

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel
Audrey Liter, Assistant General Counsel

Thru: Anna Treadwell, Senior Attorney
AT Litigation Division

From: *JP* Jennifer Peltier, Staff Attorney
Litigation Division

Date: February 7, 2025

Subject: **Backup Revision**
February 13, 2025 Commission Agenda
Item No. 25 OHK GLOBAL INC dba Eagle 1
DOCKET NO. 2024-0376-PST-E

Enclosed please find the following:

Date change in Finding of Facts Items 4 and 5 on Page 2 of the Order:

From May 20, 2024 to September 20, 2024.

Respondent Contact:

Seth Kretzer, Director
OHK GLOBAL INC
917 Franklin Street, Sixth Floor
Houston, Texas 77002

Please do not hesitate to call Jennifer Peltier at (512) 239-0544 if you have any questions regarding this matter.

cc: Sushil Modak, Enforcement Division
David King, Beaumont Regional Office
Gill Valls, Office of the General Counsel
Michael Parrish, Enforcement Division
Leslie Gann, Enforcement Division
Stuart Beckley, Enforcement Division
Azhar Chaudhary, attorney@chaudharyjd.com

- c. Failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility. Specifically, the Facility did not have C Operator.
3. The Executive Director recognizes that on January 27, 2025, Respondent provided documentation demonstrating the following corrective measures at the Facility:
 - a. Implementing interstitial monitoring release detection for the USTs and associated piping at the Facility;
 - b. Conducted the annual operability testing of release detection equipment;
 - c. Conducted triennial testing of overfill and spill prevention equipment on December 7, 2023;
 - d. Conducted annual walkthrough inspection of the containment sumps; and
 - e. Trained one individual as a Class C operator for the Facility.
4. The Executive Director filed the "Executive Director's First Amended 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 OHK GLOBAL INC dba Eagle 1" (the "EDFARP") in the TCEQ Chief Clerk's office on ~~May 20~~, 2024.
5. By letter dated ~~May 20~~, 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 EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on September 24, 2024, as evidenced by the signature on the card and USPS.com "Track & Confirm" delivery confirmation records.
6. More than 20 days have elapsed since Respondent received notice of the EDFARP. 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.a., Respondent failed to monitor the UST installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Also, failed to monitor the piping associated with the UST system installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days. In addition, failed to conduct a test of the proper operation of the release detection equipment at least annually, in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(B) and (b)(2)(A)(i) and (iii).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight. Also, failed to inspect overfill prevention equipment at least once every three years to ensure that overfill prevention equipment is set to activate at the correct level. In addition, failed to annually check containment sumps for damage, leaks to the containment area, for leak in the interstitial area, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.48(g)(1)(A)(ii), (g)(1)(B), and (h)(1)(B)(i).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility, in violation of 30 TEX. ADMIN. CODE § 334.602(a).

- c. Failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility. Specifically, the Facility did not have C Operator.
3. The Executive Director recognizes that on January 27, 2025, Respondent provided documentation demonstrating the following corrective measures at the Facility:
 - a. Implementing interstitial monitoring release detection for the USTs and associated piping at the Facility;
 - b. Conducted the annual operability testing of release detection equipment;
 - c. Conducted triennial testing of overfill and spill prevention equipment on December 7, 2023;
 - d. Conducted annual walkthrough inspection of the containment sumps; and
 - e. Trained one individual as a Class C operator for the Facility.
4. The Executive Director filed the "Executive Director's First Amended 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 OHK GLOBAL INC dba Eagle 1" (the "EDFARP") in the TCEQ Chief Clerk's office on September 20, 2024.
5. By letter dated September 20, 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 EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on September 24, 2024, as evidenced by the signature on the card and USPS.com "Track & Confirm" delivery confirmation records.
6. More than 20 days have elapsed since Respondent received notice of the EDFARP. 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.a., Respondent failed to monitor the UST installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Also, failed to monitor the piping associated with the UST system installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days. In addition, failed to conduct a test of the proper operation of the release detection equipment at least annually, in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(B) and (b)(2)(A)(i) and (iii).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight. Also, failed to inspect overfill prevention equipment at least once every three years to ensure that overfill prevention equipment is set to activate at the correct level. In addition, failed to annually check containment sumps for damage, leaks to the containment area, for leak in the interstitial area, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.48(g)(1)(A)(ii), (g)(1)(B), and (h)(1)(B)(i).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility, in violation of 30 TEX. ADMIN. CODE § 334.602(a).

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel
Audrey Liter, Assistant General Counsel

Thru: Anna Treadwell, Senior Attorney
AT Litigation Division

From: *JP* Jennifer Peltier, Staff Attorney
Litigation Division

Date: January 29, 2025

Subject: Backup Revision
February 13, 2025 Commission Agenda
Draft Item No. 25 OHK GLOBAL INC dba Eagle 1
DOCKET NO. 2024-0376-PST-E

Enclosed please find the following:

A Default Order to replace the Shutdown Order:

On January 13, 2025, Beaumont Regional Office conducted a pre-agenda shutdown investigation and confirmed that the facility was still operating. On January 25 and 27, 2025, the regional investigator spoke with the facility representative who was able to provide documentation establishing the facility has corrected the violations requiring a shutdown. Therefore, the Executive Director has changed the Shutdown Order to a Default Order with revocation of the facility's delivery certificate.

Updated Executive Summary:

The Executive Summary has been updated to reflect the change from Shutdown Order to Default Order. Additionally, information about Corrective Actions Completed and Technical requirements needed has been corrected to match the proposed Default Order.

Respondent Contact:

Seth Kretzer, Director
OHK GLOBAL INC
917 Franklin Street, Sixth Floor
Houston, Texas 77002

Please do not hesitate to call Jennifer Peltier at (512) 239-0544 if you have any questions regarding this matter.

cc: Sushil Modak, Enforcement Division
David King, Beaumont Regional Office
Gill Valls, Office of the General Counsel
Michael Parrish, Enforcement Division
Leslie Gann, Enforcement Division
Stuart Beckley, Enforcement Division
Azhar Chaudhary, attorney@chaudharyjd.com

Order Type:
Default Order

Media:
PST

Small Business:
Yes

Location Where Violations Occurred:
700 South Gulfway Drive, Port Arthur, Jefferson County

Type of Operation:
an underground storage tank (“UST”) system and a convenience store with retail sales of gasoline

Other Significant Matters:
Additional Pending Enforcement Actions: Yes, 2024-0369-PST-E; 2024-0370-PST-E; 2024-0388-PST-E
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third Parties: None

Texas Register Publication Date: December 20, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$5,956

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$5,956

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

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date: N/A

Date of Investigation: November 29, 2023

Date of NOV: N/A

Date of NOE: December 14, 2023

OHK GLOBAL INC dba Eagle 1

RN106208887

Docket No. 2024-0376-PST-E

Violation Information

1. Failed to monitor the UST installed on or after January 1, 2009, in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Also, failed to monitor the piping associated with the UST system installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days. In addition, failed to conduct a test of the proper operation of the release detection equipment at least annually [TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(B) and (b)(2)(A(i) and (iii))].
2. Failed to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight. Also, failed to inspect overfill prevention equipment at least once every three years to ensure that overfill prevention equipment is set to activate at the correct level. In addition, failed to annually check containment sumps for damage, leaks to the containment area, for leak in the interstitial area [TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.48(g)(1)(A)(ii) and (g)(1)(B) and (h)(1)(B)(i)].
3. Failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility [30 TEX. ADMIN. CODE § 334.602(a)].

Corrective Actions/Technical Requirements**Corrective Actions Completed:**

The Executive Director recognizes that on January 27, 2025, Respondent provided documentation demonstrating the following corrective measures at the Facility:

1. Implementing interstitial monitoring release detection for the USTs and associated piping at the Facility;
2. Conducted the annual operability testing of release detection equipment;
3. Conducted triennial testing of overfill and spill prevention equipment on December 7, 2023;
4. Conducted annual walkthrough inspection of the containment sumps; and
5. Trained one individual as a Class C operator for the Facility.

Technical Requirements:

1. The Facility's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in the Order, including payment of the administrative penalty in full.
2. Immediately cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ.
3. Within 10 days Respondent shall surrender the Facility's UST fuel delivery certificate to the TCEQ.
4. Within 15 days submit a detailed written report documenting the steps taken to comply with Technical Requirement Nos. 2 and 3.
5. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.
6. Within 15 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirement No. 5

Litigation Information

Date Petition Filed: September 20, 2024

Date of Service: September 24, 2024

Date Answer Filed: N/A

Contact Information

TCEQ Attorneys: Jennifer Peltier, 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: Sushil Modak, Enforcement Division, (512) 239-2142

TCEQ Regional Contact: David King, Corpus Christi Regional Office, (361) 881-6900

Respondent Contact: Seth Kretzer, Director, OHK GLOBAL INC, 917 Franklin Street, Sixth Floor,
Houston, Texas 77002

Respondent's Attorney: N/A

THIS PAGE INTENTIONALLY LEFT BLANK



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	18-Dec-2023	Screening	9-Feb-2024	EPA Due	
	PCW	29-Feb-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	OHK GLOBAL INC dba Eagle 1				
Reg. Ent. Ref. No.	RN106208887				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	65438	No. of Violations	3
Docket No.	2024-0376-PST-E	Order Type	Findings
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Sushil Modak
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,750
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
---------------------------	------	-------------------	--------------------------------	-----

Notes	No adjustment for Compliance History.
--------------	---------------------------------------

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	----	------	--------------------	-------------------	-----

Notes	The Respondent does not meet the Culpability criteria.
--------------	--

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	------	---------------------	-------------------	-----

Total EB Amounts	\$446	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,110	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,750
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	3.6%	Adjustment	\$206
---	------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 2.
--------------	--

Final Penalty Amount	\$5,956
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,956
-----------------------------------	-------------------------------	---------

DEFERRAL	0.0%	Reduction	Adjustment	\$0
-----------------	------	------------------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	No deferral is recommended for Findings Orders.
--------------	---

PAYABLE PENALTY	\$5,956
------------------------	---------

Screening Date	9-Feb-2024	Docket No.	2024-0376-PST-E	PCW
Respondent	OHK GLOBAL INC dba Eagle 1			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	65438			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN106208887			
Media	Petroleum Storage Tank			
Enf. Coordinator	Sushil Modak			

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%

Screening Date	9-Feb-2024	Docket No.	2024-0376-PST-E	PCW	
Respondent	OHK GLOBAL INC dba Eagle 1			<i>Policy Revision 5 (January 28, 2021)</i>	
Case ID No.	65438			<i>PCW Revision February 11, 2021</i>	
Reg. Ent. Reference No.	RN106208887				
Media	Petroleum Storage Tank				
Enf. Coordinator	Sushil Modak				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(B) and (b)(2)(A)(i) and (iii) and 334.48(e)(1) and Tex. Water Code § 26.3475(c)(1) and (a)				
Violation Description	Failed to monitor the underground storage tanks ("USTs") installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Specifically, the UST was installed on July 6, 2011, and the Respondent was not using interstitial monitoring as the primary release detection method. Also, failed to monitor the piping associated with the UST system installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days. Specifically, the piping associated with the UST system was installed on July 6, 2011, and the Respondent was not using interstitial monitoring as the primary release detection method. In addition, failed to conduct a test of the proper operation of the release detection equipment at least annually. Specifically, the Respondent did not conduct the annual operability testing of release detection equipment, including the automatic tank gauge ("ATG") system and the probes.				
	Base Penalty			\$25,000	
>> Environmental, Property and Human Health Matrix					
OR		Harm			
	Release	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	72	Number of violation days
	daily				
	weekly				
	monthly				
	quarterly	x			
	semiannual				
	annual				
	single event				
	One quarterly event is recommended from the November 29, 2023 investigation date to the February 9, 2024 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			\$3,750	
Economic Benefit (EB) for this violation		Statutory Limit Test			
	Estimated EB Amount	\$203	Violation Final Penalty Total	\$3,884	
	This violation Final Assessed Penalty (adjusted for limits)			\$3,884	

Economic Benefit Worksheet

Respondent OHK GLOBAL INC dba Eagle 1
Case ID No. 65438
Reg. Ent. Reference No. RN106208887
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$100	5-Apr-2022	24-Sep-2024	2.47	\$1	\$16	\$17
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)	\$1,500	5-Apr-2022	24-Sep-2024	2.47	\$186	n/a	\$186
Notes for DELAYED costs Estimated delayed cost to implement interstitial monitoring release detection for the USTs and associated piping at the Facility (\$1,500), and to conduct the annual operability testing of release detection equipment (\$100). 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	\$1,600	TOTAL	\$203
----------------------------	---------	--------------	-------

Screening Date 9-Feb-2024 Respondent OHK GLOBAL INC dba Eagle 1 Case ID No. 65438 Reg. Ent. Reference No. RN106208887 Media Petroleum Storage Tank Enf. Coordinator Sushil Modak	Docket No. 2024-0376-PST-E <div style="border: 1px solid black; padding: 2px;"> Violation Number 2 </div> <div style="border: 1px solid black; padding: 2px;"> Rule Cite(s) 30 Tex. Admin. Code § 334.48(g)(1)(A)(ii) and 334.48(g)(1)(B) and 333.48(h)(1)(B)(i) and Tex. Water Code § 26.3475(c)(2) </div> <div style="border: 1px solid black; padding: 2px;"> Violation Description Failed to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight. Specifically, the Respondent had not conducted the triennial testing of the spill prevention equipment. Also, failed to inspect overfill prevention equipment at least once every three years to ensure that overfill prevention equipment is set to activate at the correct level. In addition, failed to annually check containment sumps for damage, leaks to the containment area, for leak in the interstitial area. </div>	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>																					
Base Penalty \$25,000																							
>> Environmental, Property and Human Health Matrix																							
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <th colspan="3">Harm</th> </tr> <tr> <td></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> </tr> <tr> <td>Release</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td>x</td> <td></td> </tr> </table>		Harm				Major	Moderate	Minor	Release				Actual				Potential		x		Percent 5.0%	
	Harm																						
	Major	Moderate	Minor																				
Release																							
Actual																							
Potential		x																					
>> Programmatic Matrix																							
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <th>Falsification</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>		Falsification	Major	Moderate	Minor						Percent 0.0%											
	Falsification	Major	Moderate	Minor																			
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.																						
Adjustment \$23,750		\$1,250																					
Violation Events																							
Number of Violation Events 1		Number of violation days 72																					
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td>daily</td> <td></td> </tr> <tr> <td></td> <td>weekly</td> <td></td> </tr> <tr> <td></td> <td>monthly</td> <td></td> </tr> <tr> <td></td> <td>quarterly</td> <td>x</td> </tr> <tr> <td></td> <td>semiannual</td> <td></td> </tr> <tr> <td></td> <td>annual</td> <td></td> </tr> <tr> <td></td> <td>single event</td> <td></td> </tr> </table>		daily			weekly			monthly			quarterly	x		semiannual			annual			single event		Violation Base Penalty \$1,250
	daily																						
	weekly																						
	monthly																						
	quarterly	x																					
	semiannual																						
	annual																						
	single event																						
One quarterly event is recommended from the November 29, 2023 investigation date to the February 9, 2024 screening date.																							
Good Faith Efforts to Comply		Reduction \$0																					
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td>Before NOE/NOV</td> <td>NOE/NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td>x</td> <td></td> </tr> </table>			Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary			N/A	x											
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer																					
Extraordinary																							
Ordinary																							
N/A	x																						
Notes		The Respondent does not meet the good faith criteria for this violation.																					
Violation Subtotal		\$1,250																					
Economic Benefit (EB) for this violation																							
Estimated EB Amount \$243		Statutory Limit Test																					
Violation Final Penalty Total		\$1,295																					
This violation Final Assessed Penalty (adjusted for limits)		\$1,295																					

Economic Benefit Worksheet

Respondent OHK GLOBAL INC dba Eagle 1
Case ID No. 65438
Reg. Ent. Reference No. RN106208887
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$300	5-Apr-2022	24-Sep-2024	2.47	\$37	n/a	\$37
Notes for DELAYED costs	Estimated delayed cost to conduct the triennial testing of the spill prevention overfill equipment (\$100), triennial inspection of the overfill prevention equipment (\$100), and to conduct the annual walkthrough inspection of the containment sumps (\$100). The Date Required is the investigation date, and the Final Date is the estimated compliance date.						

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	\$100	5-Apr-2022	9-Dec-2022	0.68	\$3	\$100	\$103
Other (as needed)	\$100	5-Apr-2022	9-Dec-2022	0.68	\$3	\$100	\$103
Notes for AVOIDED costs	Estimated avoided cost to conduct the triennial testing of the spill prevention overfill equipment (\$100) and to conduct the annual walkthrough inspection of the containment sumps (\$100). . The Date Required is the investigation date, and the Final Date is the screening date.						

Approx. Cost of Compliance	\$500	TOTAL	\$243
----------------------------	-------	--------------	-------

Screening Date 9-Feb-2024 Respondent OHK GLOBAL INC dba Eagle 1 Case ID No. 65438 Reg. Ent. Reference No. RN106208887 Media Petroleum Storage Tank Enf. Coordinator Sushil Modak	Docket No. 2024-0376-PST-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
---	-----------------------------------	--

Violation Number	3	
Rule Cite(s)		30 Tex. Admin. Code § 334.602(a)
Violation Description	Failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility. Specifically, the Facility did not have C operator.	

Base Penalty	\$25,000
---------------------	----------

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential			x	Percent 3.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

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

Adjustment	\$24,250
-------------------	----------

	\$750
--	-------

Violation Events

Number of Violation Events	1	72	Number of violation days
----------------------------	---	----	--------------------------

	daily						
	weekly						
	monthly						
	quarterly						
	semiannual						
	annual						
	single event	x					

One single event is recommended.	
----------------------------------	--

Good Faith Efforts to Comply

	0.0%	
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal	\$750
---------------------------	-------

Economic Benefit (EB) for this violation

Estimated EB Amount	\$0
----------------------------	-----

Statutory Limit Test

Violation Final Penalty Total	\$777
--------------------------------------	-------

This violation Final Assessed Penalty (adjusted for limits)	\$777
--	-------

Economic Benefit Worksheet

Respondent OHK GLOBAL INC dba Eagle 1
Case ID No. 65438
Reg. Ent. Reference No. RN106208887
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$10	29-Nov-2023	24-Sep-2024	0.82	\$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 train one individual as a C operator for the Facility. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

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

\$10

TOTAL

\$0



Compliance History Report

Compliance History Report for CN605894831, RN106208887, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator:	CN605894831, OHK GLOBAL INC	Classification:	SATISFACTORY	Rating:	13.69
Regulated Entity:	RN106208887, EAGLE 1	Classification:	HIGH	Rating:	0.00
Complexity Points:	3	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	700 S GULFWAY DR PORT ARTHUR, TX 77640-3523, JEFFERSON COUNTY				
TCEQ Region:	REGION 10 - BEAUMONT				
ID Number(s):					
PETROLEUM STORAGE TANK NON REGISTERED ID NUMBER	84411	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION	84411		
Compliance History Period:	September 01, 2018 to August 31, 2023	Rating Year:	2023	Rating Date:	09/01/2023
Date Compliance History Report Prepared:	April 02, 2024				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	March 04, 2019 to March 04, 2024				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Sushil Modak		Phone:	(512) 239-2142	

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? Ohk Global Inc OWNER OPERATOR since 1/1/2023
- 4) Who was/were the prior owner(s)/operator(s)? Belfort Retail, Inc., OWNER OPERATOR, 7/6/2011 to 12/31/2022

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 December 22, 2020 (1696625)

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
OHK GLOBAL INC DBA EAGLE 1;
RN106208887

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2024-0376-PST-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended 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, corrective action of the respondent, and revocation of the facility's fuel delivery certificate. The respondent made the subject of this Order is OHK GLOBAL INC dba Eagle 1 ("Respondent").

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

FINDINGS OF FACT

1. Respondent operates, as defined in 30 TEX. ADMIN. CODE § 334.2, a underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 700 South Gulfway Drive in Port Arthur, Jefferson County, Texas (Facility ID No. 84411) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on November 29, 2023, an investigator documented that Respondent:
 - a. Failed to monitor the UST installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Also, failed to monitor the piping associated with the UST system installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days. In addition, failed to conduct a test of the proper operation of the release detection equipment at least annually. Specifically, the UST was installed on July 6, 2011, and Respondent was not using interstitial monitoring as the primary release detection method, the piping associated with the UST system was installed on July 6, 2011, and Respondent was not using interstitial monitoring as the primary release detection method, and Respondent did not conduct the annual operability testing of release detection equipment, including the automatic tank gauge ("ATG") system and the probes;
 - b. Failed to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight. Also, failed to inspect overfill prevention equipment at least once every three years to ensure that overfill prevention equipment is set to activate at the correct level. In addition, failed to annually check containment sumps for damage, leaks to the containment area, for leak in the interstitial area. Specifically, Respondent had not conducted the triennial testing of the spill prevention equipment; and

- c. Failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility. Specifically, the Facility did not have C Operator.
3. The Executive Director recognizes that on January 27, 2025, Respondent provided documentation demonstrating the following corrective measures at the Facility:
 - a. Implementing interstitial monitoring release detection for the USTs and associated piping at the Facility;
 - b. Conducted the annual operability testing of release detection equipment;
 - c. Conducted triennial testing of overfill and spill prevention equipment on December 7, 2023;
 - d. Conducted annual walkthrough inspection of the containment sumps; and
 - e. Trained one individual as a Class C operator for the Facility.
4. The Executive Director filed the "Executive Director's First Amended 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 OHK GLOBAL INC dba Eagle 1" (the "EDFARP") in the TCEQ Chief Clerk's office on May 20, 2024.
5. By letter dated May 20, 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 EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on September 24, 2024, as evidenced by the signature on the card and USPS.com "Track & Confirm" delivery confirmation records.
6. More than 20 days have elapsed since Respondent received notice of the EDFARP. 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.a., Respondent failed to monitor the UST installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Also, failed to monitor the piping associated with the UST system installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days. In addition, failed to conduct a test of the proper operation of the release detection equipment at least annually, in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(B) and (b)(2)(A)(i) and (iii).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight. Also, failed to inspect overfill prevention equipment at least once every three years to ensure that overfill prevention equipment is set to activate at the correct level. In addition, failed to annually check containment sumps for damage, leaks to the containment area, for leak in the interstitial area, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.48(g)(1)(A)(ii), (g)(1)(B), and (h)(1)(B)(i).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility, in violation of 30 TEX. ADMIN. CODE § 334.602(a).

5. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
6. As evidenced by Finding of Fact No. 6, 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.
7. 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.
8. An administrative penalty in the amount of \$5,956 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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.
10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.
11. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 6, and Conclusions of Law Nos. 2 through 6.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$5,956 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: OHK GLOBAL INC dba Eagle 1; Docket No. 2024-0376-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. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements of this Order, including payment of the administrative penalty in full.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
5. Within 10 days after the effective date of this Order, Respondent shall send the Facility's UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138

Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Within 15 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 8, below, to demonstrate compliance with Ordering Provision Nos. 4 and 5.
7. Respondent shall undertake the following technical requirements:
 - a. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii); and
 - b. Within 15 days after obtaining a new fuel delivery certificate pursuant to Ordering Provision No. 4, submit written certification in accordance with Ordering Provision No. 8, to demonstrate compliance with Ordering Provision No. 7.a.
8. 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 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 fine and imprisonment for knowing violations.”

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Fwy
Beaumont, Texas 77703-1830

9. All relief not expressly granted in this Order is denied.
10. 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.
11. 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.

12. 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.
13. 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.
14. 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.
15. 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.
16. 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

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF JENNIFER PELTIER

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's First Amended 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 OHK GLOBAL INC dba Eagle 1' (the "EDFARP") was filed in the TCEQ Chief Clerk's office on September 20, 2024.

The EDFARP was mailed to Respondent's last known address on September 20, 2024, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDFARP on September 24, 2024, as evidenced by the signature on the card and USPS.com "Track & Confirm" delivery confirmation records.

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

"My name is Jennifer Peltier 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 10th day of January, 2025

A handwritten signature in cursive script, appearing to read "J Peltier", written over a horizontal line.

Declarant

Order Type:
Default Shutdown Order

Media:
PST

Small Business:
Yes

Location Where Violations Occurred:
700 South Gulfway Drive, Port Arthur, Jefferson County

Type of Operation:
an underground storage tank (“UST”) system and a convenience store with retail sales of gasoline

Other Significant Matters:
Additional Pending Enforcement Actions: Yes, 2024-0369-PST-E; 2024-0370-PST-E; 2024-0388-PST-E
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third Parties: None
Texas Register Publication Date: December 20, 2024
Comments Received: None

Penalty Information

Total Penalty Assessed: \$5,956
Total Paid to General Revenue: \$0
Total Due to General Revenue: \$5,956

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

Major Source: No
Statutory Limit Adjustment: None
Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date: N/A
Date of Investigation: November 29, 2023
Date of NOV: N/A
Date of NOE: December 14, 2023

Violation Information

1. Failed to monitor the UST installed on or after January 1, 2009, in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Also, failed to monitor the piping associated with the UST system installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days. In addition, failed to conduct a test of the proper operation of the release detection equipment at least annually [TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(B) and (b)(2)(A(i) and (iii)].
2. Failed to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight. Also, failed to inspect overfill prevention equipment at least once every three years to ensure that overfill prevention equipment is set to activate at the correct level. In addition, failed to annually check containment sumps for damage, leaks to the containment area, for leak in the interstitial area [TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.48(g)(1)(A)(ii) and (g)(1)(B) and (h)(1)(B)(i)].
3. Failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility [30 TEX. ADMIN. CODE § 334.602(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed: None

Technical Requirements:

1. Immediately shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Secure the dispensers;
 - d. Empty the USTs of all regulated substances; and
 - e. Temporarily remove the USTs from service.
2. The Facility's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in the Order, including payment of the administrative penalty in full.
3. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection and spill and overfill prevention violations have been corrected and Respondent obtains a new fuel delivery certificate for the Facility.
4. Immediately cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days Respondent shall surrender the Facility's UST fuel delivery certificate to the TCEQ.
6. Within 15 days submit a detailed written report documenting the steps taken to comply with Technical Requirement Nos. 1, 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:
 - a. Implement interstitial monitoring release detection method for the USTs and associated piping at the Facility;
 - b. Conduct the annual operability testing of the release detection equipment;
 - c. Conduct the triennial testing of the spill prevention equipment;
 - d. Conduct the triennial inspection of the overfill prevention equipment;
 - e. Conduct the annual walkthrough inspection of the containment sumps;
 - f. Train one individual as Class C operator for the Facility; and

- g. Obtain a new fuel delivery certificate.
8. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.
9. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirement Nos. 7 and 8.

Litigation Information

Date Petition Filed: September 20, 2024
Date of Service: September 24, 2024
Date Answer Filed: N/A

Contact Information

TCEQ Attorneys: Jennifer Peltier, 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: Sushil Modak, Enforcement Division, (512) 239-2142
TCEQ Regional Contact: David King, Corpus Christi Regional Office, (361) 881-6900
Respondent Contact: Seth Kretzer, Director, OHK GLOBAL INC, 917 Franklin Street, Sixth Floor,
Houston, Texas 77002
Respondent's Attorney: N/A

THIS PAGE INTENTIONALLY LEFT BLANK



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	18-Dec-2023	Screening	9-Feb-2024	EPA Due	
	PCW	29-Feb-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	OHK GLOBAL INC dba Eagle 1				
Reg. Ent. Ref. No.	RN106208887				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	65438	No. of Violations	3
Docket No.	2024-0376-PST-E	Order Type	Findings
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Sushil Modak
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,750
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
---------------------------	------	-------------------	--------------------------------	-----

Notes No adjustment for Compliance History.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	----	------	--------------------	-------------------	-----

Notes The Respondent does not meet the Culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	------	---------------------	-------------------	-----

Total EB Amounts \$446
Estimated Cost of Compliance \$2,110
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,750
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	3.6%	Adjustment	\$206
---	------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 2.

Final Penalty Amount	\$5,956
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,956
-----------------------------------	-------------------------------	---------

DEFERRAL	0.0%	Reduction	Adjustment	\$0
-----------------	------	------------------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$5,956
------------------------	---------

Screening Date	9-Feb-2024	Docket No.	2024-0376-PST-E	PCW
Respondent	OHK GLOBAL INC dba Eagle 1			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	65438			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN106208887			
Media	Petroleum Storage Tank			
Enf. Coordinator	Sushil Modak			

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)

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date		9-Feb-2024		Docket No.		2024-0376-PST-E		PCW	
Respondent		OHK GLOBAL INC dba Eagle 1						Policy Revision 5 (January 28, 2021)	
Case ID No.		65438						PCW Revision February 11, 2021	
Reg. Ent. Reference No.		RN106208887							
Media		Petroleum Storage Tank							
Enf. Coordinator		Sushil Modak							
Violation Number		1							
Rule Cite(s)		30 Tex. Admin. Code § 334.50(b)(1)(B) and (b)(2)(A)(i) and (iii) and 334.48(e)(1) and Tex. Water Code § 26.3475(c)(1) and (a)							
Violation Description		Failed to monitor the underground storage tanks ("USTs") installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Specifically, the UST was installed on July 6, 2011, and the Respondent was not using interstitial monitoring as the primary release detection method. Also, failed to monitor the piping associated with the UST system installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days. Specifically, the piping associated with the UST system was installed on July 6, 2011, and the Respondent was not using interstitial monitoring as the primary release detection method. In addition, failed to conduct a test of the proper operation of the release detection equipment at least annually. Specifically, the Respondent did not conduct the annual operability testing of release detection equipment, including the automatic tank gauge ("ATG") system and the probes.							
						Base Penalty		\$25,000	
>> Environmental, Property and Human Health Matrix									
OR		Harm							
		Release		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		72		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 November 29, 2023 investigation date to the February 9, 2024 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		\$3,750	
Economic Benefit (EB) for this violation									
Statutory Limit Test									
Estimated EB Amount				\$203		Violation Final Penalty Total			
						\$3,884			
This violation Final Assessed Penalty (adjusted for limits)						\$3,884			

Economic Benefit Worksheet

Respondent OHK GLOBAL INC dba Eagle 1
Case ID No. 65438
Reg. Ent. Reference No. RN106208887
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$100	5-Apr-2022	24-Sep-2024	2.47	\$1	\$16	\$17
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)	\$1,500	5-Apr-2022	24-Sep-2024	2.47	\$186	n/a	\$186

Notes for DELAYED costs

Estimated delayed cost to implement interstitial monitoring release detection for the USTs and associated piping at the Facility (\$1,500), and to conduct the annual operability testing of release detection equipment (\$100). 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

\$1,600

TOTAL

\$203

Screening Date 9-Feb-2024 Respondent OHK GLOBAL INC dba Eagle 1 Case ID No. 65438 Reg. Ent. Reference No. RN106208887 Media Petroleum Storage Tank Enf. Coordinator Sushil Modak	Docket No. 2024-0376-PST-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
---	-----------------------------------	--

Violation Number	2	Rule Cite(s)	30 Tex. Admin. Code § 334.48(g)(1)(A)(ii) and 334.48(g)(1)(B) and 333.48(h)(1)(B)(i) and Tex. Water Code § 26.3475(c)(2)
Violation Description	Failed to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight. Specifically, the Respondent had not conducted the triennial testing of the spill prevention equipment. Also, failed to inspect overfill prevention equipment at least once every three years to ensure that overfill prevention equipment is set to activate at the correct level. In addition, failed to annually check containment sumps for damage, leaks to the containment area, for leak in the interstitial area.		

Base Penalty	\$25,000
---------------------	----------

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				
	Potential		x		

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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

Adjustment	\$23,750
-------------------	----------

	\$1,250
--	---------

Violation Events

Number of Violation Events	1		72	Number of violation days
----------------------------	---	--	----	--------------------------

daily		Violation Base Penalty	\$1,250
weekly			
monthly			
quarterly	x		
semiannual			
annual			
single event			

One quarterly event is recommended from the November 29, 2023 investigation date to the February 9, 2024 screening date.	
--	--

Good Faith Efforts to Comply

	0.0%	
--	------	--

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

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

Violation Subtotal	\$1,250
---------------------------	---------

Economic Benefit (EB) for this violation

Estimated EB Amount	\$243
----------------------------	-------

Statutory Limit Test

Violation Final Penalty Total	\$1,295
--------------------------------------	---------

This violation Final Assessed Penalty (adjusted for limits)	\$1,295
--	---------

Economic Benefit Worksheet

Respondent OHK GLOBAL INC dba Eagle 1
Case ID No. 65438
Reg. Ent. Reference No. RN106208887
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$300	5-Apr-2022	24-Sep-2024	2.47	\$37	n/a	\$37
Notes for DELAYED costs	Estimated delayed cost to conduct the triennial testing of the spill prevention overfill equipment (\$100), triennial inspection of the overfill prevention equipment (\$100), and to conduct the annual walkthrough inspection of the containment sumps (\$100). The Date Required is the investigation date, and the Final Date is the estimated compliance date.						

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	\$100	5-Apr-2022	9-Dec-2022	0.68	\$3	\$100	\$103
Other (as needed)	\$100	5-Apr-2022	9-Dec-2022	0.68	\$3	\$100	\$103
Notes for AVOIDED costs	Estimated avoided cost to conduct the triennial testing of the spill prevention overfill equipment (\$100) and to conduct the annual walkthrough inspection of the containment sumps (\$100). . The Date Required is the investigation date, and the Final Date is the screening date.						

Approx. Cost of Compliance	\$500	TOTAL	\$243
----------------------------	-------	--------------	-------

Screening Date 9-Feb-2024 Respondent OHK GLOBAL INC dba Eagle 1 Case ID No. 65438 Reg. Ent. Reference No. RN106208887 Media Petroleum Storage Tank Enf. Coordinator Sushil Modak	Docket No. 2024-0376-PST-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
---	-----------------------------------	--

Violation Number	3	
Rule Cite(s)		30 Tex. Admin. Code § 334.602(a)
Violation Description	Failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility. Specifically, the Facility did not have C operator.	

Base Penalty	\$25,000
---------------------	----------

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential			x	Percent 3.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

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

Adjustment	\$24,250
-------------------	----------

	\$750
--	-------

Violation Events

Number of Violation Events	1	72	Number of violation days
----------------------------	---	----	--------------------------

	daily						
	weekly						
	monthly						
	quarterly						
	semiannual						
	annual						
	single event	x					

One single event is recommended.	
----------------------------------	--

Good Faith Efforts to Comply

	0.0%	
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal	\$750
---------------------------	-------

Economic Benefit (EB) for this violation

Estimated EB Amount	\$0	Statutory Limit Test
		Violation Final Penalty Total \$777
This violation Final Assessed Penalty (adjusted for limits)		\$777

Economic Benefit Worksheet

Respondent OHK GLOBAL INC dba Eagle 1
Case ID No. 65438
Reg. Ent. Reference No. RN106208887
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$10	29-Nov-2023	24-Sep-2024	0.82	\$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 train one individual as a C operator for the Facility. The Date Required is the investigation date, and the Final Date is the estimated compliance date.

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

\$10

TOTAL

\$0



Compliance History Report

Compliance History Report for CN605894831, RN106208887, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator:	CN605894831, OHK GLOBAL INC	Classification:	SATISFACTORY	Rating:	13.69
Regulated Entity:	RN106208887, EAGLE 1	Classification:	HIGH	Rating:	0.00
Complexity Points:	3	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	700 S GULFWAY DR PORT ARTHUR, TX 77640-3523, JEFFERSON COUNTY				
TCEQ Region:	REGION 10 - BEAUMONT				
ID Number(s):					
PETROLEUM STORAGE TANK NON REGISTERED ID NUMBER	84411	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION	84411		
Compliance History Period:	September 01, 2018 to August 31, 2023	Rating Year:	2023	Rating Date:	09/01/2023
Date Compliance History Report Prepared:	April 02, 2024				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	March 04, 2019 to March 04, 2024				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Sushil Modak		Phone:	(512) 239-2142	

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? Ohk Global Inc OWNER OPERATOR since 1/1/2023
- 4) Who was/were the prior owner(s)/operator(s)? Belfort Retail, Inc., OWNER OPERATOR, 7/6/2011 to 12/31/2022

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 December 22, 2020 (1696625)

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
OHK GLOBAL INC DBA EAGLE 1;
RN106208887

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2024-0376-PST-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended 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, corrective action of the respondent, and revocation of the facility's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shut down and remove from service the underground storage tanks ("USTs") located at 700 South Gulfway Drive in Port Arthur, Jefferson County, Texas. The respondent made the subject of this Order is OHK GLOBAL INC dba Eagle 1 ("Respondent"). The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent operates, as defined in 30 TEX. ADMIN. CODE § 334.2(75), a UST system and a convenience store with retail sales of gasoline located at 700 South Gulfway Drive in Port Arthur, Jefferson County, Texas (Facility ID No. 84411) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on November 29, 2023, an investigator documented that Respondent:
 - a. Failed to monitor the UST installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Also, failed to monitor the piping associated with the UST system installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days. In addition, failed to conduct a test of the proper operation of the release detection equipment at least annually. Specifically, the UST was installed on July 6, 2011, and Respondent was not using interstitial monitoring as the primary release detection method, the piping associated with the UST system was installed on July 6, 2011, and Respondent was not using interstitial monitoring as the primary release detection method, and Respondent did not conduct the annual operability testing of release detection equipment, including the automatic tank gauge ("ATG") system and the probes;
 - b. Failed to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight. Also, failed to inspect overfill prevention equipment at least once every three years to ensure that overfill prevention equipment is set to activate at the correct level. In addition, failed to annually check containment sumps for damage, leaks to the containment area, for leak in

the interstitial area. Specifically, Respondent had not conducted the triennial testing of the spill prevention equipment; and

- c. Failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility. Specifically, the Facility did not have C Operator.
3. By letter dated December 14, 2023, Respondent was provided with written notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.
4. The Executive Director filed the "Executive Director's First Amended 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 OHK GLOBAL INC dba Eagle 1" (the "EDFARP") in the TCEQ Chief Clerk's office on September 20, 2024.
5. By letter dated September 20, 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 EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on September 24, 2024, as evidenced by the signature on the card and USPS.com "Track & Confirm" delivery confirmation records.
6. More than 20 days have elapsed since Respondent received notice of the EDFARP. Respondent failed to file an answer and failed to request a hearing.
7. By letter dated October 10, 2024, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondent failed to correct the release detection and spill and overfill prevention violations within 30 days after Respondent's receipt of the notice.
8. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the release detection and spill and overfill prevention violations alleged in Findings of Fact Nos. 2.a. and 2.b. have been corrected.
9. The USTs at the Facility do not have release detection and spill and overfill prevention as required by TEX. WATER CODE § 26.3475(a), (c)(1), and (c)(2) and 30 TEX. ADMIN. CODE §§ 334.48(g)(1)(A)(ii), (g)(1)(B), and (h)(1)(B)(i) and 334.50(b)(1)(B) and (b)(2)(A)(i) and (iii), and may be releasing petroleum products to the environment. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

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.a., Respondent failed to monitor the UST installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring. Also, failed to monitor the piping associated with the UST system installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days. In addition, failed to conduct a test of the proper operation of the release detection equipment at least annually, in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(B) and (b)(2)(A)(i) and (iii).

3. As evidenced by Finding of Fact No. 2.b., Respondent failed to test the spill prevention equipment at least once every three years to ensure the equipment is liquid tight. Also, failed to inspect overfill prevention equipment at least once every three years to ensure that overfill prevention equipment is set to activate at the correct level. In addition, failed to annually check containment sumps for damage, leaks to the containment area, for leak in the interstitial area, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.48(g)(1)(A)(ii), (g)(1)(B), and (h)(1)(B)(i).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to designate, train, and certify at least one individual for each class of operator-Class A, Class B, and Class C for the Facility, in violation of 30 TEX. ADMIN. CODE § 334.602(a).
5. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
6. As evidenced by Finding of Fact No. 6, 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.
7. 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.
8. An administrative penalty in the amount of \$5,956 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. As evidenced by Findings of Fact Nos. 2.a., 2.b., 3, 7, and 8, Respondent failed to correct documented violations of TCEQ release detection and spill and overfill prevention requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Facility.
10. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of TCEQ regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill prevention for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.
11. 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.
12. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.
13. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 6, and Conclusions of Law Nos. 2 through 6.
14. As evidenced by Findings of Fact Nos. 8 and 9, current conditions at the Facility constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date it is signed by the Commission.

ORDERING PROVISIONS

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

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Secure the dispensers to prevent access;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order, including payment of the administrative penalty in full.
3. The USTs at the Facility shall remain out of service, pursuant to TEX. WATER CODE § 26.3475(e) and as directed by Ordering Provisions Nos. 1.a. through 1.e. until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection and spill and overfill prevention violations noted in Conclusions of Law Nos. 2 and 3 have been corrected and Respondent obtains a new fuel delivery certificate for the Facility.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
5. Within 10 days after the effective date of this Order, Respondent shall send the Facility's UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
6. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report, in accordance with Ordering Provision No. 13 documenting the steps taken to comply with Ordering Provision Nos. 1.a. through 1.e., 4 and 5.
7. If Respondent elects to permanently remove from service any portion of the UST system at the Facility, Respondent shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

8. Respondent is assessed an administrative penalty in the amount of \$5,956 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.
9. 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: OHK GLOBAL INC dba Eagle 1; Docket No. 2024-0376-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

10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
 - a. Implement interstitial monitoring release detection method for the USTs and associated piping at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - b. Conduct the annual operability testing of the release detection equipment, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - c. Conduct the triennial testing of the spill prevention equipment, in accordance with 30 TEX. ADMIN. CODE § 334.48;
 - d. Conduct the triennial inspection of the overfill prevention equipment, in accordance with 30 TEX. ADMIN. CODE § 334.48;
 - e. Conduct the annual walkthrough inspection of the containment sumps, in accordance with 30 TEX. ADMIN. CODE § 334.48;
 - f. Train one individual as Class C operator for the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.602; and
 - g. Obtain a new fuel delivery certificate from the TCEQ.
11. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
12. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification, in accordance with Ordering Provision No. 13 to demonstrate compliance with Ordering Provision Nos. 10 and 11.
13. 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 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Fwy
Beaumont, Texas 77703-1830

14. All relief not expressly granted in this Order is denied.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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.

21. 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

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF JENNIFER PELTIER

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's First Amended 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 OHK GLOBAL INC dba Eagle 1' (the "EDFARP") was filed in the TCEQ Chief Clerk's office on September 20, 2024.

The EDFARP was mailed to Respondent's last known address on September 20, 2024, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDFARP on September 24, 2024, as evidenced by the signature on the card and USPS.com "Track & Confirm" delivery confirmation records.

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

By letter dated October 10, 2024, sent via first class mail and certified mail, return receipt requested article no. 7022 3330 0000 1189 7873, I provided Respondent with notice of the TCEQ's intent to order the USTs at the Facility be shut down and removed from service if the click to choose pertaining to release detection and spill and overfill prevention click to choose not corrected within 30 days of Respondent's receipt of the letter. Respondent received notice on October 17, 2024, as evidenced by USPS.com "Track & Confirm" delivery confirmation records. The first class mail has not been returned.

As of the date of this declaration, I am not aware of any evidence that indicates that Respondent has corrected the release detection and spill and overfill prevention violations noted during the November 29, 2023, investigation."

"My name is Jennifer Peltier 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 10th day of October, 2024

A handwritten signature in black ink, appearing to read "J Peltier", written over a horizontal line.

Declarant