

Executive Summary – Enforcement Matter – Case No. 62628

City of Stephenville

RN102017308

Docket No. 2022-0871-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

No

Location(s) Where Violation(s) Occurred:

Clark Field, 1050 Airport Road, Stephenville, Erath County

Type of Operation:

Underground storage tank ("UST") system and an airplane refueling station with retail sales of aviation gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 24, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,600

Amount Deferred for Expedited Settlement: \$2,320

Total Paid to General Revenue: \$9,280

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 27, 2022

Date(s) of NOE(s): June 7, 2022

Executive Summary – Enforcement Matter – Case No. 62628
City of Stephenville
RN102017308
Docket No. 2022-0871-PST-E

Violation Information

1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, one fuel delivery was accepted without a valid, current delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
2. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on June 30, 2019 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
3. Failed to conduct effective manual or automatic inventory control procedures for a UST system at a retail fuel facility. Specifically, statistical inventory reconciliation records provided for the aviation gasoline UST indicated that fuel deliveries were not being recorded in the inventory control records [30 TEX. ADMIN. CODE § 334.48(c)].
4. Failed to assure that all UST record keeping requirements are met. Specifically, records concerning the triennial testing of the overfill prevention equipment were not available for review at the time of the investigation [30 TEX. ADMIN. CODE § 334.10(b)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented a corrective measure at the Facility by obtaining a valid, current TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form by June 8, 2022.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Develop and implement a system designed to ensure that effective inventory control procedures are conducted for the UST system at the Facility; and
 - ii. Begin maintaining records for triennial testing of the overfill prevention equipment.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

Executive Summary – Enforcement Matter – Case No. 62628
City of Stephenville
RN102017308
Docket No. 2022-0871-PST-E

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Lauren Little, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5888; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: The Honorable Doug Svien, Mayor, City of Stephenville, 298 West Washington Street, Stephenville, Texas 76401

Jason King, City Manager, City of Stephenville, 298 West Washington Street, Stephenville, Texas 76401

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	13-Jun-2022			
	PCW	15-Jul-2022	Screening	7-Jul-2022	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	City of Stephenville				
Reg. Ent. Ref. No.	RN102017308				
Facility/Site Region	4-Dallas/Fort Worth			Major/Minor Source	Minor

CASE INFORMATION					
Enf./Case ID No.	62628		No. of Violations	4	
Docket No.	2022-0871-PST-E		Order Type	1660	
Media Program(s)	Petroleum Storage Tank		Government/Non-Profit	Yes	
Multi-Media			Enf. Coordinator	Ken Moller	
			EC's Team	Enforcement Team 7	
Admin. Penalty \$ Limit Minimum	\$0		Maximum	\$25,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$14,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$1,400
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Notes	Reduction for High Performer classification.			
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.			
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,000
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$200	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,663	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes				
Final Penalty Amount				\$11,600

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,600
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,320
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.			
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PAYABLE PENALTY	\$9,280
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Screening Date

7-Jul-2022

Docket No.

2022-0871-PST-E

PCW

Respondent

City of Stephenville

Case ID No.

62628

Reg. Ent. Reference No.

RN102017308

Media

Petroleum Storage Tank

Enf. Coordinator

Ken Moller

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)

NoAdjustment Percentage (Subtotal 3)0%

>> Compliance History Person Classification (Subtotal 7)

High PerformerAdjustment 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%

Screening Date		7-Jul-2022		Docket No.		2022-0871-PST-E		PCW	
Respondent		City of Stephenville		Policy Revision 5 (January 28, 2021)					
Case ID No.		62628		PCW Revision February 11, 2021					
Reg. Ent. Reference No.		RN102017308							
Media		Petroleum Storage Tank							
Enf. Coordinator		Ken Moller							
Violation Number		1							
Rule Cite(s)		30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)							
Violation Description		Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the underground storage tanks ("USTs"). Specifically, one fuel delivery was accepted without a valid, current delivery certificate.							
				Base Penalty		\$25,000			
>> Environmental, Property and Human Health Matrix									
OR		Release		Major		Moderate		Minor	
		Actual							
		Potential							
				Percent		0.0%			
>> Programmatic Matrix									
		Falsification		Major		Moderate		Minor	
				x					
				Percent		10.0%			
Matrix Notes		100% of the rule requirement was not met.							
				Adjustment		\$22,500			
						\$2,500			
Violation Events									
		Number of Violation Events		1		1		Number of violation days	
		daily							
		weekly							
		monthly							
		quarterly							
		semiannual							
		annual							
		single event		x					
				Violation Base Penalty		\$2,500			
		One single event is recommended.							
Good Faith Efforts to Comply		10.0%				Reduction		\$250	
		Before NOE/NOV		NOE/NOV to EDPRP/Settlement Offer					
		Extraordinary							
		Ordinary				x			
		N/A							
		Notes		The Respondent achieved compliance on June 8, 2022, after the June 7, 2022 Notice of Enforcement ("NOE").					
				Violation Subtotal		\$2,250			
Economic Benefit (EB) for this violation					Statutory Limit Test				
Estimated EB Amount		\$0		Violation Final Penalty Total		\$2,000			
				This violation Final Assessed Penalty (adjusted for limits)		\$2,000			

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. City of Stephenville 62628 RN102017308 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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Economic Benefit included in Violation No. 2.						

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	\$0	TOTAL	\$0
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Screening Date	7-Jul-2022	Docket No.	2022-0871-PST-E	PCW	
Respondent	City of Stephenville	<i>Policy Revision 5 (January 28, 2021)</i>			
Case ID No.	62628	<i>PCW Revision February 11, 2021</i>			
Reg. Ent. Reference No.	RN102017308				
Media	Petroleum Storage Tank				
Enf. Coordinator	Ken Moller				
Violation Number	2				
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)				
Violation Description	Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on June 30, 2019.				
Base Penalty				\$25,000	
>> Environmental, Property and Human Health Matrix					
OR	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
	Potential				
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
		x			Percent 10.0%
Matrix Notes	100% of the rule requirement was not met.				
Adjustment				\$22,500	
					\$2,500
Violation Events					
Number of Violation Events		3	1074	Number of violation days	
	daily				
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual	x			
	single event				
Violation Base Penalty \$7,500					
Three annual events are recommended from the June 30, 2019 expiration date of the previous delivery certificate to the June 8, 2022 compliance date.					
Good Faith Efforts to Comply		10.0%	Reduction		\$750
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer			
	Extraordinary				
	Ordinary	x			
	N/A				
Notes	The Respondent achieved compliance on June 8, 2022, after the June 7, 2022 NOE.				
Violation Subtotal					\$6,750
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$127	Violation Final Penalty Total		\$6,000
This violation Final Assessed Penalty (adjusted for limits)					\$6,000

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. City of Stephenville 62628 RN102017308 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)				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	\$40	30-Jun-2019	8-Jun-2022	2.94	\$9	\$118	\$127
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	Estimated avoided cost to renew a delivery certificate by submitting a properly completed UST registration and self-certification form and to obtain a valid, current TCEQ delivery certificate. The Date Required is the expiration date of the previous delivery certificate, and the Final Date is the compliance date.						

Approx. Cost of Compliance	\$118	TOTAL	\$127
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Screening Date	7-Jul-2022	Docket No.	2022-0871-PST-E	PCW
Respondent	City of Stephenville	<i>Policy Revision 5 (January 28, 2021)</i>		
Case ID No.	62628	<i>PCW Revision February 11, 2021</i>		
Reg. Ent. Reference No.	RN102017308			
Media	Petroleum Storage Tank			
Enf. Coordinator	Ken Moller			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 334.48(c)			
Violation Description	Failed to conduct effective manual or automatic inventory control procedures for a UST system at a retail fuel facility. Specifically, statistical inventory reconciliation records provided for the aviation gasoline UST indicated that fuel deliveries were not being recorded in the inventory control records.			
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	71	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 April 27, 2022 investigation date to the July 7, 2022 screening date.				
Good Faith Efforts to Comply		0.0%	Reduction \$0	
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary				
N/A	x			
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				\$3,375
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$71	Violation Final Penalty Total \$3,375	
This violation Final Assessed Penalty (adjusted for limits)				\$3,375

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No.

City of Stephenville 62628 RN102017308 Petroleum Storage Tank 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				0.00	\$0	n/a	\$0
Training/Sampling	\$1,500	27-Apr-2022	9-Apr-2023	0.95	\$71	n/a	\$71
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated delayed cost to develop and implement a system designed to ensure that effective inventory control procedures are conducted for 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	\$1,500	TOTAL	\$71
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Screening Date 7-Jul-2022		Docket No. 2022-0871-PST-E		PCW	
Respondent City of Stephenville		<i>Policy Revision 5 (January 28, 2021)</i>			
Case ID No. 62628		<i>PCW Revision February 11, 2021</i>			
Reg. Ent. Reference No. RN102017308					
Media Petroleum Storage Tank					
Enf. Coordinator Ken Moller					
Violation Number		<input type="text" value="4"/>			
Rule Cite(s)		<input type="text" value="30 Tex. Admin. Code § 334.10(b)(2)"/>			
Violation Description		<input type="text" value="Failed to assure that all UST record keeping requirements are met. Specifically, records concerning the triennial testing of the overfill prevention equipment were not available for review at the time of the investigation."/>			
		Base Penalty		<input type="text" value="\$25,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Release		Harm		
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
>>Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	Percent <input type="text" value="1.0%"/>
Matrix Notes	<input type="text" value="Less than 30% of the rule requirement was not met."/>				
Adjustment					<input type="text" value="\$24,750"/>
					<input type="text" value="\$250"/>
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="71"/>		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 type="text" value="x"/>			
<input type="text" value="One single event is recommended."/>					
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>		Reduction <input type="text" value="\$0"/>	
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary	<input type="text"/>	<input type="text"/>		
	Ordinary	<input type="text"/>	<input type="text"/>		
	N/A	<input type="text" value="x"/>	<input type="text"/>		
	Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
Violation Subtotal					<input type="text" value="\$250"/>
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$2"/>	Violation Final Penalty Total		<input type="text" value="\$225"/>
This violation Final Assessed Penalty (adjusted for limits)					<input type="text" value="\$225"/>

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No.

City of Stephenville
62628
RN102017308
Petroleum Storage Tank
4

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	27-Apr-2022	9-Apr-2023	0.95	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated delayed cost to begin maintaining records for triennial testing of the overfill prevention equipment. 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	\$45	TOTAL	\$2
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Compliance History Report

Compliance History Report for CN600627814, RN102017308, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN600627814, City of Stephenville	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102017308, Clark Field	Classification: HIGH	Rating: 0.00
Complexity Points:	4	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	1050 Airport Road, Stephenville, Erath County, Texas		
TCEQ Region:	REGION 04 - DFW METROPLEX		

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 49453

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

Date Compliance History Report Prepared: July 15, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 15, 2017 to July 15, 2022

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

Name: Ken Moller

Phone: (512) 239-6111

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 May 22, 2019 (1569716)

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
CITY OF STEPHENVILLE
RN102017308

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2022-0871-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 the City of Stephenville (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, as defined in 30 TEX. ADMIN. CODE § 334.2(78), an underground storage tank ("UST") system and an airplane refueling station with retail sales of aviation gasoline located at 1050 Airport Road in Stephenville, Erath 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 \$11,600 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,280 of the penalty and \$2,320 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 a corrective measure at the Facility by obtaining a valid, current TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form by June 8, 2022.

II. ALLEGATIONS

During an investigation at the Facility conducted on April 27, 2022, an investigator documented that the Respondent:

1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a). Specifically, one fuel delivery was accepted without a valid, current delivery certificate.
2. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii). Specifically, the delivery certificate expired on June 30, 2019.
3. Failed to conduct effective manual or automatic inventory control procedures for a UST system at a retail fuel facility, in violation of 30 TEX. ADMIN. CODE § 334.48(c). Specifically, statistical inventory reconciliation records provided for the aviation gasoline UST indicated that fuel deliveries were not being recorded in the inventory control records.
4. Failed to assure that all UST record keeping requirements are met, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2). Specifically, records concerning the triennial testing of the overfill prevention equipment were not available for review at the time of the investigation.

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: City of Stephenville, Docket No. 2022-0871-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 after the effective date of this Order:
 - i. Develop and implement a system designed to ensure that effective inventory control procedures are conducted for the UST system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.48; and
 - ii. Begin maintaining records for triennial testing of the overfill prevention equipment, in accordance with 30 TEX. ADMIN. CODE § 334.10.
 - 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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 Enforcement Division 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



1/24/2024

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.

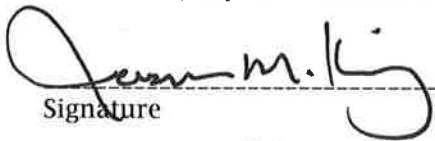
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- 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

Date



01/11/2024

Jason M. King

City Manager

Name (Printed or typed)
Authorized Representative of
City of Stephenville

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.