

Executive Summary – Enforcement Matter – Case No. 65680
TRI-CON, INC. dba Exxxpress Mart 6
RN101806842
Docket No. 2024-0629-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Exxxpress Mart 6, 3181 Saba Lane, Port Neches, Jefferson County

Type of Operation:

Underground storage tank ("UST") system and a convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 6, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,975

Amount Deferred for Expedited Settlement: \$2,195

Total Paid to General Revenue: \$8,780

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

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: February 14, 2024

Date(s) of NOE(s): March 4, 2024

Executive Summary – Enforcement Matter – Case No. 65680
TRI-CON, INC. dba Exxxpress Mart 6
RN101806842
Docket No. 2024-0629-PST-E

Violation Information

1. Failed to make available to common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the regulated USTs. Specifically, the Respondent accepted one delivery of petroleum product on February 13, 2024 without a valid, current TCEQ delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
2. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the previous delivery certificate expired on January 31, 2024 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
3. Failed to ensure that the UST corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection to all underground metal components of the UST system. Specifically, a test of the cathodic protection system conducted on February 12, 2024 indicated that the system was no longer sufficient to protect the UST system from corrosion [30 TEX. ADMIN. CODE § 334.49(a)(2) and TEX. WATER CODE § 26.3475(d)].
4. Failed to conduct a test of the proper operation of the release detection equipment at least annually [30 TEX. ADMIN. CODE § 334.48(e)(1) and TEX. WATER CODE § 26.3475(c)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Obtained a valid, current TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form by February 20, 2024; and
- b. Repaired and tested the corrosion protection system for the UST system at the Facility by April 5, 2024.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, conduct the annual operability testing of the release detection equipment for the UST system at the Facility; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

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Docket No. 2024-0629-PST-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Amy Lane, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-2614; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Elias Sarkis, President, TRI-CON, INC., P.O. Box 20555, Beaumont, Texas 77720

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	11-Mar-2024	Screening	11-Mar-2024	EPA Due	
	PCW	13-Sep-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	TRI-CON, INC. dba Exxpress Mart 6				
Reg. Ent. Ref. No.	RN101806842				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	65680	No. of Violations	4
Docket No.	2024-0629-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amy Lane
		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	\$12,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for Compliance History.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,625
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$124	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,740	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.9%	Adjustment	\$100
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with Violation No. 4.
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Final Penalty Amount	\$10,975
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,975
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,195
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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	\$8,780
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Screening Date	11-Mar-2024	Docket No.	2024-0629-PST-E	PCW
Respondent	TRI-CON, INC. dba Exxpress Mart 6			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	65680			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101806842			
Media	Petroleum Storage Tank			
Enf. Coordinator	Amy Lane			

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

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	11-Mar-2024	Docket No.	2024-0629-PST-E	PCW
Respondent	TRI-CON, INC. dba Exxpress Mart 6			Policy Revision 5 (January 28, 2021)
Case ID No.	65680			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN101806842			
Media	Petroleum Storage Tank			
Enf. Coordinator	Amy Lane			
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 common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the regulated underground storage tanks ("USTs"). Specifically, the Respondent accepted one delivery of petroleum product on February 13, 2024 without a valid, current TCEQ delivery certificate.			
		Base Penalty	\$25,000	
>> Environmental, Property and Human Health Matrix				
OR	Release	Major	Moderate	Minor
	Actual			
	Potential			
				Percent 0.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
				Percent 10.0%
Matrix Notes	100% of the rule requirement was not met.			
		Adjustment	\$22,500	
			\$2,500	
Violation Events				
	Number of Violation Events	1	1	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
				Violation Base Penalty \$2,500
	One single event is recommended.			
Good Faith Efforts to Comply		25.0%	Reduction	\$625
	Extraordinary		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
	Ordinary	x		
	N/A			
	Notes	The Respondent achieved compliance by February 20, 2024, before the March 4, 2024 Notice of Enforcement ("NOE") date.		
		Violation Subtotal	\$1,875	
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount	\$0	Violation Final Penalty Total	\$1,892
	This violation Final Assessed Penalty (adjusted for limits)			\$1,892

Economic Benefit Worksheet

Respondent TRI-CON, INC. dba Exxpress Mart 6
Case ID No. 65680
Reg. Ent. Reference No. RN101806842
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	31-Jan-2024	20-Feb-2024	0.05	\$0	n/a	\$0
Notes for DELAYED costs Estimated delayed cost to obtain a valid, current TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. 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 \$0

Screening Date	11-Mar-2024	Docket No.	2024-0629-PST-E	PCW
Respondent	TRI-CON, INC. dba Exxpress Mart 6			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	65680			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101806842			
Media	Petroleum Storage Tank			
Enf. Coordinator	Amy Lane			
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 previous delivery certificate expired on January 31, 2024.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR

		Harm	
		Major	Moderate
Release			
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

Violation Events

Number of Violation Events 1

20 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

One annual event is recommended from the January 31, 2024 expiration date of the previous delivery certificate to the February 20, 2024 date of compliance.

Good Faith Efforts to Comply

25.0%

Reduction \$625

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

Notes The Respondent achieved compliance on February 20, 2024, before the March 4, 2024 NOE.

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$1,892

This violation Final Assessed Penalty (adjusted for limits) \$1,892

Economic Benefit Worksheet

Respondent TRI-CON, INC. dba Exxpress Mart 6
Case ID No. 65680
Reg. Ent. Reference No. RN101806842
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

TOTAL

Screening Date	11-Mar-2024	Docket No.	2024-0629-PST-E	PCW
Respondent	TRI-CON, INC. dba Exxpress Mart 6			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	65680			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101806842			
Media	Petroleum Storage Tank			
Enf. Coordinator	Amy Lane			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 334.49(a)(2) and Tex. Water Code § 26.3475(d)			
Violation Description	Failed to ensure that the UST corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection to all underground metal components of the UST system. Specifically, a test of the cathodic protection system conducted on February 12, 2024 indicated that the system was no longer sufficient to protect the UST system from corrosion.			
		Base Penalty	\$25,000	
>> Environmental, Property and Human Health Matrix				
OR		Release	Harm	
		Major	Moderate	Minor
	Actual			
	Potential	x		
				Percent 15.0%
>>Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				Percent 0.0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.			
		Adjustment	\$21,250	
			\$3,750	
Violation Events				
	Number of Violation Events	1	26	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 February 14, 2024 investigation date to the March 11, 2024 screening date.			
Good Faith Efforts to Comply				
		10.0%	Reduction	\$375
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary			
	Ordinary		x	
	N/A			
	Notes	The Respondent achieved compliance by April 5, 2024, after the March 4, 2024 NOE.		
		Violation Subtotal	\$3,375	
Economic Benefit (EB) for this violation				
	Statutory Limit Test			
	Estimated EB Amount	\$15	Violation Final Penalty Total	\$3,406
	This violation Final Assessed Penalty (adjusted for limits)			\$3,406

Economic Benefit Worksheet

Respondent TRI-CON, INC. dba Exxpress Mart 6
Case ID No. 65680
Reg. Ent. Reference No. RN101806842
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	\$1,500	14-Feb-2024	5-Apr-2024	0.14	\$1	\$14	\$15
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	Estimated delayed cost to repair and test the corrosion protection system for the UST system at the Facility. The Date Required is the investigation date and the Final Date is the date of compliance.						

Avoided Costs

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

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

Approx. Cost of Compliance \$1,500

TOTAL \$15

Screening Date 11-Mar-2024 Respondent TRI-CON, INC. dba Exxpress Mart 6 Case ID No. 65680 Reg. Ent. Reference No. RN101806842 Media Petroleum Storage Tank Enf. Coordinator Amy Lane	Docket No. 2024-0629-PST-E Base Penalty \$25,000	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	4	
Rule Cite(s)	30 Tex. Admin. Code § 334.48(e)(1) and Tex. Water Code § 26.3475(c)(1)	
Violation Description	Failed to conduct a test of the proper operation of the release detection equipment at least annually.	

Base Penalty

\$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 0 10px;">15.0%</div>
	Potential	x	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 0 10px;">0.0%</div>

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.
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Adjustment

\$21,250

\$3,750

Violation Events

Number of Violation Events	1	26	Number of violation days
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	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 0 10px;">\$3,750</div>
	weekly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
	quarterly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
	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	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
Ordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
N/A	x	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>
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	\$109	Violation Final Penalty Total	\$3,784
This violation Final Assessed Penalty (adjusted for limits)			\$3,784

Economic Benefit Worksheet

Respondent TRI-CON, INC. dba Exxpress Mart 6
Case ID No. 65680
Reg. Ent. Reference No. RN101806842
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	14-Feb-2024	5-Jan-2026	1.89	\$9	n/a	\$9
Notes for DELAYED costs Estimated delayed cost to conduct the annual operability testing of the release detection equipment for the UST system at the Facility. The Date Required is the investigation date and the Final Date is the estimated date of compliance.							

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$100	14-Feb-2024	11-Mar-2024	0.07	\$0	\$100	\$100
Notes for AVOIDED costs Estimated avoided cost to conduct the annual operability testing of the release detection equipment for the UST system at the Facility. The Date Required is the investigation date and the Final Date is the screening date.							

Approx. Cost of Compliance \$200

TOTAL \$109



Compliance History Report

Compliance History Report for CN600927453, RN101806842, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN600927453, TRI-CON, INC.

Classification: SATISFACTORY

Rating: 2.33

Regulated Entity: RN101806842, EXXPRESS MART 6

Classification: HIGH

Rating: 0.00

Complexity Points: 6

Repeat Violator: NO

CH Group: 14 - Other

Location: 3181 Saba Lane, Port Neches, Jefferson County, Texas 77651-5421

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION
39968

Compliance History Period: September 01, 2018 to August 31, 2023

Rating Year: 2023

Rating Date: 09/01/2023

Date Compliance History Report Prepared: August 30, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 30, 2019 to August 30, 2024

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

Name: Amy Lane

Phone: (512) 239-2614

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.):

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING

TRI-CON, INC. DBA EXXPRESS MART 6
RN101806842

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2024-0629-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 TRI-CON, INC. dba Exxpress Mart 6 (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 3181 Saba Lane in Port Neches, Jefferson County, Texas 77651 (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 \$10,975 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$8,780 of the penalty and \$2,195 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or

required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. Obtained a valid, current TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form by February 20, 2024; and
 - b. Repaired and tested the corrosion protection system for the UST system at the Facility by April 5, 2024.

II. ALLEGATIONS

During an investigation at the Facility conducted on February 14, 2024, an investigator documented that the Respondent:

1. Failed to make available to 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, the Respondent accepted one delivery of petroleum product on February 13, 2024 without a valid, current TCEQ delivery certificate.
2. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii). Specifically, the previous delivery certificate expired on January 31, 2024.
3. Failed to ensure that the UST corrosion protection system is operated and maintained in a manner that will provide continuous corrosion protection to all underground metal components of the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(2) and TEX. WATER CODE § 26.3475(d). Specifically, a test of the cathodic protection system conducted on February 12, 2024 indicated that the system was no longer sufficient to protect the UST system from corrosion.
4. Failed to conduct a test of the proper operation of the release detection equipment at least annually, in violation of 30 TEX. ADMIN. CODE § 334.48(e)(1) and TEX. WATER CODE § 26.3475(c)(1).

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: TRI-CON, INC. dba Exxpress Mart 6, Docket No. 2024-0629-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 requirement:
 - a. Within 30 days after the effective date of this Order, conduct the annual operability testing of the release detection equipment for the UST system at the Facility, 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

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



For the Executive Director

12/12/2024

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

11-1-2024

Date

ELIAS SARKIS

Name (Printed or typed)
Authorized Representative of
TRI-CON, INC. dba Exxpress Mart 6

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.