

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 3

DOCKET NO.: 2007-1638-PST-E **TCEQ ID:** RN101870491 **CASE NO.:** 34773**RESPONDENT NAME:** Se Yon Oh dba US Food Mart 107

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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
<p>SITE WHERE VIOLATION(S) OCCURRED: US Food Mart 107, 6285 Barker Cypress Road, Houston, Harris County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 28, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Se Yon Oh, President/Owner, US Food Mart 107, 6285 Barker Cypress Road, Houston, Texas 77084 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

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(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 16, 2007</p> <p>Date of NOV/NOE Relating to this Case: October 2, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failed to timely renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2002 [30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii)].</p> <p>2) Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, review of the Station's fuel delivery manifests indicated that five deliveries of regulated substance had been received without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>3) Failed to conduct daily and monthly inspections of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4) Failed to verify proper operation of the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II triennial system compliance testing had not</p>	<p>Total Assessed: \$14,625</p> <p>Total Deferred: \$2,925 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$11,700</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. The TCEQ Houston Regional Office received documentation that the Respondent submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on August 7, 2007;</p> <p>b. As of August 3, 2007, the TCEQ Houston Regional Office received documentation verifying that the Respondent began conducting daily and monthly inspections of the Stage II vapor recovery system;</p> <p>c. The TCEQ Houston Regional Office received documentation verifying that on August 24, 2007, the Respondent successfully conducted the required triennial testing of the Stage II equipment;</p> <p>d. The TCEQ Houston Regional Office received documentation verifying that on August 3, 2007, swivel adapters and the dry break cap have been installed;</p> <p>e. As of September 7, 2007, the TCEQ Houston Regional Office received verification that the Respondent posted the Stage II operating instructions on the dispensers; and</p> <p>f. As of September 10, 2007, the TCEQ Houston Regional Office received verification that the Respondent began maintaining all Stage II records at the Station including the maintenance records and employee training records.</p>

been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

5) Failed to maintain the Stage II Vapor Recovery System in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order(s), and free of defects that would impair the effectiveness of the system including, but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the swivel adaptors were missing on the regular unleaded fill port and the vapor cap was missing on the dry break [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

6) Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system. Specifically, there were no Stage II operating instructions posted at dispensers 2, 4, 6 and 8 [30 TEX. ADMIN. CODE § 115.242 (9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

7) Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, the maintenance records and the employee training records for the Stage II vapor recovery system were not available [30 TEX. ADMIN. CODE § 115.246(3) and (4) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Additional ID No(s): PST Facility ID No. 67244



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

DATES	Assigned	8-Oct-2007	Screening	11-Oct-2007	EPA Due	
	PCW	12-Oct-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Se Yon Oh dba US Food Mart 107
Reg. Ent. Ref. No.	RN101870491
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	34773	No. of Violations	6
Docket No.	2007-1638-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge
Multi-Media		EC's Team	EnforcementTeam 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 25% Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

Total EB Amounts 0% Enhancement* Subtotal 6
 *Capped at the Total EB \$ Amount
Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE 11% Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 20% Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 11-Oct-2007

Docket No. 2007-1638-PST-E

PCW

Respondent Se Yon Oh dba US Food Mart 107

Policy Revision 2 (September 2002)

Case ID No. 34773

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101870491

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
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 due to compliance history.

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

Screening Date 11-Oct-2007

Docket No. 2007-1638-PST-E

PCW

Respondent Se Yon Oh dba US Food Mart 107

Policy Revision 2 (September 2002)

Case ID No. 34773

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101870491

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 334.8(c)(5)(B)(ii)

Violation Description

Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2002.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

OR

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="25%"/>

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended based on documentation of the violation during the July 16, 2007 investigation.

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 Se Yon Oh dba US Food Mart 107
Case ID No. 34773
Reg. Ent. Reference No. RN101870491
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	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$100	1-Aug-2002	7-Aug-2007	5.0	\$25	n/a	\$25

Notes for DELAYED costs

Estimated cost to renew a delivery certificate in a timely manner. The date required is 30 days before the expiration date of the delivery certificate and the final date is the compliance date.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$25

Screening Date 11-Oct-2007		Docket No. 2007-1638-PST-E		PCW
Respondent Se Yon Oh dba US Food Mart 107				<i>Policy Revision 2 (September 2002)</i>
Case ID No. 34773				<i>PCW Revision September 19, 2007</i>
Reg. Ent. Reference No. RN101870491				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number	<input type="text" value="2"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)"/>			
Violation Description	<input type="text" value="Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, review of the Station's fuel delivery manifests indicated that the Station had received five deliveries of regulated substance without a delivery certificate."/>			
Base Penalty				<input type="text" value="\$10,000"/>
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="25%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>			
Adjustment				<input type="text" value="\$7,500"/>
				<input type="text" value="\$2,500"/>
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="5"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text" value="x"/>		
				Violation Base Penalty <input type="text" value="\$2,500"/>
<input type="text" value="One single event is recommended based on documentation of the violation during the July 16, 2007 investigation."/>				
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$0"/>	Violation Final Penalty Total	<input type="text" value="\$2,089"/>
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$2,089"/>

Economic Benefit Worksheet

Respondent Se Yon Oh dba US Food Mart 107
Case ID No. 34773
Reg. Ent. Reference No. RN101870491
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	Onetime Costs	EB Amount
<small>No commas or \$</small>							

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

The economic benefit is calculated in Violation No. 1.

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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 11-Oct-2007	Docket No. 2007-1638-PST-E	PCW
Respondent Se Yon Oh dba US Food Mart 107	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34773	<i>PCW Revision September 19, 2007</i>	
Reg. Ent. Reference No. RN101870491		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		
Violation Number	3	
Rule Cite(s)	30 Tex. Admin. Code § 115.244(1) and (3) and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to conduct daily and monthly inspections of the Stage II vapor recovery system.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Percent	25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent
					0%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the investigation conducted July 16, 2007 to the August 3, 2007 compliance date.

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 Se Yon Oh dba US Food Mart 107
Case ID No. 34773
Reg. Ent. Reference No. RN101870491
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	Onetime Costs	EB Amount
No commas or \$							

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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	16-Jun-2007	3-Aug-2007	1.0	\$52	\$1,000	\$1,052
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated expense for an employee to conduct daily and monthly inspections of the Stage II system. The date required is one month prior to the investigation date and the final date is the date of compliance.

Approx. Cost of Compliance \$1,000

TOTAL \$1,052

Screening Date 11-Oct-2007	Docket No. 2007-1638-PST-E	PCW
Respondent Se Yon Oh dba US Food Mart 107	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34773	<i>PCW Revision September 19, 2007</i>	
Reg. Ent. Reference No. RN101870491		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		
Violation Number	4	
Rule Cite(s)	30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to verify proper operation of the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II triennial system compliance testing had not been conducted.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	Potential	x	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="50%"/>

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="0%"/>

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	x

Violation Base Penalty

One single event is recommended based on documentation of the violation during the July 16, 2007 investigation.

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 Se Yon Oh dba US Food Mart 107
Case ID No. 34773
Reg. Ent. Reference No. RN101870491
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	Onetime Costs	EB Amount
<small>No commas or \$</small>							

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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	16-Jul-2004	24-Aug-2007	4.0	\$101	\$500	\$601
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for triennial testing of the Stage II equipment. The date required is three years prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$500

TOTAL

\$601

Screening Date 11-Oct-2007	Docket No. 2007-1638-PST-E	PCW
Respondent Se Yon Oh dba US Food Mart 107	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34773	<i>PCW Revision September 19, 2007</i>	
Reg. Ent. Reference No. RN101870491		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		
Violation Number	5	
Rule Cite(s)	30 Tex. Admin. Code § 115.242(3) and (9) and Tex. Health & Safety Code § 382.085(b)	
Violation Description	<p>Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system including, but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the swivel adaptors were missing on the regular unleaded fill port and the vapor cap was missing on the dry break. Also, failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system. Specifically, there were no Stage II operating instructions posted at dispensers 2, 4, 6 and 8.</p>	
	Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm					
	Release	Major	Moderate	Minor		Percent
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Potential	<input type="checkbox"/>	x	<input type="checkbox"/>			

>> Programmatic Matrix

	Falsification					
		Major	Moderate	Minor		Percent
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.					

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	x
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the July 16, 2007 investigation to the September 7, 2007 compliance date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input style="width: 100px;" type="text" value="\$1"/>	Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$2,089"/>
This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100px;" type="text" value="\$2,089"/>	

Economic Benefit Worksheet

Respondent Se Yon Oh dba US Food Mart 107
Case ID No. 34773
Reg. Ent. Reference No. RN101870491
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Swivel Adapters & Dry Break Cap	\$150	16-Jul-2007	3-Aug-2007	0.0	\$0	\$0	\$1
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
Post Operating Instructions	\$100	16-Jul-2007	7-Sep-2007	0.1	\$1	n/a	\$1

Notes for DELAYED costs
 Actual cost to properly operate and maintain the Stage II vapor recovery system as specified including installing swivel adapters and dry break cap and posting the operating instructions on the dispensers. The dates required are the investigation date and the final dates are the dates of compliance.

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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$250

TOTAL \$1

Screening Date	11-Oct-2007	Docket No.	2007-1638-PST-E	PCW
Respondent	Se Yon Oh dba US Food Mart 107			Policy Revision 2 (September 2002)
Case ID No.	34773			PCW Revision September 19, 2007
Reg. Ent. Reference No.	RN101870491			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Judy Kluge			
Violation Number	6			
Rule Cite(s)	30 Tex. Admin. Code § 115.246(3) and (4) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, the maintenance records and the employee training records for the Stage II vapor recovery system were not available.			

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		x			
100% of the rule requirement was not met.					

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended based on documentation of the violation during the July 16, 2007 investigation.

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 Se Yon Oh dba US Food Mart 107
Case ID No. 34773
Reg. Ent. Reference No. RN101870491
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

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	\$200	16-Jul-2007	10-Sep-2007	0.2	\$2	n/a	\$2
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

Estimated cost to maintain Stage II records as required. The date required is the investigation date and the final date is the compliance date.

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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$2

Compliance History

Customer/Respondent/Owner-Operator:	CN601019227 OH, SE YON	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101870491 US FOOD MART 107	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	67244
Location:	6285 BARKER CYPRESS RD, HOUSTON, TX, 77084	Rating Date: 9/1/2007	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	October 10, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 10, 2002 to October 10, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Judy Kluge	Phone:	817-588-5825

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? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

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 10/02/2007 (570482)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
SE YON OH DBA US FOOD MART 107
RN101870491

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2007-1638-PST-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Se Yon Oh dba US Food Mart 107 ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 6285 Barker Cypress Road in Houston, Harris County, Texas (the "Station").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 7, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fourteen Thousand Six Hundred Twenty-Five Dollars (\$14,625) is assessed by the Commission in settlement of the violations alleged in Section II

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("Allegations"). The Respondent has paid Eleven Thousand Seven Hundred Dollars (\$11,700) of the administrative penalty and Two Thousand Nine Hundred Twenty-Five Dollars (\$2,925) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. 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.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. The TCEQ Houston Regional Office received documentation that the Respondent submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on August 7, 2007;
 - b. As of August 3, 2007, the TCEQ Houston Regional Office received documentation verifying that the Respondent began conducting daily and monthly inspections of the Stage II vapor recovery system;
 - c. The TCEQ Houston Regional Office received documentation verifying that on August 24, 2007, the Respondent successfully conducted the required triennial testing of the Stage II equipment;
 - d. The TCEQ Houston Regional Office received documentation verifying that on August 3, 2007, swivel adapters and the dry break cap have been installed;
 - e. As of September 7, 2007, the TCEQ Houston Regional Office received verification that the Respondent posted the Stage II operating instructions on the dispensers; and
 - f. As of September 10, 2007, the TCEQ Houston Regional Office received verification that the Respondent began maintaining all Stage II records at the Station including the maintenance records and employee training records.
10. 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 Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to timely 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)(5)(B)(ii), as documented during an investigation conducted on July 16, 2007. Specifically, the delivery certificate expired on August 31, 2002.
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a 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), as documented during an investigation conducted on July 16, 2007. Specifically, review of the Station's fuel delivery manifests indicated that five deliveries of regulated substance had been received without a delivery certificate.
3. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 16, 2007.
4. Failed to verify proper operation of the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 16, 2007. Specifically, the Stage II triennial system compliance testing had not been conducted.
5. Failed to maintain the Stage II Vapor Recovery System in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order(s), and free of defects that would impair the effectiveness of the system including, but not limited to absence or disconnection of any component that is a part of the approved system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 16, 2007. Specifically, the swivel adaptors were missing on the regular unleaded fill port and the vapor cap was missing on the dry break.
6. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 16, 2007. Specifically, there were no Stage II operating instructions posted at dispensers 2, 4, 6 and 8.
7. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(3) and (4) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 16, 2007. Specifically, the maintenance records and the employee training records for the Stage II vapor recovery system were not available.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Se Yon Oh dba US Food Mart 107, Docket No. 2007-1638-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
3. This Agreed 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 Agreed 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.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Snelin

For the Executive Director

3/26/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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 Attorney General's Office 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 Attorney General's Office 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.

Se Yon Oh

Signature

Se Yon Oh

Name (Printed or typed)

Authorized Representative of
Se Yon Oh dba US Food Mart 107

02-06-2008

Date

PRESIDENT

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

