# EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45298
## Sam Mathew d/b/a Sam's Chevron
### RN103027256
### Docket No. 2012-2143-PST-E

**Order Type:**
Default Shutdown Order

**Media:**
PST

**Small Business:**
Yes

**Location(s) Where Violation(s) Occurred:**
2020 Sam Houston Ave, Huntsville, Walker County

**Type of Operation:**
convenience store with retail sales of gasoline

**Other Significant Matters:**

| | |
|---|---|
| Additional Pending Enforcement Actions: | None |
| Past-Due Penalties: | None |
| Past-Due Fees: | None |
| Other: | None |
| Interested Third-Parties: | None |

**Texas Register Publication Date:** June 21, 2013

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** $10,827

**Total Paid to General Revenue:** $0

**Total Due to General Revenue:** $10,827

**Compliance History Classifications:**
Person/CN – Unclassified
Site/RN – Unclassified

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

***Investigation Information***

**Complaint Date(s):** N/A

**Date(s) of Investigation:** December 20, 2011; October 16, 2012

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** October 16, 2012

## ***Violation Information***

1. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
2. Failed to provide proper corrosion protection for the UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)].
3. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
4. Failed to provide release detection for the piping associated with the UST system [TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)].
5. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].

## ***Corrective Actions/Technical Requirements***

**Technical Requirements:**

1. Immediately shut down operations of all USTs at the Facility:
   a. Cease dispensing fuel from the USTs;
   b. Cease receiving deliveries of regulated substances into the USTs;
   c. Padlock the dispensers;
   d. Empty the USTs of all regulated substances; and
   e. Temporarily remove the USTs from service.
2. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the financial assurance, corrosion protection and release detection violations have been corrected.
3. The Facility's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements contained in the order.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days, Respondent shall surrender the Facility's UST fuel delivery certificate to the TCEQ.
6. Within 15 days, submit a detailed written report documenting the steps taken to comply with Technical Requirements Nos. 1, 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming sales of gasoline:
   a. Begin maintaining all UST records and ensure they are made immediately available for inspection upon request by agency personnel;
   b. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs;
   c. Install a corrosion protection system and test the system, with passing results;
   d. Implement a release detection method for the USTs at the Facility;
   e. Conduct the annual line leak detector and piping tightness tests; and
   f. Obtain a new fuel delivery certificate.

8. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.
9. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirements Nos. 7 and 8.

## ***Litigation Information***

**Date Petition(s) Filed:** February 26, 2013; April 2, 2013

**Date Green Card(s) Signed:** February 28, 2013; April 4, 2013

**Date Answer(s) Filed:** N/A

## ***Contact Information***

**TCEQ Attorneys:** Ryan Rutledge, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Scott Humphrey, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Judy Kluge, Enforcement Division, (817) 588-5825

**TCEQ Regional Contact:** Jason Ybarra, Houston Regional Office, (712) 767-3600

**Respondent:** Sam Mathew, 2020 Sam Houston Avenue, Huntsville, Texas 77340-5144

**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

*Policy Revision 3 (September 2011)* *PCW Revision August 3, 2011*

TCEQ

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 22-Oct-2012 | | | | |
| PCW | 19-Jan-2013 | Screening | 23-Oct-2012 | EPA Due | |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Sam Mathew dba Sam's Chevron | | |
| Reg. Ent. Ref. No. | RN103027256 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 45298 | No. of Violations | 4 |
| Docket No. | 2012-2143-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Judy Kluge |
| | | EC's Team | Enforcement Team 6 |

Admin. Penalty $ Limit Minimum $0 Maximum $25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* $10,000

**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 adjustment for compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** *Subtotal 5* $0

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

Total EB Amounts $1,565
Approx. Cost of Compliance $8,778
*Capped at the Total EB $ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* $10,000

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 8.3% *Adjustment* $827

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 3.

*Final Penalty Amount* $10,827

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* $10,827

**DEFERRAL** 0.0% Reduction *Adjustment* $0

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.

**PAYABLE PENALTY** $10,827

| | | | | |
|---|---|---|---|---|
| **Screening Date** | 23-Oct-2012 | **Docket No.** | 2012-2143-PST-E | **PCW** |
| **Respondent** | Sam Mathew dba Sam's Chevron | | | *Policy Revision 3 (September 2011)* |
| **Case ID No.** | 45298 | | | *PCW Revision August 3, 2011* |
| **Reg. Ent. Reference No.** | RN103027256 | | | |
| **Media [Statute]** | Petroleum Storage Tank | | | |
| **Enf. Coordinator** | Judy Kluge | | | |

# Compliance History Worksheet

## >> Compliance History *Site* Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|---|---|---|---|
| NOVs | Written notices of violation ("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)

Unclassified

***Adjustment Percentage (Subtotal 7)*** 0%

## >> Compliance History Summary

**Compliance History Notes**

No adjustment for compliance history.

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

## >> Final Compliance History Adjustment

***Final Adjustment Percentage*** ****capped at 100%*** 0%

| | | | | |
|---|---|---|---|---|
| **Screening Date** | 23-Oct-2012 | **Docket No.** | 2012-2143-PST-E | **PCW** |
| **Respondent** | Sam Mathew dba Sam's Chevron | | | *Policy Revision 3 (September 2011)* |
| **Case ID No.** | 45298 | | | *PCW Revision August 3, 2011* |
| **Reg. Ent. Reference No.** | RN103027256 | | | |
| **Media [Statute]** | Petroleum Storage Tank | | | |
| **Enf. Coordinator** | Judy Kluge | | | |

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 37.815(a) and (b)

**Violation Description** Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum underground storage tank ("UST").

**Base Penalty** $25,000

## >> Environmental, Property and Human Health Matrix

| | Release | Harm: Major | Moderate | Minor |
|---|---|---|---|---|
| OR | Actual | | | |
| | Potential | | | |

**Percent** 0.0%

## >>Programmatic Matrix

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

**Percent** 5.0%

Matrix Notes: 100% of the rule requirement was not met.

**Adjustment** $23,750

$1,250

## Violation Events

Number of Violation Events: 1 — 365 Number of violation days

*mark only one with an x*

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

**Violation Base Penalty** $1,250

One single event is recommended.

## 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** $1,250

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $693

## Statutory Limit Test

**Violation Final Penalty Total** $1,353

**This violation Final Assessed Penalty (adjusted for limits)** $1,353

# Economic Benefit Worksheet

**Respondent** Sam Mathew dba Sam's Chevron
**Case ID No.** 45298
**Reg. Ent. Reference No.** RN103027256
**Media** Petroleum Storage Tank
**Violation No.** 1

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

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **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] | $660 | 16-Oct-2011 | 16-Oct-2012 | 1.00 | $33 | $660 | $693 |
| ONE-TIME avoided costs [3] | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |
| Notes for AVOIDED costs | Estimated avoided cost to provide financial assurance for one petroleum UST. The date required is one year prior to the record review date, and the final date is the record review date. | | | | | | |

**Approx. Cost of Compliance** $660

**TOTAL** $693

| | | | | |
|---|---|---|---|---|
| **Screening Date** | 23-Oct-2012 | **Docket No.** | 2012-2143-PST-E | **PCW** |
| **Respondent** | Sam Mathew dba Sam's Chevron | | | *Policy Revision 3 (September 2011)* |
| **Case ID No.** | 45298 | | | *PCW Revision August 3, 2011* |
| **Reg. Ent. Reference No.** | RN103027256 | | | |
| **Media [Statute]** | Petroleum Storage Tank | | | |
| **Enf. Coordinator** | Judy Kluge | | | |

**Violation Number** 2

**Rule Cite(s)** 30 Tex. Admin. Code § 334.49(a) and Tex. Water Code § 26.3475(d)

**Violation Description** Failed to provide proper corrosion protection for the UST system.

**Base Penalty** $25,000

## >> Environmental, Property and Human Health Matrix

**OR**

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

**Percent** 15.0%

## >>Programmatic Matrix

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

**Percent** 0.0%

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** $21,250

$3,750

## Violation Events

Number of Violation Events: 1 — 7 Number of violation days

*mark only one with an x*

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

**Violation Base Penalty** $3,750

One monthly event is recommended based documentation of the violation during the October 16, 2012 record review to the October 23, 2012 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** $3,750

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $597

## Statutory Limit Test

**Violation Final Penalty Total** $4,060

**This violation Final Assessed Penalty (adjusted for limits)** $4,060

# Economic Benefit Worksheet

**Respondent** Sam Mathew dba Sam's Chevron
**Case ID No.** 45298
**Reg. Ent. Reference No.** RN103027256
**Media** Petroleum Storage Tank
**Violation No.** 2

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

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | $6,000 | 20-Dec-2011 | 22-May-2013 | 1.42 | $28 | $569 | $597 |
| 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 | Estimated cost to install a corrosion protection system and test the system. The date required is the investigation date, and the final date is the expected date of compliance. | | | | | | |
| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
| Disposal | | | | 0.00 | $0 | $0 | $0 |
| Personnel | | | | 0.00 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.00 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.00 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.00 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |
| Notes for AVOIDED costs | | | | | | | |

**Approx. Cost of Compliance** $6,000

**TOTAL** $597

| | | | |
|---|---|---|---|
| **Screening Date** | 23-Oct-2012 | **Docket No.** 2012-2143-PST-E | **PCW** |
| **Respondent** | Sam Mathew dba Sam's Chevron | | *Policy Revision 3 (September 2011)* |
| **Case ID No.** | 45298 | | *PCW Revision August 3, 2011* |
| **Reg. Ent. Reference No.** | RN103027256 | | |
| **Media [Statute]** | Petroleum Storage Tank | | |
| **Enf. Coordinator** | Judy Kluge | | |

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2), and Tex. Water Code § 26.3475(a) and (c)(1)

**Violation Description** Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide release detection for the piping associated with the UST. Specifically, the annual piping tightness and line leak detector tests were not conducted.

**Base Penalty** $25,000

## >> Environmental, Property and Human Health Matrix

**OR**

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

**Percent** 15.0%

## >>Programmatic Matrix

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

**Percent** 0.0%

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** $21,250

$3,750

## Violation Events

Number of Violation Events: 1 — 7 Number of violation days

*mark only one with an x*

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

**Violation Base Penalty** $3,750

One monthly event is recommended based on documentation of the violation during the October 16, 2012 record review to the October 23, 2012 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** $3,750

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $241

## Statutory Limit Test

**Violation Final Penalty Total** $4,060

**This violation Final Assessed Penalty (adjusted for limits)** $4,060

# Economic Benefit Worksheet

**Respondent** Sam Mathew dba Sam's Chevron
**Case ID No.** 45298
**Reg. Ent. Reference No.** RN103027256
**Media** Petroleum Storage Tank
**Violation No.** 3

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

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **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 | 20-Dec-2011 | 22-May-2013 | 1.42 | $107 | n/a | $107 |
| Notes for DELAYED costs | Estimated cost of monitoring the UST for releases. The date required is the investigation date, and the final date is the expected date of compliance. | | | | | | |
| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
| Disposal | | | | 0.00 | $0 | $0 | $0 |
| Personnel | | | | 0.00 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.00 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.00 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.00 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | $118 | 20-Dec-2010 | 16-Oct-2012 | 2.74 | $16 | $118 | $134 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |
| Notes for AVOIDED costs | Estimated avoided cost for conducting the piping tightness and line leak detector tests. The date required is one year prior to the investigation date, and the final date is the record review date. | | | | | | |

**Approx. Cost of Compliance** $1,618

**TOTAL** $241

| | | | | |
|---|---|---|---|---|
| **Screening Date** | 23-Oct-2012 | **Docket No.** | 2012-2143-PST-E | **PCW** |
| **Respondent** | Sam Mathew dba Sam's Chevron | | | *Policy Revision 3 (September 2011)* |
| **Case ID No.** | 45298 | | | *PCW Revision August 3, 2011* |
| **Reg. Ent. Reference No.** | RN103027256 | | | |
| **Media [Statute]** | Petroleum Storage Tank | | | |
| **Enf. Coordinator** | Judy Kluge | | | |

**Violation Number** 4

**Rule Cite(s)** 30 Tex. Admin. Code § 334.10(b)

**Violation Description** Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.

**Base Penalty** $25,000

## >> Environmental, Property and Human Health Matrix

OR

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

**Percent** 0.0%

## >>Programmatic Matrix

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

**Percent** 5.0%

Matrix Notes: 100% of the rule requirement was not met.

**Adjustment** $23,750

$1,250

## Violation Events

Number of Violation Events: 1

7 Number of violation days

*mark only one with an x*

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

**Violation Base Penalty** $1,250

One single event is recommended.

## 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** $1,250

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $33

## Statutory Limit Test

**Violation Final Penalty Total** $1,353

**This violation Final Assessed Penalty (adjusted for limits)** $1,353

# Economic Benefit Worksheet

**Respondent** Sam Mathew dba Sam's Chevron
**Case ID No.** 45298
**Reg. Ent. Reference No.** RN103027256
**Media** Petroleum Storage Tank
**Violation No.** 4

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

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **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 | 20-Dec-2011 | 22-Apr-2013 | 1.34 | $33 | n/a | $33 |
| Training/Sampling | | | | 0.00 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.00 | $0 | n/a | $0 |
| Permit Costs | | | | 0.00 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.00 | $0 | n/a | $0 |
| Notes for DELAYED costs | Estimated cost to maintain UST records. The date required is the investigation date, and the final date is the expected date of compliance. | | | | | | |
| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
| Disposal | | | | 0.00 | $0 | $0 | $0 |
| Personnel | | | | 0.00 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.00 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.00 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.00 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |
| Notes for AVOIDED costs | | | | | | | |

**Approx. Cost of Compliance** $500

**TOTAL** $33

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

# Compliance History Report

**PENDING** Compliance History Report for CN602595746, RN103027256, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN602595746, Sam Mathew **Classification:** UNCLASSIFIED **Rating:** -----

**Regulated Entity:** RN103027256, SAM'S CHEVRON **Classification:** UNCLASSIFIED **Rating:** -----

**Complexity Points:** 2 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 2020 SAM HOUSTON AVE HUNTSVILLE, TX 77340-5144, WALKER COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):** **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 40166

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** October 23, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 23, 2007 to October 23, 2012

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Judy Kluge **Phone:** (817) 588-5825

## Site and Owner/Operator History:

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? NO
3) If YES for #2, who is the current owner/operator? N/A
4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
5) If **YES**, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

**A. Final Orders, court judgments, and consent decrees:**
N/A

**B. Criminal convictions:**
N/A

**C. Chronic excessive emissions events:**
N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**
N/A

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| | | |
|---|---|---|
| **IN THE MATTER OF AN** | **§** | **BEFORE THE** |
| **ENFORCEMENT ACTION** | **§** | |
| **CONCERNING** | **§** | **TEXAS COMMISSION ON** |
| **SAM MATHEW D/B/A** | **§** | |
| **SAM'S CHEVRON;** | **§** | **ENVIRONMENTAL QUALITY** |
| **RN103027256** | **§** | |

**DEFAULT AND SHUTDOWN ORDER**

**DOCKET NO. 2012-2143-PST-E**

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the facility's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shutdown and remove from service the underground storage tanks ("USTs") located at 2020 Sam Houston Avenue in Huntsville, Walker County, Texas. The respondent made the subject of this Order is Sam Mathew d/b/a Sam's Chevron ("Respondent").

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

## FINDINGS OF FACT

1. Respondent operates, as defined in 30 TEX. ADMIN. CODE § 334.2(70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 2020 Sam Houston Avenue in Huntsville, Walker County, Texas (Facility ID No. 40166) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.

2. During an investigation conducted on December 20, 2011, and a record review conducted on October 16, 2012, a UT Arlington PST Program investigator (TCEQ Contractor) documented that Respondent:

   a. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs;

   b. Failed to provide proper corrosion protection for the UST system;

   c. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring);

   d. Failed to provide release detection for the piping associated with the UST system. Specifically, the annual piping tightness and line leak detector tests were not conducted; and

   e. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.

3. By letter dated October 16, 2012, the UT Arlington PST program provided Respondent with notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.

4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Sam Matthew d/b/a Sam's Chevron" (the "EDPRP") in the TCEQ Chief Clerk's office on February 26, 2013.

5. By letter dated February 26, 2013, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on February 28, 2013.

6. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Sam Mathew d/b/a Sam's Chevron" (the "EDFARP") in the TCEQ Chief Clerk's office on April 2, 2013.

7. By letter dated April 2, 2013, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on April 4, 2013, as evidenced by the signature on the card.

8. More than 20 days have elapsed since Respondent received notice of the EDPRP and the EDFARP. Respondent failed to file an answer and failed to request a hearing.

9. By letter dated April 24, 2013, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondent failed to correct the financial assurance, corrosion protection, and release detection violations within 30 days after Respondent's receipt of the notice.

10. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the financial assurance, corrosion protection, and release detection violations alleged in Findings of Fact Nos. 2.a. through 2.d. have been corrected.

11. The USTs at the Facility do not have financial assurance, corrosion protection, or release detection as required by TEX. WATER CODE § 26.3475(a), (c)(1) and (d) and 30 TEX. ADMIN. CODE §§ 37.815(a) and (b), 334.49(a), and 334.50(b)(1)(A) and (b)(2) and may be releasing petroleum products to the environment. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

## CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.

2. As evidenced by Finding of Fact No. 2.a., Respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).

3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide proper corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a).

4. As evidenced by Finding of Fact No. 2.c., Respondent 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 TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).

5. As evidenced by Finding of Fact No. 2.d., Respondent failed to provide release detection for the piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2).

6. As evidenced by Finding of Fact No. 2.e., Respondent failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b).

7. As evidenced by Findings of Fact Nos. 4 through 7, the Executive Director timely served Respondent with proper notice of the EDPRP and the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).

8. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.

9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

10. An administrative penalty in the amount of ten thousand eight hundred twenty-seven dollars ($10,827.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

11. As evidenced by Findings of Fact Nos. 2.a. through 2.d., 3, 9, and 10, Respondent failed to correct documented violations of Commission financial assurance, corrosion protection, and release detection requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Facility.

12. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill protection for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.

13. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

14. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.

15. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 thru 8, and Conclusions of Law Nos. 2 through 8.

16. As evidenced by Findings of Fact Nos. 10 and 11, current conditions at the Facility constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

## ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at the Facility:

   a. Cease dispensing fuel from the USTs;

   b. Cease receiving deliveries of regulated substances into the USTs;

   c. Padlock the dispensers;

   d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and

   e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.

2. The USTs at the Facility shall remain out of service, pursuant to TEX. WATER CODE §§26.3475(e) and 26.352(i) and as directed by Ordering Provisions Nos. 1.a. through 1.e., until such time as Respondent demonstrates to the satisfaction of the Executive Director that the financial assurance, corrosion protection, and release detection violations noted in Conclusions of Law Nos. 2 through 5 have been corrected.

3. If Respondent elects to permanently remove from service any portion of the UST system at the Facility, Respondent shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

   Petroleum Storage Tank Registration Team, MC 138
   Texas Commission on Environmental Quality
   P.O. Box 13087
   Austin, Texas 78711-3087

4. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order.

5. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.

6. Within 10 days after the effective date of this Order, Respondent shall send the Facility's UST fuel delivery certificate to:

   Petroleum Storage Tank Registration Team, MC 138
   Texas Commission on Environmental Quality
   P.O. Box 13087
   Austin, Texas 78711-3087

7. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report, in accordance with Ordering Provision No. 13, below, documenting the steps taken to comply with Ordering Provisions Nos. 1.a. through 1.e., 5 and 6.

8. Respondent is assessed an administrative penalty in the amount of ten thousand eight hundred twenty-seven dollars ($10,827.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

9. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Sam Mathew d/b/a Sam's Chevron; Docket No. 2012-2143-PST-E" to:

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

10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:

    a. Begin maintaining all UST records and ensure they are made immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10;

    b. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs, in accordance with 30 TEX. ADMIN. CODE § 37.815;

    c. Install a corrosion protection system and test the system, with passing results, in accordance with 30 TEX. ADMIN. CODE § 334.49;

    d. Implement a release detection method for the USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50

    e. Conduct the annual line leak detector and piping tightness tests, in accordance with 30 TEX. ADMIN. CODE § 334.50; and

    f. Obtain a new fuel delivery certificate from the TCEQ.

11. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).

12. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification, in accordance with Ordering Provision No. 13, below, to demonstrate compliance with Ordering Provisions Nos. 10 and 11.

13. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

14. All relief not expressly granted in this Order is denied.

15. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

16. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

17. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

18. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

19. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

20. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date this Order was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

## S I G N A T U R E  P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

## AFFIDAVIT OF RYAN RUTLEDGE

**STATE OF TEXAS** §
§
**COUNTY OF TRAVIS** §

"My name is Ryan Rutledge. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Sam Matthew d/b/a Sam's Chevron" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 26, 2013.

The EDPRP was mailed to Respondent's last known address on February 26, 2013, via certified mail, return receipt requested, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on February 28, 2013.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Sam Mathew d/b/a Sam's Chevron" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on April 2, 2013.

The EDFARP was mailed to Respondent's last known address on April 2, 2013, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDFARP on April 4, 2013, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP and the EDFARP. Respondent failed to file an answer and failed to request a hearing.

By letter dated April 24, 2013, sent via first class mail and certified mail, return receipt requested article no. 7004 1350 0002 7544 3551, I provided Respondent with notice of the TCEQ's intent to order the USTs at the Facility be shut down and removed from service if the violations pertaining to financial assurance, corrosion protection, and release detection were not corrected within 30 days of Respondent's receipt of the letter. According to the return receipt "green card," Respondent received the notice on April 26, 2013.

As of the date of this affidavit, I am not aware of any evidence that indicates that Respondent has corrected the financial assurance, corrosion protection, and release detection violations noted during the December 20, 2011, investigation."

Ryan Rutledge, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 17th day of July A.D. 2013.

Notary Signature

MARGARET T JACKSON
NOTARY PUBLIC
State of Texas
Comm. Exp. 12-21-2013