

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1071-PST-E TCEQ ID: RN101433282 CASE NO.: 36147

RESPONDENT NAME: GRUPO VICTORIA CORPORATION DBA LOS TEJANOS MEAT MARKET

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

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

SITE WHERE VIOLATION(S) OCCURRED: 4401 McPherson Road, Laredo, Webb County

TYPE OF OPERATION: Convenience store with retail sales of gasoline.

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on July 13, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-0736
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789

TCEQ Regional Contact: Ms. Rosa Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 753-4052

Respondent: Ms. Heidi Pargas, Director and Manager, Grupo Victoria Corporation, 4401 McPherson Road, Laredo, Texas 78041

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 25, 2008</p> <p>Date of NOE Relating to this Case: February 26, 2008</p> <p>Background Facts: The case was referred to the Litigation Division on September 19, 2008. The EDPRP was filed on November 3, 2008, but the Executive Director did not receive proof of service for the EDPRP. The EDFARP was filed on November 12, 2008. Respondent received the EDFARP on November 15, 2009, as evidenced by the "green card." Respondent failed to file an answer or request a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance. The Respondent filed a petition for Bankruptcy on March 12, 2009.</p> <p>PST:</p> <p>1. Failed to provide a method of release detection capable of detecting release from any portion of the UST system which contained regulated substances; failed to test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(a)(1)(A), (b)(2)(A)(i)(III), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I), and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p> <p>2. Failed to conduct effective manual or automatic inventory control procedures for all UST's involved in the retail sale of petroleum substances used as a motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p>	<p>Total Assessed: \$6,096</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$6,096</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s):</p> <p>The Respondent's delivery certificate is immediately revoked. Within 10 days, the Respondent must send its UST delivery certificate to the TCEQ.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately begin conducting effective manual or automatic inventory control procedures for all USTs. 2. Within 30 days, install and implement a release detection method for all the USTs, conduct annual testing of the line leak detectors for performance and operational reliability, and begin conducting volume measurement and reconciliation of inventory control records. 3. Within 45 days, certify compliance with the above Ordering Provisions.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	14-May-2008		
	PCW	15-Sep-2008	Screening	15-May-2008
		EPA Due		

RESPONDENT/FACILITY INFORMATION			
Respondent	Grupo Victoria Corporation dba Los Tejanos Meat Market		
Reg. Ent. Ref. No.	RN101433282		
Facility/Site Region	16-Laredo	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36147	No. of Violations	2
Docket No.	2008-1071-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Elvia Maske
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.		
Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7
		\$0

Notes: No adjustment due to compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement	Subtotal 6	\$0
Total EB Amounts	\$1,179	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$3,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	21.9%	Adjustment	\$1,096
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes: Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 1.

Final Penalty Amount	\$6,096
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,096
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DEFERRAL	0.0% Reduction	Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$6,096
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Screening Date 15-May-2008

Docket No. 2008-1071-PST-E

PCW

Respondent Grupo Victoria Corporation dba Los Tejanos Meat Marke

Policy Revision 2 (September 2002)

Case ID No. 36147

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101433282

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

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 NOV 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 due to compliance history.

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

Screening Date 15-May-2008	Docket No. 2008-1071-PST-E	PCW			
Respondent Grupo Victoria Corporation dba Los Tejanos Meat Market	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 36147	<i>PCW Revision June 12, 2008</i>				
Reg. Ent. Reference No. RN101433282					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Elvia Maske					
Violation Number <input type="text" value="1"/>					
Rule Cite(s)	30 Tex. Admin. Code § 334.50(a)(1)(A), (b)(2)(A)(i)(II), (d)(1)(B)(ii), (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(a) and (c)(1)				
Violation Description	Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances. Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount remaining in the tank each operating day.				
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" value="x"/>	<input type="text"/>	<input type="text"/>	
		Percent	<input type="text" value="25%"/>		
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>		
Matrix Notes	Human health or the environment 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="80"/>			
mark only one with an x	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text" value="x"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
		Violation Base Penalty			
		<input type="text" value="\$2,500"/>			
One quarterly event is recommended based on documentation of the violation during the February 25, 2008 investigation to the May 15, 2008 screening date.					
Good Faith Efforts to Comply					
		0.0% Reduction		<input type="text" value="\$0"/>	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>				
Ordinary	<input type="text"/>				
N/A	<input type="text" value="x"/>	(mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
		Violation Subtotal			
		<input type="text" value="\$2,500"/>			
Economic Benefit (EB) for this violation					
Statutory Limit Test					
Estimated EB Amount		<input type="text" value="\$1,160"/>	Violation Final Penalty Total		<input type="text" value="\$3,048"/>
		This violation Final Assessed Penalty (adjusted for limits)			
		<input type="text" value="\$3,048"/>			

Economic Benefit Worksheet

Respondent Grupo Victoria Corporation dba Los Tejanos Meat Market

Case ID No. 36147

Reg. Ent. Reference No. RN101433282

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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)	\$1,500	25-Feb-2008	1-Jan-2009	0.85	\$64	\$64

Notes for DELAYED costs

Estimated cost of monitoring all USTs for releases to include volume measurement and reconciliation of inventory control records. Date required is the investigation date and final date is the expected 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]	\$1,000	25-Feb-2007	25-Feb-2008	1.92	\$96	\$1,096
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost for conducting the annual line leak detector tests. Date required is one year prior to the investigation and final date is the investigation date.

Approx. Cost of Compliance

\$2,500

TOTAL

\$1,160

Screening Date 15-May-2008 **Docket No.** 2008-1071-PST-E **PCW**
Respondent Grupo Victoria Corporation dba Los Tejanos Meat Market *Policy Revision 2 (September 2002)*
Case ID No. 36147 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101433282
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Elvia Maske
Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

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 checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply **0.0% Reduction**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	

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 Grupo Victoria Corporation dba Los Tejanos Meat Market

Case ID No. 36147

Reg. Ent. Reference No. RN101433282

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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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	\$500	25-Feb-2008	1-Dec-2008	0.77	\$19	n/a	\$19
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 conduct effective inventory control procedures. Date required is the investigation date and final date is the expected 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 **\$500** TOTAL **\$19**

Compliance History

Customer/Respondent/Owner-Operator:	CN603324674 Grupo Victoria Corporation	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101433282 Los Tejanos Meat Market	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	63331
Location:	4401 MCPHERSON RD, LAREDO, TX, 78041	Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 16 - LAREDO		
Date Compliance History Prepared:	July 02, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 02, 2003 to July 02, 2008		

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

Name: Elvia Maske Phone: (512) 239-0789

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 02/26/2008 (636938)
- 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
GRUPO VICTORIA CORPORATION	§	
DBA LOS TEJANOS MEAT MARKET;	§	ENVIRONMENTAL QUALITY
RN101433282	§	

DEFAULT ORDER
DOCKET NO. 2008-1071-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered the Executive Director’s First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent’s fuel delivery certificate. The respondent made the subject of this order is Grupo Victoria Corporation dba Los Tejanos Meat Market (“Grupo”).

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

FINDINGS OF FACT

1. Grupo owns and operates a convenience store with retail sales of gasoline, located at 4401 McPherson Road, Laredo, Webb County, Texas (the “Facility”).
2. The USTs at the Facility contain regulated substances as defined in the Commission’s rules. The USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. On February 25, 2008, an investigator from the TCEQ Laredo Regional Office documented that Grupo:
 - a. failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances; failed to test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of

1.0% of the total substance flow-through fro the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount remaining in the tank each operating day; and

- b. failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel.
4. Grupo received notice of the violations on or about February 28, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Grupo Victoria Corporation dba Los Tejanos Meat Market" (the "EDPRP") in the TCEQ Chief Clerk's office on November 3, 2008.
6. The Executive Director did not receive proof of service for the EDPRP.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Grupo Victoria Corporation dba Los Tejanos Meat Market" (the "EDFARP") in the TCEQ Chief Clerk's office on November 12, 2008.
8. By letter dated November 12, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Grupo with notice of the EDFARP. According to the return receipt "green card," Grupo received notice of the EDFARP on November 15, 2008, as evidenced by the signature on the card.
9. More than 20 days have elapsed since Grupo received notice of the EDFARP, provided by the Executive Director. Grupo failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.
10. On or about March 12, 2009, Grupo filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code.
11. The Executive Director recognizes that the facility is no longer in operation.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Grupo's USTs are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Finding of Fact Number 3.a., Grupo violated 30 TEX. ADMIN. CODE §§ 334.50(a)(1)(A), 335.50(b)(2)(A)(i)(III), 334.50(d)(1)(B)(ii), 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE §§ 26.3475(a) and 26.3475(c)(1), by failing to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances; failing to rest the line leak detectors at least once per year for performance and operational reliability; failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through from the month plus 130 gallons; and failing to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount remaining in the tank each operating day.
3. As evidenced by Finding of Fact Number 3.b., Grupo violated 30 Tex. Admin Code § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel.
4. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director timely served Grupo with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 9, Grupo failed to file a timely answer to the EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Grupo and assess the penalty recommended by the Executive Director.
6. As evidenced by Finding of Fact No. 10, Grupo filed a petition for bankruptcy relief pursuant to Chapter 11 of the United States Code. The Automatic Stay imposed by the Bankruptcy Code (specifically, 11 USC § 362(a)) does not apply to the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power, by virtue of the exception set out at 11 USC § 362(b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 USC § 101(27)) is expressly excepted from the automatic stay in pursuing enforcement of the State's environmental protection laws, and in seeking to liquidate its damages for such violations. So long as Grupo's bankruptcy proceedings are pending and/or until relief from the automatic stay is granted, the TCEQ will, however, not seek to execute upon any monetary judgment obtained without first

approaching the United States Bankruptcy Court where the bankruptcy case is pending as necessary and after consultation with the Office of the Attorney General.

7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Grupo for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of six thousand ninety six dollars (\$6,096.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Grupo's UST delivery certificate if the Commission finds that good cause exists.
11. Good cause for revocation of Grupo's UST delivery certificate exists as justified by Findings of Fact Nos. 3 through 9 and Conclusions of Law Nos. 2 through 5.

ORDERING PROVISIONS

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Grupo is assessed an administrative penalty in the amount of six thousand ninety-six dollars (\$6,096.00) for violations of state statutes and rules of the TCEQ. As set forth in Conclusion of Law paragraph 6, so long as Grupo's bankruptcy proceedings are pending and/or until relief from the automatic stay is granted the TCEQ will not seek to execute upon any monetary judgment obtained without first approaching the United States Bankruptcy Court where the bankruptcy case is pending as necessary and after consultation with the Office of the Attorney General.
2. Grupo's UST delivery certificate is revoked immediately upon the effective date of this Order. Grupo may submit an application for a new delivery certificate only after Grupo has complied with all of the requirements of this Order.

3. Within 10 days after the effective date of this Order, Grupo shall send its UST delivery certificate to:

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

4. Grupo shall undertake the following technical requirements:
- a. Immediately, begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN CODE § 334.48;
 - b. Within 30 days after the effective date of this Order, install and implement a release detection method for all the USTs, conduct annual testing of the line leak detectors for performance and operational reliability, and begin conducting volume measurement and reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
5. Within 45 days after the effective date of this Order, Grupo shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 4.a. and 4.b. The written certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and, that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

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

and

Rose Luna-Pirtle, Waste Section Manager
Texas Commission on Environmental Quality
Laredo Regional Office
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

6. All relief not expressly granted in this Order is denied.
7. The provisions of this Order shall apply to and be binding upon Grupo, and Grupo is ordered to give notice of this Order to personnel who maintain day to day control of the USTs at the Facility.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Grupo if the Executive Director determines that Grupo is noncompliant with or in violation of any of the terms and conditions set forth in this Order.
9. This Order shall terminate five years from its effective date or when Grupo demonstrates to the satisfaction of the Executive Director that it has corrected all of the violations noted herein.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order is the date this decision was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

Grupo Victoria Corporation dba Los Tejanos Meat Market
TCEQ Docket No. 2008-1071-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF TAMMY L. MITCHELL

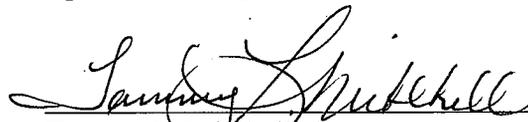
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Grupo Victoria Corporation dba Los Tejanos Meat Market” (the “EDFARP”) was filed with the Office of the Chief Clerk on November 12, 2008.

The EDFARP was mailed to Grupo at its last known address on November 12, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Grupo received notice of the EDFARP on November 15, 2008, as evidenced by the signature on the card.

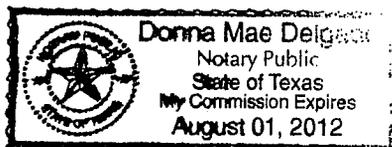
More than 20 days have elapsed since Grupo received notice of the EDFARP. Grupo failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

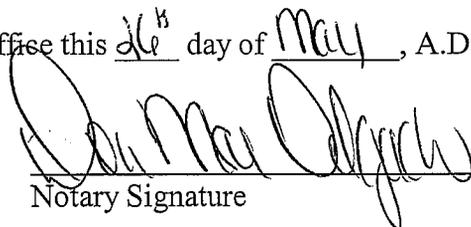


Tammy L. Mitchell, Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 26th day of May, A.D., 2009.





Notary Signature