

Executive Summary – Enforcement Matter – Case No. 65645
TRI-CON, INC. dba Exxxpress Mart 29
RN101905560
Docket No. 2024-0993-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 29, 1650 West Cardinal Drive, Beaumont, 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: \$17,234

Amount Deferred for Expedited Settlement: \$3,446

Total Paid to General Revenue: \$13,788

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

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 15, 2024

Date(s) of NOE(s): February 29, 2024

Executive Summary – Enforcement Matter – Case No. 65645
TRI-CON, INC. dba Exxxpress Mart 29
RN101905560
Docket No. 2024-0993-PST-E

Violation Information

1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting a delivery of regulated substance into the USTs. Specifically, 15 fuel deliveries were accepted without a valid, current TCEQ delivery certificate during the period from February 1, 2024 through February 14, 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 previous delivery certificate expired on January 30, 2024 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
3. Failed to conduct walkthrough inspections of the spill prevention equipment at least once every 30 days. Specifically, the Respondent had not conducted 30-day walkthrough inspections of the spill prevention equipment from March 22, 2023 through September 18, 2023 [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. On February 20, 2024, submitted a properly completed UST registration and self-certification form and obtained a valid, current TCEQ delivery certificate; and
- b. On September 20, 2023, began conducting walkthrough inspections of the spill prevention equipment.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Stephanie McCurley, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-2607; 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	5-Mar-2024	Screening	5-Mar-2024	EPA Due	
	PCW	17-Jun-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	TRI-CON, INC. dba Exxpress Mart 29				
Reg. Ent. Ref. No.	RN101905560				
Facility/Site Region	10-Beaumont	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	65645	No. of Violations	3
Docket No.	2024-0993-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephanie McCurley
		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	\$17,500
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	20.0%	Adjustment	Subtotals 2, 3, & 7	\$3,500
---------------------------	-------	-------------------	--------------------------------	---------

Notes Enhancement for one previous Order containing a denial of liability.

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	-\$4,375
--	-------------------	----------

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

Total EB Amounts \$609
Estimated Cost of Compliance \$746
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$16,625
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	3.7%	Adjustment	\$609
---	------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided cost of compliance associated with Violation No. 3.

Final Penalty Amount	\$17,234
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$17,234
-----------------------------------	-------------------------------	----------

DEFERRAL	20.0%	Reduction	Adjustment	-\$3,446
-----------------	-------	------------------	-------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY	\$13,788
------------------------	----------

Screening Date	5-Mar-2024	Docket No.	2024-0993-PST-E	PCW
Respondent	TRI-CON, INC. dba Exxpress Mart 29			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	65645			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101905560			
Media	Petroleum Storage Tank			
Enf. Coordinator	Stephanie McCurley			

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>)	1	20%
	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) 20%

>> 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	Enhancement for one previous Order containing a denial of liability.
--------------------------	--

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date	5-Mar-2024	Docket No.	2024-0993-PST-E	PCW
Respondent	TRI-CON, INC. dba Exxpress Mart 29			Policy Revision 5 (January 28, 2021)
Case ID No.	65645			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN101905560			
Media	Petroleum Storage Tank			
Enf. Coordinator	Stephanie McCurley			
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 a delivery of regulated substance into the underground storage tanks ("USTs"). Specifically, 15 fuel deliveries were accepted without a valid, current TCEQ delivery certificate during the period from February 1, 2024 through February 14, 2024.			
		Base Penalty	\$25,000	
>> Environmental, Property and Human Health Matrix				
OR		Harm		
	Release	Major	Moderate	Minor
	Actual			
	Potential			
		Percent	0.0%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
	Percent	20.0%		
Matrix Notes	100% of the rule requirement was not met.			
	Adjustment	\$20,000		
			\$5,000	
Violation Events				
	Number of Violation Events	1	10	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
	Violation Base Penalty	\$5,000		
	One single event is recommended.			
Good Faith Efforts to Comply				
	25.0%		Reduction	\$1,250
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary			
	Ordinary	x		
	N/A			
	Notes	The Respondent achieved compliance on February 20, 2024, prior to the Notice of Enforcement ("NOE") dated February 29, 2024.		
	Violation Subtotal	\$3,750		
Economic Benefit (EB) for this violation				
	Statutory Limit Test			
	Estimated EB Amount	\$0	Violation Final Penalty Total	\$4,924
	This violation Final Assessed Penalty (adjusted for limits)	\$4,924		

Economic Benefit Worksheet

Respondent TRI-CON, INC. dba Exxpress Mart 29
Case ID No. 65645
Reg. Ent. Reference No. RN101905560
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				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 is included in Violation No. 2.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date	5-Mar-2024	Docket No.	2024-0993-PST-E	PCW
Respondent	TRI-CON, INC. dba Exxpress Mart 29			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	65645			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101905560			
Media	Petroleum Storage Tank			
Enf. Coordinator	Stephanie McCurley			
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 30, 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 20.0%
Matrix Notes	100% of the rule requirement was not met.			
		Adjustment	\$20,000	
			\$5,000	
Violation Events				
	Number of Violation Events	1	21	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual	x		
	single event			
				Violation Base Penalty \$5,000
	One annual event is recommended from the January 30, 2024 date the delivery certificate expired to the February 20, 2024 date of compliance.			
Good Faith Efforts to Comply		25.0%	Reduction	\$1,250
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary			
	Ordinary	x		
	N/A			
Notes	The Respondent achieved compliance on February 20, 2024, prior to the February 29, 2024 NOE.			
		Violation Subtotal	\$3,750	
Economic Benefit (EB) for this violation				
Statutory Limit Test				
	Estimated EB Amount	\$0	Violation Final Penalty Total	\$4,924
	This violation Final Assessed Penalty (adjusted for limits)			\$4,924

Economic Benefit Worksheet

Respondent TRI-CON, INC. dba Exxpress Mart 29
Case ID No. 65645
Reg. Ent. Reference No. RN101905560
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)	\$40	30-Jan-2024	20-Feb-2024	0.06	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to accurately prepare and submit a UST registration and self-certification form and obtain a valid, current TCEQ delivery certificate. The Date Required is the expiration date of the 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 5-Mar-2024 Respondent TRI-CON, INC. dba Exxpress Mart 29 Case ID No. 65645 Reg. Ent. Reference No. RN101905560 Media Petroleum Storage Tank Enf. Coordinator Stephanie McCurley	Docket No. 2024-0993-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 § 334.48(h)(1)(A)(i) and Tex. Water Code § 26.3475(c)(2)
Violation Description		Failed to conduct walkthrough inspections of the spill prevention equipment at least once every 30 days. Specifically, the Respondent had not conducted 30-day walkthrough inspections of the spill prevention equipment from March 22, 2023 through September 18, 2023.

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

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 15.0%
	Potential		x		

>> 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	\$21,250
-------------------	----------

	\$3,750
--	---------

Violation Events

Number of Violation Events	2	182	Number of violation days
----------------------------	---	-----	--------------------------

	daily		Violation Base Penalty	\$7,500
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			

Two quarterly events are recommended from the March 22, 2023 walkthrough inspections due date to the September 20, 2023 date of compliance.

Good Faith Efforts to Comply

25.0%	Reduction	\$1,875
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		
Notes	The Respondent achieved compliance on September 20, 2023, prior to the February 29, 2024 NOE.	

Violation Subtotal	\$5,625
---------------------------	---------

Economic Benefit (EB) for this violation

Estimated EB Amount	\$609
----------------------------	-------

Statutory Limit Test

Violation Final Penalty Total	\$7,386
--------------------------------------	---------

This violation Final Assessed Penalty (adjusted for limits)	\$7,386
--	---------

Economic Benefit Worksheet

Respondent TRI-CON, INC. dba Exxpress Mart 29
Case ID No. 65645
Reg. Ent. Reference No. RN101905560
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				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	18-Sep-2023	20-Sep-2023	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to conduct walkthrough inspections of the spill prevention equipment every 30 days. The Date Required is the most recent date the inspection should have been conducted 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	\$606	19-Aug-2023	20-Sep-2023	0.09	\$3	\$606	\$609
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct walkthrough inspections of the spill prevention equipment every 30 days (\$100 per missed inspection which includes accrued interest). The Date Required is the date the August 2023 inspection was due and the Final Date is the date the inspection was conducted.

Approx. Cost of Compliance

\$706

TOTAL

\$609



Compliance History Report

Compliance History Report for CN600927453, RN101905560, 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:	RN101905560, Exxpress Mart 29	Classification:	SATISFACTORY	Rating:	7.50
Complexity Points:	6	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	1650 West Cardinal Drive in Beaumont, Jefferson County, Texas				
TCEQ Region:	REGION 10 - BEAUMONT				
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 67037				
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:	Stephanie McCurley	Phone:	(512) 239-2607		

Site and Owner/Operator History:

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

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

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

- | | | |
|---|--|--|
| 1 | Effective Date: 05/03/2022 | ADMINORDER 2021-0685-PST-E (1660 Order-Agreed Order With Denial) |
| | Classification: Moderate | |
| | Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(2) | |
| | Description: Failed to assure that all UST recordkeeping requirements are met. Specifically, financial assurance, release detection, and operation and maintenance records were not available for review at the time of the investigation. | |

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 29
RN101905560

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

AGREED ORDER DOCKET NO. 2024-0993-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 29 (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 1650 West Cardinal Drive in Beaumont, Jefferson 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 \$17,234 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$13,788 of the penalty and \$3,446 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. On February 20, 2024, submitted a properly completed UST registration and self-certification form and obtained a valid, current TCEQ delivery certificate; and
 - b. On September 20, 2023, began conducting walkthrough inspections of the spill prevention equipment.

II. ALLEGATIONS

During an investigation at the Facility conducted on February 15, 2024, an investigator documented that the Respondent:

1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting a delivery of regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a). Specifically, 15 fuel deliveries were accepted without a valid, current TCEQ delivery certificate during the period from February 1, 2024 through February 14, 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 previous delivery certificate expired on January 30, 2024.
3. Failed to conduct walkthrough inspections 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). Specifically, the Respondent had not conducted 30-day walkthrough inspections of the spill prevention equipment from March 22, 2023 through September 18, 2023.

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 29, Docket No. 2024-0993-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. All relief not expressly granted in this Order is denied.
3. 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.
4. 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.
5. 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.
6. 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.

7. 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

12/12/2024

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

11-1-2024

Date

ELIAS SARKIS

Name (Printed or typed)
Authorized Representative of
TRI-CON, INC. dba Exxpress Mart 29

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.