

**Executive Summary – Enforcement Matter – Case No. 62395  
West Texas Commercial Properties LLC dba Hop In 430457  
RN101898070  
Docket No. 2022-0638-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

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

Hop In 430457, 2972 South Treadaway Boulevard, Abilene, Taylor 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:** March 17, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$16,476

**Amount Deferred for Expedited Settlement:** \$3,295

**Total Paid to General Revenue:** \$13,181

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** March 23, 2022

**Date(s) of NOE(s):** April 28, 2022

**Executive Summary – Enforcement Matter – Case No. 62395  
West Texas Commercial Properties LLC dba Hop In 430457  
RN101898070  
Docket No. 2022-0638-PST-E**

***Violation Information***

1. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, inventory control ("IC") records indicated suspected releases that were not reported for the following USTs: for UST Nos. 1 and 2 for March through May, and August, September, November, and December of 2021; for UST No. 3 for March through December of 2021; and for UST No. 4 for March through May and August through December of 2021 [30 TEX. ADMIN. CODE § 334.72].

2. Failed to investigate and confirm all suspected releases of regulated substances within 30 days. Specifically, IC records indicated suspected releases that were not investigated for the following USTs: for UST Nos. 1 and 2 for March through May, and August, September, November, and December of 2021; for UST No. 3 for March through December of 2021; and for UST No. 4 for March through May and August through December of 2021 [30 TEX. ADMIN. CODE § 334.74].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. Reported all suspected releases for all USTs at the Facility by February 17, 2022;
- b. Developed and implemented a process for reporting suspected releases timely by March 28, 2022; and
- c. Conducted an investigation of the suspected releases and implemented appropriate corrective measures by March 28, 2022.

**Technical Requirements:**

N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Courtney Gooris, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5863; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Scott A. Moon, Manager, Hop In 430457, 2972 South Treadaway Boulevard, Abilene, Texas 79602

**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>	2-May-2022	<b>Screening</b>	25-May-2022	<b>EPA Due</b>	
	<b>PCW</b>	6-Oct-2022				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	West Texas Commercial Properties LLC dba Hop In 430457
<b>Reg. Ent. Ref. No.</b>	RN101898070
<b>Facility/Site Region</b>	3-Abilene
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	62395	<b>No. of Violations</b>	2	
<b>Docket No.</b>	2022-0638-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>	Courtney Gooris	
		<b>EC's Team</b>	Enforcement Team 7	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$17,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	19.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$3,325
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Notes: Enhancement for one order containing a denial of liability. Reduction for one notice of intent to conduct an audit.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$4,375
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$126  
 Estimated Cost of Compliance \$2,325  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$16,450
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.2% Adjustment	\$26
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

<b>Final Penalty Amount</b>	\$16,476
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$16,476
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<b>DEFERRAL</b>	20.0% Reduction Adjustment	-\$3,295
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$13,181
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Screening Date 25-May-2022

Docket No. 2022-0638-PST-E

PCW

Respondent West Texas Commercial Properties LLC dba Hop In 430457

Policy Revision 5 (January 28, 2021)

Case ID No. 62395

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101898070

Media Petroleum Storage Tank

Enf. Coordinator Courtney Gooris

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 19%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability. Reduction for one notice of intent to conduct an audit.

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

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 19%

**Screening Date** 25-May-2022 **Docket No.** 2022-0638-PST-E **PCW**  
**Respondent** West Texas Commercial Properties LLC dba Hop In 430457 *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 62395 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN101898070  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Courtney Gooris

**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**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<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 EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	<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** West Texas Commercial Properties LLC dba Hop In 430457  
**Case ID No.** 62395  
**Reg. Ent. Reference No.** RN101898070  
**Media Violation No.** Petroleum Storage Tank  
 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	23-Mar-2022	28-Mar-2022	0.01	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated delayed cost to develop and implement a process for reporting suspected releases timely. The Date Required is the investigation date and the Final Date is the 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	\$25	31-Mar-2021	17-Feb-2022	0.88	\$1	\$25	\$26
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Estimated avoided cost to report the suspected releases. The Date Required is the earliest date the suspected releases should have been reported and the Final Date is the date of compliance in which all suspected releases for all USTs at the Facility were reported.

**Approx. Cost of Compliance**

\$125

**TOTAL**

\$26

**Screening Date** 25-May-2022 **Docket No.** 2022-0638-PST-E **PCW**  
**Respondent** West Texas Commercial Properties LLC dba Hop In 430457 *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 62395 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN101898070  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Courtney Gooris

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.74  
**Violation Description** Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 Tex. Admin. Code § 334.72 (relating to Reporting of Suspected Releases) within 30 days. Specifically, IC records indicated suspected releases that were not investigated for the following USTs: for UST Nos. 1 and 2 for March through May, and August, September, November, and December of 2021; for UST No. 3 for March through December of 2021; and for UST No. 4 for March through May and August through December of 2021.

**Base Penalty** \$25,000

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> 15.0%
Potential	x				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 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 2 333 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

**Violation Base Penalty** \$7,500

Two semiannual events are recommended from the earliest suspected release investigation due date of April 29, 2021 to the March 28, 2022 date of compliance.

**Good Faith Efforts to Comply** 25.0% Reduction \$1,875

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

**Notes** The Respondent conducted an investigation of the suspected releases and implemented appropriate corrective measures on March 28, 2022, before the April 28, 2022 NOE.

**Violation Subtotal** \$5,625

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

**Estimated EB Amount** \$100 **Violation Final Penalty Total** \$7,061

**This violation Final Assessed Penalty (adjusted for limits)** \$7,061

# Economic Benefit Worksheet

**Respondent** West Texas Commercial Properties LLC dba Hop In 430457  
**Case ID No.** 62395  
**Reg. Ent. Reference No.** RN101898070  
**Media Violation No.** Petroleum Storage Tank  
 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$2,200	29-Apr-2021	28-Mar-2022	0.91	\$100	n/a	\$100

#### Notes for DELAYED costs

Estimated delayed cost (\$1600 for testing UST Nos. 1, 2, 3 and 4 (\$400 per tank plus line) and \$600 for the Release Determination Report) to conduct an investigation of the suspected releases and implement appropriate corrective measures. The Date Required is the earliest suspected release investigation due date and the Final Date is the 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

\$2,200

**TOTAL**

\$100





# Compliance History Report

Compliance History Report for CN605708684, RN101898070, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

<b>Customer, Respondent, or Owner/Operator:</b>	CN605708684, West Texas Commercial Properties LLC	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 1.72
<b>Regulated Entity:</b>	RN101898070, Hop In 430457	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 7.94
<b>Complexity Points:</b>	8	<b>Repeat Violator:</b> NO	
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	2972 South Treadaway Boulevard, Abilene, Taylor County, Texas 79602		
<b>TCEQ Region:</b>	REGION 03 - ABILENE		

**ID Number(s):**  
**PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 33936  
**TIRES REGISTRATION** 165

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

**Date Compliance History Report Prepared:** July 20, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 20, 2017 to July 20, 2022

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

**Name:** Courtney Gooris

**Phone:** (817) 588-5863

**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? Paul Daniel Enterprises, Inc. OWNER OPERATOR since 11/13/1987  
Daniel Texaco OWNER since 1/1/1800  
West Texas Commercial Properties LLC OWNER OPERATOR since 6/12/2019
- 4) Who was/were the prior owner(s)/operator(s)? BW Gas & Convenience Retail, LLC, OPERATOR, 5/16/2017 to 6/11/2019  
Bw Gas & Convenience Real Estate, LLC, OWNER, 3/2/2018 to 6/11/2019  
Trent Investments, Inc., OWNER OPERATOR, 8/1/2013 to 5/15/2017

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

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

1 **Effective Date:** 03/01/2019 **ADMINORDER 2018-0231-PST-E (1660 Order-Agreed Order With Denial)**

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failure to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1);

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(2)

Description: Failure to assure that all UST recordkeeping requirements are met, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2). Specifically, the records for corrosion protection were not available for review.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1                  June 26, 2019                  (1569057)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

**Notice of Intent Date: 02/25/2022 (1798295)**

No DOV Associated

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
WEST TEXAS COMMERCIAL  
PROPERTIES LLC DBA HOP IN 430457  
RN101898070

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2022-0638-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 West Texas Commercial Properties LLC dba Hop In 430457 (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 2972 South Treadaway Boulevard in Abilene, Taylor 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 \$16,476 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$13,181 of the penalty and \$3,295 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 timelier 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. Reported all suspected releases for all USTs at the Facility by February 17, 2022;
  - b. Developed and implemented a process for reporting suspected releases timely by March 28, 2022; and
  - c. Conducted an investigation of the suspected releases and implemented appropriate corrective measures by March 28, 2022.

## **II. ALLEGATIONS**

During an investigation at the Facility conducted on March 23, 2022, an investigator documented that the Respondent:

1. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, inventory control ("IC") records indicated suspected releases that were not reported for the following USTs: for UST Nos. 1 and 2 for March through May, and August, September, November, and December of 2021; for UST No. 3 for March through December of 2021; and for UST No. 4 for March through May and August through December of 2021.
2. Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TEX. ADMIN. CODE § 334.72 (relating to Reporting of Suspected Releases) within 30 days, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, IC records indicated suspected releases that were not investigated for the following USTs: for UST Nos. 1 and 2 for March through May, and August, September, November, and December of 2021; for UST No. 3 for March through December of 2021; and for UST No. 4 for March through May and August through December of 2021.

## **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: West Texas Commercial Properties LLC dba Hop In 430457, Docket No. 2022-0638-PST-E" to:

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


2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

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Date

  
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4/17/2023  
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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.

  
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Signature

1/31/2023  
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Date

Scott A. Moon  
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Name (Printed or typed)

Manager  
-----

Title

Authorized Representative of

West Texas Commercial Properties LLC dba Hop In 430457

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.