b>			<b>Release</b>	Major	Moderate	Minor	Actual				Potential	x			<b>Percent</b> 15.0%
		<b>Harm</b>																	
	<b>Release</b>	Major	Moderate	Minor															
Actual																			
Potential	x																		
<b>&gt;&gt; Programmatic Matrix</b>																			
	<table border="1"> <tr> <td></td> <td>Major</td> <td>Moderate</td> <td>Minor</td> </tr> <tr> <td>Falsification</td> <td></td> <td></td> <td></td> </tr> </table>				Major	Moderate	Minor	Falsification				<b>Percent</b> 0.0%							
	Major	Moderate	Minor																
Falsification																			
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.																		
			<b>Adjustment</b> \$21,250																
			\$3,750																
<b>Violation Events</b>																			
Number of Violation Events 1		46 Number of violation days																	
	<table border="1"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td>x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		weekly		monthly		quarterly	x	semiannual		annual		single event		<b>Violation Base Penalty</b> \$3,750			
daily																			
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quarterly	x																		
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annual																			
single event																			
One quarterly event is recommended from the April 4, 2022 investigation date to the May 20, 2022 screening date.																			
<b>Good Faith Efforts to Comply</b>		0.0%	Reduction \$0																
	<table border="1"> <tr> <td></td> <td>Before NOE/NOV</td> <td>NOE/NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td>x</td> <td></td> </tr> </table>				Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary			N/A	x					
	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.																		
			<b>Violation Subtotal</b> \$3,750																
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>																	
Estimated EB Amount \$267		Violation Final Penalty Total \$4,012																	
This violation Final Assessed Penalty (adjusted for limits)			\$4,012																

Economic Benefit Worksheet

Respondent LUFKIN LLC dba Gas N Go  
Case ID No. 62372  
Reg. Ent. Reference No. RN102355864  
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
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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	\$500	4-Apr-2022	5-Mar-2024	1.92	\$48	n/a	\$48
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	4-Apr-2022	5-Mar-2024	1.92	\$144	n/a	\$144

Notes for DELAYED costs

Estimated delayed cost to implement interstitial monitoring release detection method for the UST (\$1,500) and to conduct proper inventory control procedures (\$500) for the UST 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	\$75	4-Apr-2022	8-Apr-2022	0.01	\$0	\$75	\$75
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct the annual line leak detector test. The Date Required is the investigation date and the Final Date is the date of compliance.

Approx. Cost of Compliance \$2,075

TOTAL \$267



# Compliance History Report

Compliance History Report for CN605702927, RN102355864, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

<b>Customer, Respondent, or Owner/Operator:</b>	CN605702927, LUFKIN LLC	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Regulated Entity:</b>	RN102355864, Gas N Go	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Complexity Points:</b>	3	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	401 NORTH TIMBERLAND DRIVE, LUFKIN, ANGELINA COUNTY, TEXAS 75901-4061		
<b>TCEQ Region:</b>	REGION 10 - BEAUMONT		
<b>ID Number(s):</b>			
<b>PETROLEUM STORAGE TANK REGISTRATION</b>	<b>PETROLEUM STORAGE TANK NON REGISTERED ID</b>		
REGISTRATION 18485	NUMBER 10102355864		
<b>Compliance History Period:</b>	September 01, 2018 to August 31, 2023	<b>Rating Year:</b> 2023	<b>Rating Date:</b> 09/01/2023
<b>Date Compliance History Report Prepared:</b>	December 14, 2023		
<b>Agency Decision Requiring Compliance History:</b>	Enforcement		
<b>Component Period Selected:</b>	December 14, 2018 to December 14, 2023		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	Tiffany Chu	<b>Phone:</b>	(817) 588-5891

## 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?
  - GARCIA, ANDRES OWNER OPERATOR since 4/10/2011
  - GARCIA, MIGUEL OWNER OPERATOR since 12/12/2004
  - LUFKIN LLC OWNER OPERATOR since 9/11/2019
- 4) Who was/were the prior owner(s)/operator(s)?
  - GARCIA'S PANTRY LLC, OWNER OPERATOR, 4/12/2021 to 12/14/2021
  - GARCIA'S PANTRY LLC, OWNER, 3/1/2016 to 9/10/2019

## 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	May 01, 2019	(1556426)
Item 2	May 13, 2019	(1558128)
Item 3	June 19, 2019	(1575329)
Item 4	July 09, 2019	(1575559)
Item 5	September 05, 2019	(1578889)
Item 6	July 22, 2021	(1745742)

**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  
LUFKIN LLC DBA GAS N GO  
RN102355864

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

## AGREED ORDER DOCKET NO. 2022-0619-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 LUFKIN LLC dba Gas N Go (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 401 North Timberland Drive in Lufkin, Angelina County, Texas (the "Facility"). The UST system at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$7,876 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$6,301 of the penalty and \$1,575 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 Facility:
  - a. Conducted the triennial testing of the spill buckets on April 8, 2022;
  - b. Conducted the triennial testing of the overfill prevention equipment on April 8, 2022;
  - c. Conducted the annual inspection of the containment sumps on April 8, 2022;
  - d. Conducted the 30-day walkthrough inspections of the spill prevention equipment and release detection equipment on April 8, 2022;
  - e. Conducted the triennial testing of the cathodic protection system on April 8, 2022; and
  - f. Conducted the annual testing of the line leak detectors for performance and operational reliability on April 8, 2022.

## **II. ALLEGATIONS**

During an investigation at the Facility conducted on April 4, 2022, an investigator documented that the Respondent:

1. Failed to test the spill prevention equipment at least once every three years to ensure that the equipment is liquid tight, in violation of 30 TEX. ADMIN. CODE § 334.48(g)(1)(A)(ii) and TEX. WATER CODE 26.3475(c)(2). Specifically, the Respondent had not conducted the triennial spill bucket test.
2. Failed to inspect the overfill prevention equipment at least once every three years to ensure that the overfill prevention equipment is set to activate at the correct level, in violation of 30 TEX. ADMIN. CODE § 334.48(g)(1)(B) and TEX. WATER CODE § 26.3475(c)(2). Specifically, the Respondent had not conducted the triennial testing of the overfill prevention equipment.

3. Failed to conduct a walkthrough inspections of the spill prevention equipment and release detection equipment every 30 days, in violation of 30 TEX. ADMIN. CODE §334.48(h)(1)(A) and TEX. WATER CODE § 26.3475(c)(1) and (c)(2).
4. Failed to conduct the annual inspection of the containment sumps for regulated substance releases in the containment sump and the environment, in violation of 30 TEX. ADMIN. CODE § 334.48(h)(1)(B) and TEX. WATER CODE § 26.3475(c)(2).
5. Failed to have the corrosion protection system tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d). Specifically, the Respondent had not conducted the triennial testing of the cathodic protection system.
6. Failed to conduct effective inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
7. Failed to monitor the UST installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(B) and TEX. WATER CODE § 26.3475(c)(1).
8. Failed to test the line leak detector for performance and operational reliability at least once per year, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a). Specifically, the Respondent had not conducted the annual line leak detector test.

### **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: LUFKIN LLC dba Gas N Go, Docket No. 2022-0619-PST-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days of the effective date of this Order:



- i. Begin conducting manual or automatic effective inventory control procedures for the USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.48;
  - ii. Implement interstitial monitoring release detection method for the USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
- b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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. 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 Enforcement Division at the address listed above.

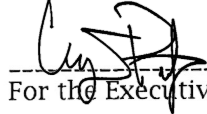
6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. 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.
8. 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



4/22/2024

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

3/5/2024

Date

Barkot Manin

Name (Printed or typed)

Manager

Title

Authorized Representative of  
LUFKIN LLC dba Gas N Go

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