

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-1945-PST-E TCEQ ID: RN102991403 CASE NO.: 36927**  
**RESPONDENT NAME: SOOK PARK DBA PARK & BUY**

<b>ORDER TYPE:</b>		
<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	

<b>CASE TYPE:</b>		
<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:** 2641 Baldwin Boulevard, Corpus Christi, Nueces County

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

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired March 1, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney:** Ms. Laurencia Fasoyiro, Litigation Division, MC R-12 (713) 422-8914  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  
**TCEQ Enforcement Coordinator:** Mr. James Nolan, Waste Enforcement Section, MC 149, (512) 239-6634  
**TCEQ Regional Contact:** Mr. Brad Genzer, Corpus Christi Regional Office, MC R-14, (361) 825-3106  
**Respondent:** Mr. Sook Park, Owner, Park & Buy, 2641 Baldwin Blvd., Corpus Christi, TX 78405  
**Respondent's Attorney:** Mr. Kim Cox, Attorney at law, 701 Ayers Street, Corpus Christi, Texas 78404

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 29, 2008</p> <p><b>Date of NOE Relating to this Case:</b> November 25, 2008</p> <p><b>Background Facts:</b> The case was referred to the Litigation Division on April 9, 2009. The EDPRP was filed on May 26, 2009. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on December 14, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent has not yet submitted documentation to certify compliance with the technical requirements. The Respondent's delivery certificate expires in May 2010.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to monitor the UST system for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), failed to conduct reconciliation of detailed inventory control records for the UST system 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 the inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].</li> <li>Failed to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)].</li> </ol>	<p><b>Total Assessed:</b> \$5,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$170/\$4,830</p> <p>The Respondent paid \$170 of the administrative penalty. The remaining amount of \$4,830 shall be paid in 35 monthly installments of \$138 each.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, begin conducting effective manual or automatic inventory control procedures for the UST system at the Facility.</li> <li>Within 30 days, install and implement a release detection method for the UST system at the Facility, and begin conducting volume measurement and reconciliation of inventory control records.</li> <li>Within 45 days, submit written certification demonstrating compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	1-Dec-2008			
	<b>PCW</b>	31-Mar-2009	<b>Screening</b>	10-Dec-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Sook Park dba Park & Buy				
<b>Reg. Ent. Ref. No.</b>	RN102991403				
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	36927	<b>No. of Violations</b>	2		
<b>Docket No.</b>	2008-1945-PST-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	James Nolan		
		<b>EC's Team</b>	Enforcement Team 4		
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$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.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No penalty enhancement due to average performer classification.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$100
Approx. Cost of Compliance	\$2,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$5,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$5,000

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,000
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$5,000
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**Screening Date** 10-Dec-2008      **Docket No.** 2008-1945-PST-E  
**Respondent** Sook Park dba Park & Buy  
**Case ID No.** 36927  
**Reg. Ent. Reference No.** RN102991403  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** James Nolan

**PCW**

*Policy Revision 2 (September 2002)*  
*PCW Revision October 30, 2008*

### 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 ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

#### >> Repeat Violator (Subtotal 3)

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 penalty enhancement due to average performer classification.

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

**Screening Date** 10-Dec-2008 **Docket No.** 2008-1945-PST-E **PCW**  
**Respondent** Sook Park dba Park & Buy *Policy Revision 2 (September 2002)*  
**Case ID No.** 36927 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102991403  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** James Nolan

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 334.50(b)(1)(A), 334.50(d)(1)(B)(ii), and 334.50(d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(c)(1)

**Violation Description** Failed to monitor the UST system for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), 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 the inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

**Base Penalty** \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential	x				

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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 73 Number of violation days

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 the September 29, 2008 investigation to the December 10, 2008 screening date.

**Good Faith Efforts to Comply**

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement 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**

**Statutory Limit Test**

**Estimated EB Amount** \$75

**Violation Final Penalty Total** \$2,500

**This violation Final Assessed Penalty (adjusted for limits)** \$2,500

## Economic Benefit Worksheet

**Respondent** Sook Park dba Park & Buy

**Case ID No.** 36927

**Reg. Ent. Reference No.** RN102991403

**Media** Petroleum Storage Tank

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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	29-Sep-2008	29-Sep-2009	1.00	\$75	n/a	\$75

**Notes for DELAYED costs**  
 The estimated cost to provide release detection for the UST system including volume measurement and reconciliation of inventory controls. The date required is the date of investigation. The final date is the estimated 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 \$1,500

**TOTAL** \$75

**Screening Date** 10-Dec-2008 **Docket No.** 2008-1945-PST-E **PCW**  
**Respondent** Sook Park dba Park & Buy *Policy Revision 2 (September 2002)*  
**Case ID No.** 36927 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102991403  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** James Nolan

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.48(c)  
**Violation Description** Failed to conduct effective manual or automatic inventory control procedures for the UST system.

**Base Penalty** \$10,000

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

OR	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      73 Number of violation days  
 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 the September 29, 2008 investigation to the December 10, 2008 screening date.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement 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**      **Statutory Limit Test**

**Estimated EB Amount** \$25      **Violation Final Penalty Total** \$2,500

**This violation Final Assessed Penalty (adjusted for limits)** \$2,500

## Economic Benefit Worksheet

**Respondent** Sook Park dba Park & Buy  
**Case ID No.** 36927  
**Reg. Ent. Reference No.** RN102991403  
**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
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	\$500	29-Sep-2008	29-Sep-2009	1.00	\$25	n/a	\$25
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

The estimated cost to conduct proper inventory control procedures. The date required is the investigation date and the final date is the estimated 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** \$25

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602841538    PARK, SOOK	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN102991403    PARK & BUY	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	17119
Location:	2641 BALDWIN BLVD, CORPUS CHRISTI, TX, 78405		
TCEQ Region:	REGION 14 - CORPUS CHRISTI		
Date Compliance History Prepared:	December 18, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 10, 2003 to December 10, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>James Nolan</u>	Phone:	<u>(512) 239-6634</u>

## 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?    | Yes                            |
| 3. If Yes, who is the current owner?   | PARK WOO SUN AND SOOK JA PARK  |
| 4. If Yes, who was/were the prior owner(s)?  | Schuyler B Marshall III FAM TR |
| 5. When did the change(s) in ownership occur?  | 05/05/2005                     |
| 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    11/25/2008    (704098)
  - 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  
SOOK PARK DBA  
PARK & BUY  
RN102991403**

§  
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§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2008-1945-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Sook Park dba Park & Buy (“Mr. Park”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Park, represented by Kim Cox, Attorney at Law, appear before the Commission and together stipulate that:

1. Mr. Park owns and operates a convenience store with retail sales of gasoline at 2641 Baldwin Boulevard in Corpus Christi, Nueces County, Texas (the “Facility”).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Park agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Park is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Park of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
5. An administrative penalty in the amount of five thousand dollars (\$5,000.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). Mr. Park paid one hundred seventy dollars (\$170.00) of the administrative penalty. The remaining amount of four thousand eight hundred thirty dollars (\$4,830.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred thirty-eight dollars (\$138.00) each. The first monthly payment shall be paid within 30 days after the

effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Mr. Park fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Mr. Park's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Park to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Mr. Park agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. 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 Mr. Park has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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

1. During an investigation conducted on September 29, 2008, a TCEQ Corpus Christi Regional Office investigator documented that Mr. Park violated:
  - a. 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1) by failing to monitor the UST system for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), failing to conduct reconciliation of detailed inventory control records for the UST system 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 failing to record the inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day; and
  - b. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for the UST system.

2. Mr. Park received notice of the violations on or about November 30, 2008.

### **III. DENIALS**

Mr. Park generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Mr. Park pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Mr. Park'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Sook Park dba Park & Buy, Docket No. 2008-1945-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. Mr. Park shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Mr. Park shall begin conducting effective manual or automatic inventory control procedures for the UST system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.48;
  - b. Within 30 days after the effective date of this Agreed Order, Mr. Park shall install and implement a release detection method for the UST system at the Facility, and begin conducting volume measurement and reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50(b);
  - c. Within 45 days after the effective date of this Agreed Order, Mr. Park shall submit written certification and detailed supporting documentation, including photographs, receipts, and /or other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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 fine and imprisonment for knowing violations.”

Mr. Park shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

Brad Genzer, 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 Mr. Park. Mr. Park 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 Mr. Park 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, Mr. Park's failure to comply is not a violation of this Agreed Order. Mr. Park shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Park shall notify the Executive Director within seven days after Mr. Park 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 Mr. Park shall be made in writing to the Executive Director. Extensions are not effective until Mr. Park 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 Mr. Park 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Mr. Park, or three days after the date on which the Commission mails notice of this Agreed Order to Mr. Park, 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

2/24/2010

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Mr. Park's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Park;
- 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 against Mr. Park;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Park; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

12/14/09  
Date

Sook T. Park  
Name (Printed or typed)

owner  
Title

Authorized representative of  
Sook Park dba Park & Buy