

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-0437-PST-E **TCEQ ID:** RN101675759 **CASE NO.:** 37379
RESPONDENT NAME: CHITTAGONG CORPORATION dba ANB Food Mart

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: ANB Food Mart, 701 West Washington Avenue, Navasota, Grimes 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 September 7, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Brianna Carlson, Enforcement Division, Enforcement Team 6, MC R-15, (956) 430-6021; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. M. Baqui, President, CHITTAGONG CORPORATION, P.O. Box 61, Hockley, Texas 77447 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: February 4, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 20, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to maintain underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)(1)(B)].</p> <p>2) Failure to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>3) Failure to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial testing had not been conducted [30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>4) Failure to provide proper release detection for the pressurized piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness test [30 TEX. ADMIN. CODE § 334.50(b)(2)(A) and TEX. WATER CODE § 26.3475(a)].</p> <p>5) Failure to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN.</p>	<p>Total Assessed: \$9,532</p> <p>Total Deferred: \$1,906 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$276 (remaining \$7,350 due in 35 monthly payments of \$210 each)</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Began maintaining UST records on March 31, 2009;</p> <p>b. Began conducting bimonthly inspections of the rectifier and other components of the impressed current cathodic protection system, and successfully conducted the required triennial testing of the cathodic protection system on February 24, 2009;</p> <p>c. Successfully conducted the required annual piping tightness and line leak detector tests on March 3, 2009;</p> <p>d. Removed dirt from sumps and began conducting bimonthly inspections of all sumps, manways, and overspill containers or catchment basins on April 4, 2009; and</p> <p>e. Properly locked the fill port for tank no. 4 on March 31, 2009.</p>

<p>CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a).</p> <p>6) Failure to inspect all sumps, manways, overflow containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Specifically, sumps were filled with dirt [30 TEX. ADMIN. CODE § 334.42(i)].</p> <p>7) Failure to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, tank no. 4 was taken temporarily out of service but the fill port was not locked [30 TEX. ADMIN. CODE § 334.54(b)(2)].</p>		
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Additional ID No(s): 24279



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	23-Mar-2009	Screening	26-Mar-2009	EPA Due	
	PCW	30-Mar-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	CHITTAGONG CORPORATION dba ANB Food Mart
Reg. Ent. Ref. No.	RN101675759
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37379	No. of Violations	5
Docket No.	2009-0437-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Brianna Carlson
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 6
Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$9,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement *Subtotals 2, 3, & 7* **\$0**

Notes: No adjustment for compliance history.

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* **\$1,700**

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

Total EB Amounts: \$1,737
 Approx. Cost of Compliance: \$2,350
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$7,800**

OTHER FACTORS AS JUSTICE MAY REQUIRE 22.2% *Adjustment* **\$1,732**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 2, 3 and 4.

Final Penalty Amount **\$9,532**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$9,532**

DEFERRAL 20.0% Reduction *Adjustment* **-\$1,906**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$7,626**

Screening Date 26-Mar-2009

Docket No. 2009-0437-PST-E

PCW

Respondent CHITTAGONG CORPORATION dba ANB Food Mart

Policy Revision 2 (September 2002)

Case ID No. 37379

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101675759

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

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 judgements 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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 26-Mar-2009	Docket No. 2009-0437-PST-E	PCW			
Respondent CHITTAGONG CORPORATION dba ANB Food Mart		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 37379		<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN101675759					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Brianna Carlson					
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 334.10(b)(1)(B)				
Violation Description	Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.				
Base Penalty		\$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"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.				
Adjustment			\$9,000		
			\$1,000		
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="50"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>			Violation Base Penalty
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
single event	<input checked="" type="text" value="x"/>			\$1,000	
One single event is recommended based on documentation of the violation during the February 4, 2009 investigation.					
Good Faith Efforts to Comply		10.0% Reduction		\$100	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>		<input type="text"/>		
Ordinary	<input type="text"/>		<input checked="" type="text" value="x"/>		
N/A	<input type="text"/>		(mark with x)		
Notes	The Respondent came into compliance on March 31, 2009, after receiving the NOE dated March 20, 2009.				
Violation Subtotal			\$900		
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$4"/>	Violation Final Penalty Total		\$1,100
This violation Final Assessed Penalty (adjusted for limits)					\$1,100

Economic Benefit Worksheet

Respondent: CHITTAGONG CORPORATION dba ANB Food Mart
Case ID No.: 37379
Reg. Ent. Reference No.: RN101675759
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
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Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$500	4-Feb-2009	31-Mar-2009	0.15	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records. The date required is the date of the investigation and the final date is the date of compliance.

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				0.00	\$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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$4

Screening Date 26-Mar-2009	Docket No. 2009-0437-PST-E	PCW
Respondent CHITTAGONG CORPORATION dba ANB Food Mart		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 37379		<small>PCW Revision October 30, 2008</small>
Reg. Ent. Reference No. RN101675759		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Brianna Carlson		
Violation Number <input type="text" value="2"/>		
Rule Cite(s) <input type="text" value="30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4)(C), and Tex. Water Code § 26.3475(d)"/>		
Violation Description <input type="text" value="Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted."/>		
Base Penalty		<input type="text" value="\$10,000"/>
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release Major Moderate Minor	
	Actual	<input type="text"/>
	Potential	<input type="text" value="x"/>
Percent		<input type="text" value="25%"/>
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	<input type="text"/>	<input type="text"/>
Percent		<input type="text" value="0%"/>
Matrix Notes	<input type="text" value="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		<input type="text" value="\$7,500"/>
		<input type="text" value="\$2,500"/>
Violation Events		
Number of Violation Events		<input type="text" value="1"/>
Number of violation days		<input type="text" value="20"/>
<small>mark only one with an x</small>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
Violation Base Penalty		<input type="text" value="\$2,500"/>
<input type="text" value="One monthly event is recommended based on documentation of the violation during the February 4, 2009 investigation to the February 24, 2009 compliance date."/>		
Good Faith Efforts to Comply		<input type="text" value="25.0% Reduction"/>
		<input type="text" value="\$625"/>
Extraordinary	Before NOV	<input type="text"/>
Extraordinary	NOV to EDRP/Settlement Offer	<input type="text"/>
Ordinary		<input type="text" value="x"/>
N/A		<input type="text" value="(mark with x)"/>
Notes	<input type="text" value="The Respondent came into compliance on February 24, 2009, prior to the NOE dated March 20, 2009."/>	
Violation Subtotal		<input type="text" value="\$1,875"/>
Economic Benefit (EB) for this violation		<input type="text" value="\$525"/>
Statutory Limit Test		<input type="text" value="\$2,291"/>
Violation Final Penalty Total		<input type="text" value="\$2,291"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$2,291"/>

Economic Benefit Worksheet

Respondent CHITTAGONG CORPORATION dba ANB Food Mart
Case ID No. 37379
Reg. Ent. Reference No. RN101675759
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
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No commas or \$

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

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	6-Dec-2008	24-Feb-2009	1.14	\$6	\$100	\$106
Other (as needed)	\$350	4-Feb-2006	24-Feb-2009	3.98	\$70	\$350	\$420

Notes for AVOIDED costs

Actual avoided cost for conducting bimonthly inspection (\$100) and completing the triennial test (\$350) per receipt submitted by the Respondent. The dates required are 60 days before the investigation and three years before the investigation respectively. The final date is the compliance date.

Approx. Cost of Compliance

\$450

TOTAL

\$525

Screening Date 26-Mar-2009	Docket No. 2009-0437-PST-E	PCW
Respondent CHITTIGONG CORPORATION dba ANB Food Mart		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 37379		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN101675759		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Brianna Carlson		
Violation Number	3	
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(2)(A) and (b)(2)(A)(i)(III), and Tex. Water Code § 26.3475(a)	
Violation Description	Failed to provide proper release detection for the pressurized piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness test. Also, failed to test the line leak detectors at least once per year for performance and operational reliability.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>	

>> Programmatic Matrix

	Major	Moderate	Minor	
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				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

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	x
single event	<input type="text"/>

Violation Base Penalty

One annual event is recommended for the 12-month period preceding the February 4, 2009 investigation date.

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	x	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes The Respondent came into compliance on March 3, 2009, prior to the NOE dated March 20, 2009.

Violation Subtotal

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 CHITTAGONG CORPORATION dba ANB Food Mart
Case ID No. 37379
Reg. Ent. Reference No. RN101675759
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
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No commas or \$

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

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	4-Feb-2008	3-Mar-2009	1.99	\$100	\$1,000	\$1,100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct annual piping tightness and line leak detector tests. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance	\$1,000	TOTAL	\$1,100
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Screening Date 26-Mar-2009 **Docket No.** 2009-0437-PST-E **PCW**
Respondent CHITTAGONG CORPORATION dba ANB Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 37379 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101675759
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Brianna Carlson
Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 334.42(i)
Violation Description Failed to inspect all sumps, manways, overflow containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Specifically, sumps were filled with dirt.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
Potential		x		10%

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				
				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 \$9,000

\$1,000

Violation Events

Number of Violation Events: 1 Number of violation days: 50

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the February 4, 2009 investigation date to the March 26, 2009 screening date.

Good Faith Efforts to Comply 10.0% Reduction \$100

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

Notes: The Respondent came into compliance on April 4, 2009, after receiving the NOE dated March 20, 2009.

Violation Subtotal \$900

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$106 Violation Final Penalty Total \$1,100

This violation Final Assessed Penalty (adjusted for limits) \$1,100

Economic Benefit Worksheet

Respondent CHITTAGONG CORPORATION dba ANB Food Mart

Case ID No. 37379

Reg. Ent. Reference No. RN101675759

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
No commas or \$							

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

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	6-Dec-2008	4-Apr-2009	1.24	\$6	\$100	\$106
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins. The date required is 60 days before the investigation. The final date is the compliance date.

Approx. Cost of Compliance \$100

TOTAL \$106

Screening Date 26-Mar-2009	Docket No. 2009-0437-PST-E	PCW				
Respondent CHITTAGONG CORPORATION dba ANB Food Mart		<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 37379		<i>PCW Revision October 30, 2008</i>				
Reg. Ent. Reference No. RN101675759						
Media [Statute] Petroleum Storage Tank						
Enf. Coordinator Brianna Carlson						
Violation Number	5					
Rule Cite(s)	30 Tex. Admin. Code § 334.54(b)(2)					
Violation Description	Failed to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, tank no. 4 was taken temporarily out of service but the fill port was not locked.					
Base Penalty		\$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	x	<input type="text"/>	<input type="text"/>			
		Percent	25%			
>> Programmatic Matrix						
Falsification			Major	Moderate	Minor	
<input type="text"/>			<input type="text"/>	<input type="text"/>	<input type="text"/>	
		Percent	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			\$7,500			
			\$2,500			
Violation Events						
Number of Violation Events		1	Number of violation days		50	
<i>mark only one with an x</i>	daily	<input type="text"/>				
	weekly	<input type="text"/>				
	monthly	<input type="text"/>				
	quarterly	x				
	semiannual	<input type="text"/>				
	annual	<input type="text"/>				
single event	<input type="text"/>					
		Violation Base Penalty				\$2,500
One quarterly event is recommended based on documentation of the violation during the February 4, 2009 investigation date to the March 26, 2009 screening date.						
Good Faith Efforts to Comply		10.0% Reduction		\$250		
		Before NOV	NOV to EDRP/Settlement Offer			
Extraordinary	<input type="text"/>	<input type="text"/>				
Ordinary	<input type="text"/>	x				
N/A	<input type="text"/>	(mark with x)				
Notes	The Respondent came into compliance on March 31, 2009, after receiving the NOE dated March 20, 2009.					
Violation Subtotal				\$2,250		
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount		\$2	Violation Final Penalty Total		\$2,750	
This violation Final Assessed Penalty (adjusted for limits)				\$2,750		

Economic Benefit Worksheet

Respondent CHITTAGONG CORPORATION dba ANB Food Mart
Case ID No. 37379
Reg. Ent. Reference No. RN101675759
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
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No commas or \$

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)	\$300	4-Feb-2009	31-Mar-2009	0.15	\$2	n/a	\$2

Notes for DELAYED costs

Actual cost to secure all piping, pump, manways, tank access points, and ancillary equipment, per receipt submitted by the Respondent. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$2

Compliance History Report

Customer/Respondent/Owner-Operator: CN600904981 CHITTAGONG CORPORATION
Regulated Entity: RN101675759 ANB Food Mart

Classification: AVERAGE Rating: 3.01
Classification: AVERAGE Site Rating: 3.01
BY DEFAULT

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 24279
REGISTRATION

Location: 701 W WASHINGTON AVE, NAVASOTA, TX, 77868

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: March 24, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 24, 2004 to March 24, 2009

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

Name: Brianna Carlson Phone: 956/430-6021

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
6. Rating Date: 9/1/2008 Repeat Violator: NO

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 03/19/2009 (725944)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
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
CHITTAGONG CORPORATION DBA
ANB FOOD MART
RN101675759

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§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0437-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 CHITTAGONG CORPORATION dba ANB Food Mart ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 701 West Washington Avenue in Navasota, Grimes County, Texas (the "Facility").
2. The Respondent's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
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 March 25, 2009.
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 Nine Thousand Five Hundred Thirty-Two Dollars (\$9,532) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Seventy Six Dollars (\$276) of the

administrative penalty and One Thousand Nine Hundred Six Dollars (\$1,906) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seven Thousand Three Hundred Fifty Dollars (\$7,350) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Ten Dollars (\$210) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 Facility:
 - a. Began maintaining UST records on March 31, 2009;
 - b. Began conducting bimonthly inspections of the rectifier and other components of the impressed current cathodic protection system, and successfully conducted the required triennial testing of the cathodic protection system on February 24, 2009;
 - c. Successfully conducted the required annual piping tightness and line leak detector tests on March 3, 2009;
 - d. Removed dirt from sumps and began conducting bimonthly inspections of all sumps, manways, and overspill containers or catchment basins on April 4, 2009; and
 - e. Properly locked the fill port for tank no. 4 on March 31, 2009.
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 Facility, the Respondent is alleged to have:

1. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(1)(B), as documented during an investigation conducted on February 4, 2009.
2. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on February 4, 2009.
3. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on February 4, 2009. Specifically, the triennial testing had not been conducted.
4. Failed to provide proper release detection for the pressurized piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 4, 2009. Specifically, the Respondent did not conduct the annual piping tightness test.
5. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 4, 2009.
6. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight, in violation of 30 TEX. ADMIN. CODE § 334.42(i), as documented during an investigation conducted on February 4, 2009. Specifically, sumps were filled with dirt.
7. Failed to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(2), as documented during an investigation conducted on February 4, 2009. Specifically, tank no. 4 was taken temporarily out of service but the fill port was not locked.

III. DENIALS

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

IV. ORDERING PROVISIONS

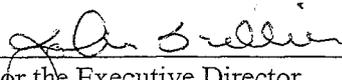
1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations 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: CHITTAGONG CORPORATION dba ANB Food Mart, Docket No. 2009-0437-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 Facility operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed 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 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.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. 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



For the Executive Director

Date 9/3/2009

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.



Signature

Date 6-29-09

M. BAZZU

Name (Printed or typed)
Authorized Representative of
CHITTAGONG CORPORATION dba ANB Food Mart

Title PRESIDENT

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.

