

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2010-0423-PST-E **TCEQ ID:** RN102355344 **CASE NO.:** 39337  
**RESPONDENT NAME:** K H Jung Investment, Inc. dba Times Market 35

|  |   |  |
|--|---|--|
| <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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Times Market 35, 3518 Up River Road, Corpus Christi, Nueces County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with the retail sale of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 26, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Clinton Sims, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6933; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495<br/> <b>Respondent:</b> Mr. Kyung Hee Jung, Director/Owner, Times Market 35, 3518 Up River Road, Corpus Christi, Texas 78408<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION  | PENALTY CONSIDERATIONS   | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
|--|--|--|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 6, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 3, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to inspect the impressed current cathodic protection system at least once every 60 days to ensure 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 the underground storage tanks ("UST's") 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 ensure that all spill and overflow prevention devices are maintained in good operating condition. Specifically, the gasket on the riser cap for the unleaded tank did not provide a tight seal [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].</p> <p>4) Failure to inspect all sumps, manways, overflow containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Specifically, spill buckets contained liquid and debris [30 TEX. ADMIN. CODE § 334.42(i)].</p> | <p><b>Total Assessed:</b> \$5,460</p> <p><b>Total Deferred:</b> \$1,092<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$368 (remaining \$4,000 due in 20 monthly payments of \$200 each)</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site Compliance History Classification</b><br/> <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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Began conducting bimonthly inspections of the cathodic corrosion protection system on January 6, 2010;</p> <p>b. Implemented a release detection method for all USTs on January 20, 2010;</p> <p>c. Replaced the rubber seal on the riser cap of the unleaded tank on January 14, 2010; and</p> <p>d. Began conducting bimonthly inspections of the sumps, manways, and overflow containers and removed the liquid and debris from the spill buckets on January 6, 2010.</p> |

Additional ID No(s): PST Facility ID No. 18488



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

|              |          |             |           |             |         |  |
|--------------|----------|-------------|-----------|-------------|---------|--|
| <b>DATES</b> | Assigned | 15-Mar-2010 | Screening | 16-Mar-2010 | EPA Due |  |
|              | PCW      | 17-Mar-2010 |           |             |         |  |

|  |  |
|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |  |
| Respondent                             | K.H. Jung Investment, Inc. dba Times Market 85 |
| Reg. Ent. Ref. No.                     | RN102355344                                    |
| Facility/Site Region                   | 14-Corpus Christi                              |
| Major/Minor Source                     | Minor  |

|                         |                        |                       |                    |
|-------------------------|------------------------|-----------------------|--------------------|
| <b>CASE INFORMATION</b> |                        | No. of Violations     | 4                  |
| Enf./Case ID No.        | 39337                  | Order Type            | 1660               |
| Docket No.              | 2010-0423-PST-E        | Government/Non-Profit | No                 |
| Media Program(s)        | Petroleum Storage Tank | Enf. Coordinator      | Clinton Sims       |
| Multi-Media             |                        | 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* **\$7,000**

### 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 adjustments due to compliance history.

**Culpability** No 0.0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** *Subtotal 5* **\$1,750**

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

|                            |         |
|----------------------------|---------|
| Total EB Amounts           | \$214   |
| Approx. Cost of Compliance | \$1,750 |

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$5,250**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 4.0% *Adjustment* **\$210**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 4.

**Final Penalty Amount** **\$5,460**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$5,460**

**DEFERRAL** 20.0% Reduction *Adjustment* **-\$1,092**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$4,368**

Screening Date: 16-Mar-2010

Docket No.: 2010-0423-PST-E

PCW

Respondent: K H Jung Investment, Inc. dba Times Market 35

Policy Revision 2 (September 2002)

Case ID No.: 39337

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102355344

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Clinton Sims

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustments due to compliance history.

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

Screening Date 16-Mar-2010

Docket No. 2010-0423-PST-E

PCW

Respondent K H Jung Investment, Inc. dba Times Market 35

Policy Revision 2 (September 2002)

Case ID No. 39337

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102355344

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

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 the rectifier and other components are operating properly.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | X     |          |       |

Percent 25%

>> Programmatic Matrix

| Falsification | Harm  |          |       |
|---------------|-------|----------|-------|
|               | 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 1

|              |   |
|--------------|---|
| 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 from the January 6, 2010 investigation date to the January 6, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes

The Respondent came into compliance on January 6, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$1,950

This violation Final Assessed Penalty (adjusted for limits) \$1,950

## Economic Benefit Worksheet

**Respondent:** K H Jung Investment, Inc. dba Times Market 35  
**Case ID No.:** 39337  
**Reg. Ent. Reference No.:** RN102355344  
**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)        |  |  |  | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

### Avoided Costs

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

|                               |       |            |            |      |     |       |       |
|-------------------------------|-------|------------|------------|------|-----|-------|-------|
| Disposal                      |       |            |            | 0.00 | \$0 | \$0   | \$0   |
| Personnel                     |       |            |            | 0.00 | \$0 | \$0   | \$0   |
| Inspection/Reporting/Sampling |       |            |            | 0.00 | \$0 | \$0   | \$0   |
| Supplies/equipment            |       |            |            | 0.00 | \$0 | \$0   | \$0   |
| Financial Assurance [2]       |       |            |            | 0.00 | \$0 | \$0   | \$0   |
| ONE-TIME avoided costs [3]    | \$100 | 7-Nov-2009 | 6-Jan-2010 | 1.08 | \$5 | \$100 | \$105 |
| Other (as needed)             |       |            |            | 0.00 | \$0 | \$0   | \$0   |

Notes for AVOIDED costs

Estimated avoided cost for conducting bimonthly inspections of the cathodic corrosion protection system. The Date Required is 60 days before the investigation date and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$100

**TOTAL**

\$105

Screening Date 16-Mar-2010

Docket No. 2010-0423-PST-E

PCW

Respondent K H Jung Investment, Inc. dba Times Market 35

Policy Revision 2 (September 2002)

Case ID No. 38337

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102355344

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.60(b)(1)(A) 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).

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 Number of violation days 14

|                         |            |   |
|-------------------------|------------|---|
| 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 from the January 6, 2010 Investigation date to the January 20, 2010 compliance date.

Good Faith Efforts to Comply

|               | 25.0% Reduction |                               |
|---------------|-----------------|-------------------------------|
|               | Before NOV      | NOV to EDRP/ Settlement Offer |
| Extraordinary |                 |                               |
| Ordinary      | x               |                               |
| N/A           |                 | (mark with x)                 |

\$625

Notes

The Respondent came into compliance on January 20, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,950

This violation Final Assessed Penalty (adjusted for limits) \$1,950

# Economic Benefit Worksheet

**Respondent** K H Jung Investment, Inc. dba Times Market 35  
**Case ID No.** 39337  
**Reg. Ent. Reference No.** RN102355344  
**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    |         |            |             | 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 | 6-Jan-2010 | 20-Jan-2010 | 0.04 | \$3 | n/a | \$3 |

Notes for DELAYED costs

Estimated cost to monitor the USTs for releases. The Date Required is the investigation date and the Final Date is the compliance date.

**Avoided Costs**

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

|                               |  |  |  |      |     |     |     |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal                      |  |  |  | 0.00 | \$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**

\$3

Screening Date 16-Mar-2010

Docket No. 2010-0423-PST-E

PCW

Respondent K H Jung Investment, Inc. dba Times Market 35

Policy Revision 2 (September 2002)

Case ID No. 39337

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102355344

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)

Violation Description

Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the gasket on the riser cap for the unleaded tank did not provide a tight seal.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       | x        |       |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

8 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | x |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the January 6, 2010 investigation date to the January 14, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent came into compliance on January 14, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$780

This violation Final Assessed Penalty (adjusted for limits) \$780

## Economic Benefit Worksheet

**Respondent** K H Jung Investment, Inc. dba Times Market 35  
**Case ID No.** 39337  
**Reg. Ent. Reference No.** RN102355344  
**Media** Petroleum Storage Tank  
**Violation No.** 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

**Delayed Costs**

|                          |      |            |             |      |     |     |     |
|--------------------------|------|------------|-------------|------|-----|-----|-----|
| Equipment                | \$50 | 6-Jan-2010 | 14-Jan-2010 | 0.02 | \$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

Actual cost to replace the rubber seal on the unleaded tank riser cap. The Date Required is the investigation date and the Final Date is the date of compliance.

**Avoided Costs**

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

|                               |  |  |  |      |     |     |     |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal                      |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$0

Screening Date 16-Mar-2010

Docket No. 2010-0423-PST-E

PCW

Respondent: K H Jung Investment, Inc. dba Times Market 35

Policy Revision 2 (September 2002)

Case ID No. 39337

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN102355344

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 334.42(l)

Violation Description

Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Specifically, spill buckets contained liquid and debris.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       | X        |       |

Percent 10%

>> Programmatic Matrix

| Falsification | Harm  |          |       |
|---------------|-------|----------|-------|
|               | Major | Moderate | Minor |
|               |       |          |       |

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

Number of violation days 1

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | X |
| semiannual   |   |
| annual       |   |
| single event |   |

Violation Base Penalty \$1,000

One quarterly event is recommended from the January 6, 2010 investigation date to the January 6, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent came into compliance on January 6, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$780

This violation Final Assessed Penalty (adjusted for limits) \$780



# Compliance History Report

Customer/Respondent/Owner-Operator: CN603489642 K H Jung Investment, Inc. Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN102355344 TIMES MARKET 35 Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 18488  
REGISTRATION

Location: 3518 UP RIVER RD, CORPUS CHRISTI, TX, 78408

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: March 17, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 17, 2005 to March 17, 2010

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

Name: Clinton Sims Phone: 239 - 6933

## 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? K H Jung Investment, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s) ? PMI Management Inc  
Galaxy Traders, Inc
5. When did the change(s) in owner or operator occur? 06/22/2005  
06/30/2009
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 02/03/2010 (787159)
- 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  
K H JUNG INVESTMENT, INC. DBA  
TIMES MARKET 35  
RN102355344**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-0423-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 K H Jung Investment, Inc. dba Times Market 35 ("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 the retail sale of gasoline at 3518 Up River Road in Corpus Christi, Nueces 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 February 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 Four Hundred Sixty Dollars (\$5,460) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Three Hundred Sixty-Eight Dollars (\$368) of the administrative penalty and One Thousand Ninety-Two Dollars (\$1,092) 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 Dollars (\$4,000) of the administrative penalty shall be payable in 20 monthly payments of Two Hundred Dollars (\$200) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. Began conducting bimonthly inspections of the cathodic corrosion protection system on January 6, 2010;
  - b. Implemented a release detection method for all USTs on January 20, 2010;
  - c. Replaced the rubber seal on the riser cap of the unleaded tank on January 14, 2010; and
  - d. Began conducting bimonthly inspections of the sumps, manways, and overspill containers and removed the liquid and debris from the spill buckets on January 6, 2010.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As 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 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 January 6, 2010.
2. Failed to monitor the 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 January 6, 2010.
3. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on January 6, 2010. Specifically, the gasket on the riser cap for the unleaded tank did not provide a tight seal.
4. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight, in violation of 30 TEX. ADMIN. CODE § 334.42(i), as documented during an investigation conducted on January 6, 2010. Specifically, spill buckets contained liquid and debris.

## 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: K H Jung Investment, Inc. dba Times Market 35, Docket No. 2010-0423-PST-E" to:

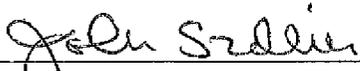
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

7/9/2010  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

5/28/10  
Date

Kyunghee Jung  
Name (Printed or typed)  
Authorized Representative of  
K H Jung Investment, Inc. dba Times Market 35

Owner  
Title

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

