

**Michael Smith**  
**RN101737369**  
**Docket No. 2023-0597-PST-E**

**Order Type:**  
Default Order

**Media:**  
PST

**Small Business:**  
Yes

**Location Where Violation Occurred:**  
201 North State Street, Bronte, Coke County

**Type of Operation:**  
a temporarily out-of-service underground storage tank ("UST") system and a tire repair shop with a former retail fueling center

**Other Significant Matters:**  
Additional Pending Enforcement Actions: None  
Past-Due Penalties: None  
Past-Due Fees: None  
Other: None  
Interested Third Parties: None

**Texas Register Publication Date:** May 30, 2025

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$5,007

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

**Total Due to General Revenue:** \$5,007

**Compliance History Classifications:**  
Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** January 28, 2021

**Investigation Information**

**Complaint Date:** N/A

**Dates of Investigations:** February 10, 2022; February 14, 2023

**Date of NOV:** N/A

**Date of NOE:** April 11, 2023

**Michael Smith**  
**RN101737369**  
**Docket No. 2023-0597-PST-E**

**Violation Information**

Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].

**Corrective Actions/Technical Requirements**

**Corrective Action Completed:**

None

**Technical Requirements:**

1. Within 30 days either provide financial assurance for all USTs at the Facility or empty the USTs of all regulated substances, conduct a site check, and perform any necessary corrective actions.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. In lieu of Technical Requirement Nos. 1. and 2., within 180 days permanently remove the UST system from service, which includes the following actions:
  - a. Providing a Construction Notification to the TCEQ at least 30 days prior to any removal activities;
  - b. Employing a Licensed UST Contractor to perform all removal activities, including:
    - i. Removing the USTs from the ground, abandoning the USTs in-place, or conducting a permanent change-in-service;
    - ii. Emptying the USTs of all regulated substances and accumulated sludges or residues and purging the USTs of all residual vapors;
    - iii. Handling, transporting, and properly disposing of the empty USTs, regulated substances removed from the UST system, and any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility;
    - iv. Determining whether there has been a release of regulated substance from the UST system, performing a comprehensive site assessment, reporting confirmed or suspected releases to the TCEQ, preparing a detailed written record of the release determination, and complying with all applicable corrective action requirements; and
  - c. Submitting a completely and accurately filled out registration to reflect the operational status of the UST system as permanently removed from service.
4. Unless Respondent complies with Technical Requirement Nos. 1. and 2., within 195 days submit written certification to demonstrate compliance with Technical Requirement No. 3.

**Litigation Information**

**Date Petition Filed:** October 8, 2024  
**Date of Service:** October 16, 2024  
**Date Answer Filed:** N/A

**Michael Smith**  
**RN101737369**  
**Docket No. 2023-0597-PST-E**

**Contact Information**

**TCEQ Attorneys:** A'twar Wilkins, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575

**TCEQ Enforcement Coordinator:** Stephanie McCurley, Enforcement Division, (512) 239-2607

**TCEQ Regional Contact:** Matthew Perez, San Angelo Regional Office, (325) 655-9479

**Respondent Contact:** Michael Smith, P.O. Box 264, Bronte, Texas 76933

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

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# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	17-Apr-2023	<b>Screening</b>	24-Apr-2023	<b>EPA Due</b>	
	<b>PCW</b>	15-Aug-2023				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Michael Smith
<b>Reg. Ent. Ref. No.</b>	RN101737369
<b>Facility/Site Region</b>	8-San Angelo
<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	63971	<b>No. of Violations</b>	1
<b>Docket No.</b>	2023-0597-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>	Stephanie McCurley
		<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>	\$2,500
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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>	0.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

<b>Culpability</b>	No	0.0%	<b>Enhancement</b>	<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>	\$0
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<b>Economic Benefit</b>	0.0%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$2,705  
Estimated Cost of Compliance: \$4,356  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	100.3%	<b>Adjustment</b>	\$2,507
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with the violation.

<b>Final Penalty Amount</b>	\$5,007
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,007
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<b>DEFERRAL</b>		<b>Reduction</b>	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$5,007
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<b>Screening Date</b>	24-Apr-2023	<b>Docket No.</b>	2023-0597-PST-E	<b>PCW</b>
<b>Respondent</b>	Michael Smith			
<b>Case ID No.</b>	63971			
<b>Reg. Ent. Reference No.</b>	RN101737369			
<b>Media</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Stephanie McCurley			

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)

Satisfactory Performer

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

### >> Compliance History Summary

**Compliance History Notes**

No adjustment for compliance history.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 0%

<b>Screening Date</b> 24-Apr-2023 <b>Respondent</b> Michael Smith <b>Case ID No.</b> 63971 <b>Reg. Ent. Reference No.</b> RN101737369 <b>Media</b> Petroleum Storage Tank <b>Enf. Coordinator</b> Stephanie McCurley	<b>Docket No.</b> 2023-0597-PST-E	<b>PCW</b> <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 37.815(a) and (b)
<b>Violation Description</b>	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks ("USTs").	

  

<b>Base Penalty</b>	\$25,000
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**>> Environmental, Property and Human Health Matrix**

<b>OR</b>		<b>Release</b>	<b>Harm</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
		Actual					
		Potential					
							<b>Percent</b> 0.0%

  

**>> Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
		x			<b>Percent</b> 10.0%

  

Matrix Notes	100% of the rule requirement was not met.
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<b>Adjustment</b>	\$22,500
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	\$2,500
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**Violation Events**

Number of Violation Events	1	65	Number of violation days
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	daily							
	weekly							
	monthly							
	quarterly							
	semiannual							
	annual							
	single event		x					

  

One single event is recommended.	
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<b>Good Faith Efforts to Comply</b>	<b>0.0%</b>	
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	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.
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<b>Violation Subtotal</b>	\$2,500
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**Economic Benefit (EB) for this violation**

<b>Estimated EB Amount</b>	\$2,705
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**Statutory Limit Test**

<b>Violation Final Penalty Total</b>	\$5,007
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<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$5,007
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# Economic Benefit Worksheet

**Respondent** Michael Smith  
**Case ID No.** 63971  
**Reg. Ent. Reference No.** RN101737369  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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)	\$1,980	10-Feb-2022	11-Feb-2024	2.00	\$198	n/a	\$198
Notes for DELAYED costs	Estimated delayed cost (\$660 per UST) to provide financial assurance for three USTs. The Date Required is the initial 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	\$1,980	10-Feb-2022	24-Apr-2023	1.20	\$131	\$2,376	\$2,507
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs	Estimated avoided cost (\$660 per tank) to provide financial assurance for three USTs. The Date required is the initial investigation date and the Final Date is the screening date.						

Approx. Cost of Compliance	\$4,356	<b>TOTAL</b>	\$2,705
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# Compliance History Report

Compliance History Report for CN606115558, RN101737369, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

<b>Customer, Respondent, or Owner/Operator:</b>	CN606115558, Michael Smith	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	2.67
<b>Regulated Entity:</b>	RN101737369, Bronte Facility	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	2.67
<b>Complexity Points:</b>	2	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	201 North State Street in Bronte, Coke County, Texas				
<b>TCEQ Region:</b>	REGION 08 - SAN ANGELO				
<b>ID Number(s):</b>					
<b>PETROLEUM STORAGE TANK REGISTRATION</b>			<b>PETROLEUM STORAGE TANK NON REGISTERED ID</b>		
REGISTRATION 24064			NUMBER R08101737369		

<b>Compliance History Period:</b>	September 01, 2017 to August 31, 2022	<b>Rating Year:</b>	2022	<b>Rating Date:</b>	09/01/2022
<b>Date Compliance History Report Prepared:</b>	June 14, 2023				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	June 14, 2018 to June 14, 2023				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Stephanie McCurley		<b>Phone:</b>	(512) 239-2607	

## 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?
 

Ways Company, Inc. OWNER since 9/1/1990  
 WILLIAMS, PAUL OWNER since 1/1/1800  
 SMITH, MIKE OWNER OPERATOR since 2/10/2022  
 SMITH, MICHAEL OWNER OPERATOR since 1/1/2022
- 4) Who was/were the prior owner(s)/operator(s)?
 

SCATES, REMONA, OWNER OPERATOR, 8/1/2018 to 12/31/2021  
 SCATES, TOMMY W, OWNER, 5/23/2006 to 7/31/2018

## 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.):**

N/A

### **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  
MICHAEL SMITH;  
RN101737369

§  
§  
§  
§  
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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER DOCKET NO. 2023-0597-PST-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Michael Smith ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

### FINDINGS OF FACT

1. Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2, a temporarily-out-of-service underground storage tank ("UST") system and a tire repair shop with a former retail fueling center located at 201 North State Street in Bronte, Coke County, Texas (Facility ID No. 24064) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and they contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. During investigations conducted on and around February 10, 2022, and February 14, 2023, an investigator documented that Respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Smith" (the "EDPRP") in the TCEQ Chief Clerk's office on October 8, 2024.
4. By letter dated October 8, 2024, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on October 16, 2024, as evidenced by the signature on the card.
5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ,

2. As evidenced by Finding of Fact No. 2, Respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of \$5,007 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of \$5,007 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Michael Smith; Docket No. 2023-0597-PST-E" to:  

Financial Administration Division  
Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, either provide financial assurance for all USTs at the Facility or empty the USTs of all regulated substances, conduct a site check, and perform any necessary corrective actions, in accordance with 30 TEX. ADMIN. CODE §§ 37.815 and 334.54.
  - b. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 3.e. to demonstrate compliance with Ordering Provision No. 3.a.

- c. In lieu of Ordering Provision Nos. 3.a. and 3.b., within 180 days after the effective date of this Order, permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55, which includes the following actions:
  - i. Providing a Construction Notification to the TCEQ at least 30-days prior to any removal activities;
  - ii. Employing a Licensed UST Contractor to perform all removal activities, including:
    - 1. Removing the USTs from the ground, abandoning the USTs in-place, or conducting a permanent change-in-service;
    - 2. Emptying the USTs of all regulated substances and accumulated sludges or residues and purging the USTs of all residual vapors;
    - 3. Handling, transporting, and properly disposing of the empty USTs, regulated substances removed from the UST system, and any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility; and
    - 4. Determining whether there has been a release of regulated substance from the UST system, performing a comprehensive site assessment, reporting confirmed or suspected releases to the TCEQ, preparing a detailed written record of the release determination, and complying with all applicable corrective action requirements; and
  - iii. Submitting a completely and accurately filled out registration to reflect the operational status of the UST system as permanently removed from service, in accordance with 30 TEX. ADMIN. CODE § 334.7, to:

Petroleum Storage Tank Registration Program, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
- d. Unless Respondent complies with Ordering Provision Nos. 3.a. and 3.b., within 195 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 3.e. to demonstrate compliance with Ordering Provision No. 3.c.
- e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by 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 based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware 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  
San Angelo Regional Office  
Texas Commission on Environmental Quality  
622 South Oakes, Suite K  
San Angelo, Texas 76903-7035

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. 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.
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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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. If 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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For the Commission

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Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF A'TWAR WILKINS

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Michael Smith' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 8, 2024.

The EDPRP was mailed to Respondent's last known address on October 8, 2024, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on October 16, 2024, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

"My name is A'twar Wilkins, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,  
State of Texas,  
on the 6th day of May, 2025

A handwritten signature in blue ink, consisting of a large loop followed by a long, sweeping horizontal stroke.

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Declarant