

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2004-1799-PST-E TCEQ ID: RN101793479 CASE NO.: 21636
RESPONDENT NAME: YAMAN, INC. DBA 7 AM FOOD STORE

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 2728 Broadway Street, Galveston, Galveston County, Texas

TYPE OF OPERATION: Convenience store with retail sale of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 21, 2008. No comments were received.

CONTACTS AND MAILING LIST:

- TCEQ Attorney:** Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
- TCEQ Enforcement Coordinator:** Mr. Daniel Siringi, Air Enforcement Section, MC R-10, (409) 899-8799
- TCEQ Regional Contact:** Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623
- Respondent:** Mr. Yunusali A. Badupura, President, 2728 Broadway, Galveston, Texas 77550
 Mr. Akbarali R. Momin Ramey, Manager, 5615 Richmond Avenue, Suite 230, Houston, Texas 77057
- Respondent's Attorney:** Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None.</p> <p>Dates of Investigation Relating to this Case: August 16, 2004</p> <p>Date of NOE Relating to this Case: June 24, 2003 (NOV); October 21, 2004 (NOE)</p> <p>Background Facts: The EDPRP was filed on April 8, 2005. The respondent received notice of the EDPRP on April 11, 2005. The EDFARP was filed on October 27, 2006. The Respondent received the EDFARP on November 2, 2006, as evidenced by the signature on the green card. The EDSARP was filed on October 4, 2007. The Respondent received the EDSARP on October 8, 2007. No Answer has been filed for the EDPRP, EDFARP, or EDSARP.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST: Failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p>	<p>Total Assessed: \$2,910</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$2,910</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions</p> <p>Corrective Action Taken:</p> <p>The ED recognizes that Yaman has demonstrated financial assurance for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum UST's as per documents submitted on November 9, 2004 which shows coverage effective as from July 15, 2004.</p> <p>The Respondent's UST delivery certificate is revoked immediately upon the effective date of this Order. The Respondent may submit an application for a new delivery certificate only after the Respondent has complied with all of the requirements of this Order.</p> <p>The Respondent shall within 10 days, send its UST delivery certificate to the TCEQ.</p>



Penalty Calculation Worksheet (PCW)

DATES							
PCW	28-Jul-2008	Screening	15-Nov-2004	Priority Due	13-Feb-2005	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Yaman, Inc. dba 7 AM Food Store		
Reg. Ent. Ref. No.	RN101793479		
Additional ID No(s)	Petroleum Storage Tank Facility ID No. 46485		
Facility/Site Region	12-Houston	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	21636	No. of Violations	1
Docket No.	2004-1799-PST-E	Order Type	1660 without deferral
Case Priority	3	Enf. Coordinator	Cheryl Thompson
Media Program(s)	Petroleum Storage Tank	EC's Team	Enforcement Team 4
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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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	7% Enhancement	Subtotals 2, 3, & 7	\$210
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Notes: The Respondent received one NOV for same or similar violations and one NOV for non-similar violations within the past five years.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: Respondent did not meet culpability criteria.

Good Faith Effort to Comply	10% Reduction	Subtotal 5	-\$300
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with a small x)

Notes: The Respondent achieved compliance on July 15, 2004.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,048	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,950	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,910
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: [Empty box]

Final Penalty Amount: \$2,910

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,910
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended due to NOV's on May 2, 2000 (non-similar violations) and June 24, 2003 (same or similar violations).

PAYABLE PENALTY	\$2,910
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Screening Date	15-Nov-2004	Docket No.	2004-1799-PST-E	PCW
Respondent	Yaman, Inc. dba 7 AM Food Store			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	21636			<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No.	RN101793479			
Additional ID No(s).	Petroleum Storage Tank Facility ID No. 46485			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Cheryl Thompson			
Site Address	2728 Broadway Street, Galveston, Harris County			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)			
Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
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 judgements 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</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	<i>Please Enter Yes or No</i> 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)			7%
>> Repeat Violator (Subtotal 3)			
No <input type="checkbox"/>		Adjustment Percentage (Subtotal 3)	
			0%
>> Compliance History Person Classification (Subtotal 7)			
Average Performer <input type="checkbox"/>		Adjustment Percentage (Subtotal 7)	
			0%
>> Compliance History Summary			
Compliance History Notes	The Respondent received one NOV for same or similar violations and one NOV for non-similar violations within the past five years.		
Total Adjustment Percentage (Subtotals 2, 3, & 7)			7%

Screening Date	15-Nov-2004	Docket No.	2004-1799-PST-E	PCW
Respondent	Yaman, Inc. dba 7 AM Food Store			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	21636			<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No.	RN101793479			
Additional ID No(s)	Petroleum Storage Tank Facility ID No. 46485			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Cheryl Thompson			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 37.815 (a) and (b)			
Secondary Rule Cite(s)				
Violation Description	Failure to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs.			
Base Penalty	\$10,000			

>> **Environmental Property and Human Health Matrix**

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		X			Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

Three single events (one event per tank) are recommended based upon the record review conducted on August 16, 2004.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Yaman, Inc. dba 7 AM Food Store
Case ID No.: 21636
Reg. Ent. Reference No.: RN101793479
Additional ID No(s): Petroleum Storage Tank Facility ID No. 46485
Media [Statute]: 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	Onetime	EB
						Costs	Amount

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,950	02-Apr-2002	02-Apr-2003	1.0	\$98	\$1,950	\$2,048
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for three petroleum USTs (\$650 per tank). Date required is one year prior to initial request. Final date is the initial request date.

Approx. Cost of Compliance \$1,950

TOTAL \$2,048

Compliance History

Customer/Respondent/Owner-Operator:	CN600971709 Yaman, Inc.	Classification: AVERAGE	Rating: 1.500
Regulated Entity:	RN101793479 7 AM FOOD STORE	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	46485
Location:	2728 BROADWAY ST, GALVESTON, TX, 77550		Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	October 27, 2004		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 27, 1999 to October 27, 2004		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Daniel Siringi Phone: 409-899-8799

Site Compliance History Components

- | | |
|--|------------|
| 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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

- | | | |
|---|------------|----------|
| 1 | 07/02/2000 | (142877) |
| 2 | 06/15/2000 | (142876) |
| 3 | 05/12/2000 | (142875) |
| 4 | 03/31/2000 | (58379) |
| 5 | 05/02/2000 | (141480) |
| 6 | 03/10/2004 | (261120) |
| 7 | 06/24/2003 | (276930) |
| 8 | 10/21/2004 | (290625) |

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

Date: 06/24/2003 (276930)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
30 TAC Chapter 37, SubChapter I 37.815(b)[G]

Description: Failure to provide acceptable financial assurance

Date: 05/02/2000 (141480)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.48(c)
Description: FAILURE TO COMPLY

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
Description: FAILURE TO COMPLY

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.875[G]

Description: FAILURE TO COMPLY

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
YAMAN, INC. DBA 7 AM FOOD
STORE;
RN101793479

§
§
§
§
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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2004-1799-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Yaman, Inc. dba 7 AM Food Store (“Yaman”).

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

FINDINGS OF FACT

1. Yaman owns and operates a convenience store with retail sales of gasoline located at 2728 Broadway Street in Galveston, Galveston County, Texas (the “Facility”).
2. Yaman’s three (3) underground storage tank(s) (“USTs”) are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Yaman’s USTs contain a regulated substance as defined in the rules of the Commission.
3. During an investigation conducted on August 16, 2004, a TCEQ Houston Regional Office investigator documented that Yaman failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of USTs.
4. Yaman received notice of the violation on or about October 26, 2004.

5. The Executive Director recognizes that Yaman has demonstrated financial assurance for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, as per documents submitted on November 9, 2004 which shows coverage effective as from July 15, 2004.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Yaman, Inc. dba 7 AM Food Store" (the "EDPRP") in the TCEQ Chief Clerk's office on April 8, 2005.
7. By letter dated April 8, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Yaman with notice of the EDPRP. According to the return receipt "green card," Yaman received notice of the EDPRP on April 11, 2005, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Yaman received notice of the EDPRP, provided by the Executive Director. Yaman failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
9. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Yaman, Inc. dba 7 AM Food Store" (the "EDFARP") in the TCEQ Chief Clerk's office on October 27, 2006.
10. By letter dated October 27, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Yaman with notice of the EDFARP. According to the return receipt "green card," Yaman received notice of the EDFARP on November 2, 2006, as evidenced by the signature on the card.
11. More than 20 days have elapsed since Yaman received notice of the EDFARP, provided by the Executive Director. Yaman failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.
12. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Yaman, Inc. dba 7 AM Food Store" (the "EDSARP") in the TCEQ Chief Clerk's office on October 4, 2007.
13. By letter dated October 4, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Yaman with notice of the

EDSARP. According to the return receipt "green card," Yaman received notice of the EDSARP on October 8, 2007, as evidenced by the signature on the card.

14. More than 20 days have elapsed since Yaman received notice of the EDSARP, provided by the Executive Director. Yaman failed to file an answer to the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Yaman is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Yaman failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of USTs in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. As evidenced by Finding of Fact Nos. 12 and 13, the Executive Director timely served Yaman with proper notice of the EDSARP as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact Nos. 12 and 13 the Executive Director timely served Yaman with proper notice of the EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact Nos. 8, 11, and 14 and Yaman failed to file a timely answer to the EDPRP, EDFARP, or EDSARP as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Yaman and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Yaman for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of three thousand three hundred dollars (\$3,300.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
9. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Yaman's UST delivery certificate if the Commission finds that good cause exists.
10. Good cause for revocation of Yaman's UST delivery certificate exists as justified by Findings of Fact Nos. 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 and Conclusions of Law Nos. 2, 3, 4, and 5.

ORDERING PROVISIONS

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

1. Yaman is assessed an administrative penalty in the amount of three thousand three hundred dollars (\$2,910.00) for violations of the Texas Water Code, and the rules of the TCEQ. The payment of this administrative penalty and Yaman's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Yaman, Inc. dba 7 AM Food Store; Docket No. 2004-1799-PST-E" to:

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

2. Yaman's UST delivery certificate is revoked immediately upon the effective date of this Order. Yaman may submit an application for a new delivery certificate only after Yaman has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Yaman shall send its UST delivery

certificate to:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Yaman. Yaman is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Yaman shall be made in writing to the Executive Director. Extensions are not effective until Yaman receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Yaman if the Executive Director determines that Yaman has not complied with one or more of the terms or conditions in this Order.
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 Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Yaman, Inc. dba 7 AM Food Store
Docket No. 2004-1799-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JACQUELYN BOUTWELL

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Jacquelyn Boutwell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Yaman, Inc. dba 7 AM Food Store” (the “EDPRP”) was filed with the Office of the Chief Clerk on April 8, 2005.

The EDPRP was mailed to Yaman at its last known address on April 8, 2005, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Yaman received notice of the EDPRP on April 11, 2005, as evidenced by the signature on the card.

More than 20 days have elapsed since Yaman received notice of the EDPRP. Yaman failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Yaman, Inc. dba 7 AM Food Store” (the “EDFARP”) was filed with the Office of the Chief Clerk on October 27, 2006.

The EDFARP was mailed to Yaman at its last known address on October 27, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Yaman received notice of the EDFARP on November 2, 2006, as evidenced by the signature on the card.

More than 20 days have elapsed since Yaman received notice of the EDFARP. Yaman failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.”

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative

Penalty Against Yaman, Inc. dba 7 AM Food Store” (the “EDSARP”) was filed with the Office of the Chief Clerk on October 4, 2007.

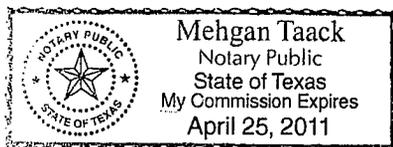
The EDSARP was mailed to Yaman at its last known address on October 4, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Yaman received notice of the EDSARP on October 8, 2007, as evidenced by the signature on the card.

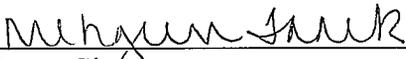
More than 20 days have elapsed since Yaman received notice of the EDSARP. Yaman failed to file an answer to the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.”


Jacquelyn Boutwell, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jacquelyn Boutwell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 20th day of November, A.D., 2007.




Notary Signature