

Executive Summary – Enforcement Matter – Case No. 65599
FLOWER GROVE COOPERATIVE GIN
RN102448024
Docket No. 2024-0393-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Flower Grove Cooperative Gin, 4003 East Farm-to-Market Road 2002, Ackerly, Martin County

Type of Operation:

Underground storage tank ("UST") system and a farmer-owned cooperative cotton gin with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 23, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,113

Amount Deferred for Expedited Settlement: \$4,222

Total Paid to General Revenue: \$476

Total Due to General Revenue: \$16,415

Payment Plan: 35 payments of \$469 each

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 29, 2024

Date(s) of NOE(s): February 23, 2024

Executive Summary – Enforcement Matter – Case No. 65599
FLOWER GROVE COOPERATIVE GIN
RN102448024
Docket No. 2024-0393-PST-E

Violation Information

1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the regulated USTs. Specifically, 46 fuel deliveries were accepted without a valid, current TCEQ delivery certificate during March of 2023 through January of 2024 [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
2. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on February 28, 2023 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
3. Failed to re-train the certified Class A and Class B operator within three years of the last training date. Specifically, the Class A/B operator training certification expired on July 31, 2023 [30 TEX. ADMIN. CODE § 334.605(a)].
4. Failed to conduct a walkthrough visual inspection of the spill prevention equipment at least once every 30 days [30 TEX. ADMIN. CODE § 334.48(h)(1)(A)(i) and TEX. WATER CODE § 26.3475(c)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Obtained a valid, current TCEQ delivery certificate on February 9, 2024; and
- b. Re-trained the certified Class A/B operator for the Facility on January 30, 2024.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, begin conducting the walkthrough inspections of the spill prevention equipment at least once every 30 days; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

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RN102448024
Docket No. 2024-0393-PST-E

Contact Information

TCEQ Attorney: N/A

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

Respondent: Kevin Cave, President, FLOWER GROVE COOPERATIVE GIN, 4295 East Farm-to-Market Road 2002, Ackerly, Texas 79713

Cody Peugh, Vice President, FLOWER GROVE COOPERATIVE GIN, 4295 East Farm-to-Market Road 2002, Ackerly, Texas 79713

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	28-Feb-2024	Screening	28-Feb-2024	EPA Due	
	PCW	1-May-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	FLOWER GROVE COOPERATIVE GIN				
Reg. Ent. Ref. No.	RN102448024				
Facility/Site Region	7-Midland	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	65599	No. of Violations	4
Docket No.	2024-0393-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lauren Little
		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	\$32,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$3,200
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Notes	Reduction for High Performer classification.			
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.			
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$7,687
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$109	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$330	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,113
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes				
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Final Penalty Amount	\$21,113
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,113
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DEFERRAL	20.0%	Reduction	Adjustment	-\$4,222
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.			
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PAYABLE PENALTY	\$16,891
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Screening Date	28-Feb-2024	Docket No.	2024-0393-PST-E	PCW
Respondent	FLOWER GROVE COOPERATIVE GIN			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	65599			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN102448024			
Media	Petroleum Storage Tank			
Enf. Coordinator	Lauren Little			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date	28-Feb-2024	Docket No.	2024-0393-PST-E	PCW
Respondent	FLOWER GROVE COOPERATIVE GIN			Policy Revision 5 (January 28, 2021)
Case ID No.	65599			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN102448024			
Media	Petroleum Storage Tank			
Enf. Coordinator	Lauren Little			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)			
Violation Description	Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the regulated underground storage tanks ("USTs"). Specifically, 46 fuel deliveries were accepted without a valid, current TCEQ delivery certificate during March of 2023 through January of 2024.			
		Base Penalty	\$25,000	
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major Moderate Minor		
	Actual Potential			
			Percent	0.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
			Percent	10.0%
Matrix Notes	100% of the rule requirement was not met.			
		Adjustment	\$22,500	
			\$2,500	
Violation Events				
	Number of Violation Events	11	46	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
			Violation Base Penalty	\$27,500
	Eleven single events are recommended (one for each month in which fuel delivery occurred).			
Good Faith Efforts to Comply		25.0%	Reduction	\$6,875
	Extraordinary			
	Ordinary	x		
	N/A			
	Notes	The Respondent obtained a valid, current TCEQ delivery certificate on February 9, 2024, before the February 23, 2024 Notice of Enforcement ("NOE").		
		Violation Subtotal	\$20,625	
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount	\$2	Violation Final Penalty Total	\$17,875
	This violation Final Assessed Penalty (adjusted for limits)			\$17,875

Economic Benefit Worksheet

Respondent FLOWER GROVE COOPERATIVE GIN
Case ID No. 65599
Reg. Ent. Reference No. RN102448024
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$40	28-Feb-2023	9-Feb-2024	0.95	\$2	n/a	\$2

Notes for DELAYED costs

Estimated delayed cost to obtain a valid, current TCEQ delivery certificate. The Date Required is the expiration date of the previously issued delivery certificate, and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$40

TOTAL

\$2

Screening Date 28-Feb-2024 Respondent FLOWER GROVE COOPERATIVE GIN Case ID No. 65599 Reg. Ent. Reference No. RN102448024 Media Petroleum Storage Tank Enf. Coordinator Lauren Little	Docket No. 2024-0393-PST-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	2		
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)		
Violation Description	Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on February 28, 2023.		
Base Penalty		\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10.0%"/>
	100% of the rule requirement was not met.				

Violation Events

Number of Violation Events	1	346	Number of violation days
	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	x	
	single event	<input type="text"/>	

One annual event is recommended from the February 28, 2023 expiration date of the previous delivery certificate to the February 9, 2024 date of compliance.

Good Faith Efforts to Comply

	25.0%	
	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	x	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>
Notes	The Respondent obtained a valid, current TCEQ delivery certificate on February 9, 2024, before the February 23, 2024 NOE.	
Violation Subtotal		\$1,875

Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$1,625"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,625"/>	

Economic Benefit Worksheet

Respondent FLOWER GROVE COOPERATIVE GIN
Case ID No. 65599
Reg. Ent. Reference No. RN102448024
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit included in Violation No. 1.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date	28-Feb-2024	Docket No.	2024-0393-PST-E	PCW
Respondent	FLOWER GROVE COOPERATIVE GIN			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	65599			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN102448024			
Media	Petroleum Storage Tank			
Enf. Coordinator	Lauren Little			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 334.605(a)			
Violation Description	Failed to re-train the certified Class A and Class B operator within three years of the last training date. Specifically, the Class A/B operator training certification expired on July 31, 2023.			
		Base Penalty	\$25,000	
>> Environmental, Property and Human Health Matrix				
OR		Release	Harm	
		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	183	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
	One single event is recommended.			
Good Faith Efforts to Comply				
		25.0%	Reduction	\$187
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary			
	Ordinary	x		
	N/A			
	Notes	The Respondent re-trained the certified Class A/B operator for the Facility on January 30, 2024, before the February 23, 2024 NOE.		
		Violation Subtotal	\$563	
Economic Benefit (EB) for this violation				
	Statutory Limit Test			
	Estimated EB Amount	\$2	Violation Final Penalty Total	\$488
	This violation Final Assessed Penalty (adjusted for limits)			\$488

Economic Benefit Worksheet

Respondent FLOWER GROVE COOPERATIVE GIN
Case ID No. 65599
Reg. Ent. Reference No. RN102448024
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$90	31-Jul-2023	30-Jan-2024	0.50	\$2	n/a	\$2
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 re-train the certified Class A/B operator for the Facility. The Date Required is the date the last operator training certification expired, and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$90

TOTAL

\$2

Screening Date	28-Feb-2024	Docket No.	2024-0393-PST-E	PCW		
Respondent	FLOWER GROVE COOPERATIVE GIN			Policy Revision 5 (January 28, 2021)		
Case ID No.	65599			PCW Revision February 11, 2021		
Reg. Ent. Reference No.	RN102448024					
Media	Petroleum Storage Tank					
Enf. Coordinator	Lauren Little					
Violation Number	4					
Rule Cite(s)	30 Tex. Admin. Code § 334.48(h)(1)(A)(i) and Tex. Water Code § 26.3475(c)(2)					
Violation Description	Failed to conduct a walkthrough visual inspection of the spill prevention equipment at least once every 30 days.					
		Base Penalty	\$25,000			
>> Environmental, Property and Human Health Matrix						
OR		Release	Harm			
		Major	Moderate	Minor		
	Actual					
	Potential		x			
				Percent 5.0%		
>> Programmatic Matrix						
		Falsification	Major	Moderate	Minor	
						Percent 0.0%
	Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
		Adjustment	\$23,750			
						\$1,250
>> Violation Events						
		Number of Violation Events	1	30	Number of violation days	
		daily				
		weekly				
		monthly				
		quarterly	x			
		semiannual				
		annual				
		single event				
					Violation Base Penalty	\$1,250
		One quarterly event is recommended from the January 29, 2024 investigation date to the February 28, 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	\$1,250
>> Economic Benefit (EB) for this violation						
				Statutory Limit Test		
		Estimated EB Amount	\$105	Violation Final Penalty Total	\$1,125	
		This violation Final Assessed Penalty (adjusted for limits)				\$1,125

Economic Benefit Worksheet

Respondent FLOWER GROVE COOPERATIVE GIN
Case ID No. 65599
Reg. Ent. Reference No. RN102448024
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	29-Jan-2024	24-Dec-2024	0.90	\$5	n/a	\$5

Notes for DELAYED costs

Estimated delayed cost to conduct the walkthrough inspections of the spill prevention equipment every 30 days. 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)	\$100	29-Jan-2024	28-Feb-2024	0.08	\$0	\$100	\$100

Notes for AVOIDED costs

Estimated avoided cost to conduct the walkthrough inspections of the spill prevention equipment every 30 days. The Date Required is the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$200

TOTAL

\$105

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN600687727, RN102448024, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator:	CN600687727, FLOWER GROVE COOPERATIVE GIN	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102448024, FLOWER GROVE COOPERATIVE GIN	Classification: HIGH	Rating: 0.00
Complexity Points:	6	Repeat Violator:	NO
CH Group:	12 - Agriculture, Forestry, Fishing, and Hunting		
Location:	4003 East Farm-to-Market Road 2002, Ackerly, Martin County, Texas 79713-4024		
TCEQ Region:	REGION 07 - MIDLAND		
ID Number(s):			
AIR NEW SOURCE PERMITS	PERMIT 41165	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER MF0007K
AIR NEW SOURCE PERMITS	REGISTRATION 132199	AIR NEW SOURCE PERMITS	REGISTRATION 174173
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION 21722	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID TXR000079036
Compliance History Period:	September 01, 2018 to August 31, 2023	Rating Year: 2023	Rating Date: 09/01/2023
Date Compliance History Report Prepared:	February 29, 2024		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	February 28, 2019 to February 28, 2024		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Lauren Little		Phone: (817) 588-5888

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five-year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	September 23, 2020	(1677653)
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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
FLOWER GROVE COOPERATIVE GIN
RN102448024

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

AGREED ORDER DOCKET NO. 2024-0393-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding FLOWER GROVE COOPERATIVE GIN (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and a farmer-owned cooperative cotton gin with retail sales of gasoline located at 4003 East Farm-to-Market 2002 Road in Ackerly, Martin County, Texas (the "Facility"). The UST system at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$21,113 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$476 of the penalty and \$4,222 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$16,415 of the undeferred penalty shall be paid in 35 monthly payments of \$469 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of

the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. Obtained a valid, current TCEQ delivery certificate on February 9, 2024; and
 - b. Re-trained the certified Class A/B operator for the Facility on January 30, 2024.

II. ALLEGATIONS

During an investigation at the Facility conducted on January 29, 2024, an investigator documented that the Respondent:

1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the regulated USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a). Specifically, 46 fuel deliveries were accepted without a valid, current TCEQ delivery certificate during March of 2023 through January of 2024.
2. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii). Specifically, the delivery certificate expired on February 28, 2023.
3. Failed to re-train the certified Class A and Class B operator within three years of the last training date, in violation of 30 TEX. ADMIN. CODE § 334.605(a). Specifically, the Class A/B operator training certification expired on July 31, 2023.

4. Failed to conduct a walkthrough visual inspection of the spill prevention equipment at least once every 30 days, in violation of 30 TEX. ADMIN. CODE § 334.48(h)(1)(A)(i) and TEX. WATER CODE § 26.3475(c)(2).

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: FLOWER GROVE COOPERATIVE GIN, Docket No. 2024-0393-PST-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days of the effective date of this Order, begin conducting the walkthrough inspections of the spill prevention equipment at least once every 30 days, in accordance with 30 TEX. ADMIN. CODE § 334.48.
 - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Midland Regional Office
Texas Commission on Environmental Quality
9900 West IH-20, Suite 100
Midland, Texas 79706

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

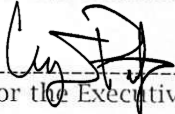
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



10/14/2024

For the Executive Director

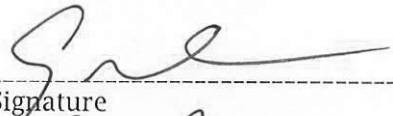
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

9/19/24

Date

Cody Reugh

Name (Printed or typed)
Authorized Representative of
FLOWER GROVE COOPERATIVE GIN

Vice President

Title

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.