

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0767-PST-E **TCEQ ID:** RN101382307 **CASE NO.:** 39673
RESPONDENT NAME: SOMANG MANAGEMENT, INC. dba Times Market 103

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: Times Market 103, 1749 West Austin Street, Port Lavaca, Calhoun 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 6, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Mike Pace, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5933; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Je Sik Kang, President, SOMANG MANAGEMENT, INC., 1749 West Austin Street, Port Lavaca, Texas 77979 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: April 8, 2010</p> <p>Date of NOV/NOE Relating to this Case: May 3, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other components are operating properly [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>2) Failure to monitor underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failure to take appropriate steps to assure that a monthly analysis report is received from the vender which performs the statistical inventory reconciliation ("SIR") analysis in no more than 15 calendar days following the last day of the calendar month for which the analysis is performed [30 TEX. ADMIN. CODE § 334.50(d)(9)(A)(iii) and TEX. WATER CODE § 26.3475(c)(1)].</p>	<p>Total Assessed: \$5,355</p> <p>Total Deferred: \$1,071 <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: \$119 (remaining \$4,165 due in 35 monthly payments of \$119 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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Begin conducting bimonthly inspections of the cathodic protection system to ensure that the rectifier and other system components are functioning as designed; and</p> <p>ii. Implement a release detection method for all USTs and take appropriate steps to assure the receipt of a monthly analysis report from the SIR vendor within the first 15 days of every month.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PST 28721

**MINUTES OF THE MEETING
OF THE BOARD OF DIRECTORS**

A meeting of the Board of Directors of the Corporation was held at: 1749 W. Austin St. Port Lavaca, Texas 77979 on the 15th day of March 2009 at 11:00 o'clock a.m. The meeting was

- () a regular meeting, for which call and notice are dispensed with in accordance with the Bylaws; or
- (X) a special meeting, called by the Corporation's President, for which notice was duly and timely given to each Director and filed immediately preceding these minutes in the Corporate Record Book; or
- () a special meeting, called by the Corporation's _____ for which a written waiver of Notice was signed by all Directors and filed preceding these minutes in the Corporate Record Book.

The undersigned Directors of the Corporation, being a quorum of the Directors of the Corporation, were present and participated throughout the meeting.

Je SiK Kang acted as Chairman of the meeting.

Mi Ae Kang acted as Secretary of the meeting.

The minutes of the preceding meeting of the Board of Directors held on October 23, 2008 were read and approved.

The President presented a general report of the business of the Corporation, and the Secretary and the Treasurer presented their reports of the Corporation. The officers' reports were filed with the minutes of this meeting.

The meeting adopted the resolutions shown below, including any resolutions shown on additional pages attached hereto. Each resolution was moved, seconded, and passed by the Directors shown, and any Directors dissenting to any resolution did so for the reasons stated therein.

None

Number of additional pages attached: (none)

The following persons were nominated and duly elected to the offices set beside their respective names to serve until their respective successors are chosen and qualified:

President: Je Sik Kang

Vice President: Mi Ae Kang

Secretary: Mi Ae Kang

Treasurer: Je Sik Kang

There being no further business before the meeting, on motion duly made, seconded and carried, the meeting was adjourned.

Dated:

Je Sik Kang
President

JE SIK KANG
Director

Mi Ae Kang
Secretary

MI AE KANG
Director



The following documents have been appended to these minutes:

A) OFFICERS' REPORTS:

MINUTES OF THE ANNUAL MEETING
OF THE SHAREHOLDERS

The annual meeting of the Shareholders of the Corporation was held at the time and place, and on the date, set forth below:

Place of Meeting: 1749 W Austin St. Port Lavaca, TX 77979

Date of Meeting: March 15, 2009

Time of Meeting: 10:00 AM

The meeting's business was to act on such proposals, to elect such Directors, and to transact such other business within the power of the Shareholders as set out herein. The meeting was duly called to order by Gwang Gil Gam, President of the Corporation. As authorized by the Bylaws, the President presided as Chairman of the meeting.

Gwang Gil Gam, Secretary of the Corporation, acted as Secretary of the meeting and recorded the minutes. The meeting being held in accordance with the terms of the Bylaws of the Corporation, the Chairman declared that the meeting was validly convened.

The Secretary read the roll of Shareholders as reflected by the share transfer ledger. The following Shareholders were present:

IN PERSON:

<u>Shareholder's Name</u>	<u>Number of Shares</u>
Gwang Gil Gam	1,000

BY PROXY:

<u>Shareholder's Name</u>	<u>Proxy's Name</u>	<u>Number of Shares</u>
None		

The following Shareholders were neither present nor represented by proxy:

<u>Shareholder's Name</u>	<u>Number of Shares</u>
None	

It was ordered that all proxies be filed with the minutes of this meeting. The Chairman stated that a majority of the total number of shares issued and outstanding was represented, that a quorum was present and all prerequisites for the meeting were completed, and that the meeting was ready to transact any business before it.

The Secretary was directed to prepare a written waiver of notice, consent to meeting, and approval of minutes to be signed by all Shareholders, including those not present at the meeting, and to file the same with these minutes.

The following were nominated as Directors, to serve for one year and until their successors should be elected and qualified:

Je Sik Kang
Mi Ae Kang

The Chairman called for further nominations, but none were made. The following persons were elected as Directors:

Je Sik Kang, Director
Mi Ae Kang, Director

The minutes of the previous meeting were read by the Secretary. On motion duly made, seconded, and carried, the minutes were approved as (stated) (amended).

The President then gave a general report of the business and finances of the Corporation. The President reported to the meeting the activities of the Board of Directors and proposed that the Shareholders ratify those actions. Upon motion duly made, seconded, and carried, it was resolved that all proceedings of the Board of Directors since the last Shareholders' meeting, and all acts taken by the Directors and officers of the Corporation be, and hereby are, approved.

The following additional action was taken at the meeting:

None

Additional sheets attached: [] No; [] Yes, _____ pages.

There being no further business before the meeting, on motion duly made, seconded and unanimously carried, the meeting was adjourned.

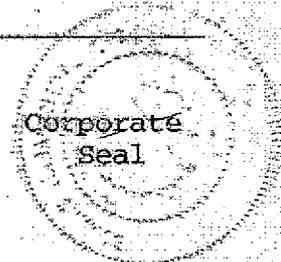
Dated:

x Sam Adams III
Secretary

RATIFICATION

We, the undersigned Shareholders, or duly authorized proxies or assignees thereof, having read these minutes, hereby approve, ratify, confirm, and consent to all business as reported herein.

x Sam Adams III



The following documents have been appended to these minutes:

- A. CALL OF MEETING
- B. NOTICE OF MEETING
- C. RECORD OF MAILING NOTICE OF MEETING



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	10-May-2010	Screening	12-May-2010	EPA Due	
	PCW	11-May-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	SOMANG MANAGEMENT, INC. dba Times Market 103		
Reg. Ent. Ref. No.	RN101382307		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	39673	No. of Violations	2
Docket No.	2010-0767-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mike Pace
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes:

Culpability **Subtotal 4**

Notes:

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit **Subtotal 6**

Total EB Amounts	\$163
Approx. Cost of Compliance	\$1,600

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL 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 12-May-2010

Docket No. 2010-0767-PST-E

PCW

Respondent SOMANG MANAGEMENT, INC. dba Times Market 103

Policy Revision 2 (September 2002)

Case ID No. 39673

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101382307

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

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)	1	5%
	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) 5%

>> 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

Enhancement for one notice of violation with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 12-May-2010

Docket No. 2010-0767-PST-E

PCW

Respondent SOMANG MANAGEMENT, INC. dba Times Market 103

Policy Revision 2 (September 2002)

Case ID No. 39673

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101382307

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(2)(C) and Tex. Water Code § 26.3475(d)

Violation Description Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other components are operating properly.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	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 this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 34

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on the documentation of the violation during April 8, 2010 investigation to the May 12, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to ED/PRP/Settlement
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$2,678

This violation Final Assessed Penalty (adjusted for limits) \$2,678

Economic Benefit Worksheet

Respondent SOMANG MANAGEMENT, INC. dba Times Market 103
Case ID No. 39673
Reg. Ent. Reference No. RN101382307
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	16

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				0.00	\$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)

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]	\$100	7-Feb-2010	8-Apr-2010	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for conducting bimonthly inspection of the cathodic protection system. The date required is 60 days before the investigation date and the final date is the investigation date.

Approx. Cost of Compliance

\$100

TOTAL

\$105

Screening Date 12-May-2010

Docket No. 2010-0767-PST-E

PCW

Respondent SOMANG MANAGEMENT, INC. dba Times Market 103

Policy Revision 2 (September 2002)

Case ID No. 39673

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101382307

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and (d)(9)(A)(iii) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to take appropriate steps to assure that a monthly analysis report is received from the vendor which performs the statistical inventory reconciliation ("SIR") analysis in no more than 15 calendar days following the last day of the calendar month for which the analysis is performed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	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 34

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended based on the documentation of the violation during April 8, 2010 investigation to the May 12, 2010 screening date.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDRP/Sellment Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$57

Statutory Limit Test

Violation Final Penalty Total \$2,678

This violation Final Assessed Penalty (adjusted for limits) \$2,678

Economic Benefit Worksheet

Respondent SOMANG MANAGEMENT, INC. dba Times Market 103
Case ID No. 39673
Reg. Ent. Reference No. RN101382307
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)	\$1,500	8-Apr-2010	11-Jan-2011	0.76	\$57	n/a	\$57

Notes for DELAYED costs

Estimated cost to monitor the USTs for releases using the SIR method. The date required is the investigation date and the final date is the expected compliance date.

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

\$1,500

TOTAL

\$57

Compliance History Report

Customer/Respondent/Owner-Operator: CN602703480 SOMANG MANAGEMENT, INC. Classification: AVERAGE Rating: 2.00
Regulated Entity: RN101382307 Times Market 103 Classification: AVERAGE Site Rating: 2.00

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 28721

REGISTRATION

Location: 1749 W AUSTIN ST, PORT LAVACA, TX, 77979

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: May 10, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 10, 2005 to May 10, 2010

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

Name: Mike Pace Phone: 817-588-5933

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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? SOMANG MANAGEMENT, INC.
4. If Yes, who was/were the prior owner(s)/operator(s)? Webro Investment Corporation
5. When did the change(s) in owner or operator occur? 10/01/2005
6. Rating Date: 9/1/2009 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 (726370)
2 05/03/2010 (798644)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/20/2009 (726370)

CN602703480

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.49(c)(2)(C)

Description: 30 Tex. Admin. Code Section 334.49(c)(2)(C) - Failure to have impressed current cathodic protection systems regularly inspected to ensure that the rectifier and other system components are operating properly. Such inspections shall be performed at least once every 60 days.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.50(d)(9)(A)(iii)

Description: 30 Tex. Admin. Code Section 334.50(d)(9)(A)(iii) - Failure to take appropriate steps to assure that monthly analysis reports are received from the entity which actually performs the SIR analysis (either the SIR provider/vendor or the provider/vendor-authorized franchisee or licensee or representative) in no more

than 15 calendar days following the last day of the calendar month for which the analysis is performed.

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
SOMANG MANAGEMENT, INC.
DBA TIMES MARKET 103
RN101382307**

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§
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§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-0767-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 SOMANG MANAGEMENT, INC. dba Times Market 103 ("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 1749 West Austin Street in Port Lavaca, Calhoun County, Texas (the "Facility").
2. The Respondent's three 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 May 8, 2010.
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 Five Thousand Three Hundred Fifty-Five Dollars (\$5,355) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Nineteen Dollars (\$119) of the

administrative penalty and One Thousand Seventy-One Dollars (\$1,071) 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 Four Thousand One Hundred Sixty-Five Dollars (\$4,165) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Nineteen Dollars (\$119) 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 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.
10. 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.
11. 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 inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other 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 April 8, 2010.
2. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on April 8, 2010.

3. Failed to take appropriate steps to assure that a monthly analysis report is received from the vender which performs the statistical inventory reconciliation ("SIR") analysis in no more than 15 calendar days following the last day of the calendar month for which the analysis is performed, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(9)(A)(iii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on April 8, 2010.

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: SOMANG MANAGEMENT, INC. dba Times Market 103, Docket No. 2010-0767-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin conducting bimonthly inspections of the cathodic protection system to ensure that the rectifier and other system components are functioning as designed, in accordance with 30 TEX. ADMIN. CODE § 334.49; and
 - ii. Implement a release detection method for all USTs and take appropriate steps to assure the receipt of a monthly analysis report from the SIR vendor within the first 15 days of every month, in accordance with 30 TEX. ADMIN. CODE § 334.50.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The 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 fines 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

with a copy to:

Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

3. 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.
4. 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.
5. 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.
6. 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.
7. 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.

8. 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 9/13/2010

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 7/05/10

Je Sik Kang

Name (Printed or typed)
Authorized Representative of
SOMANG MANAGEMENT, INC. dba Times Market 103

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.