EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 50682
Hub City Convenience Stores, Inc. dba Chisum 35
RN103154621
Docket No. 2015-0904-PST-E

Order Type:
Agreed Order

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
110 Arnett Street, Ropesville, Hockley 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: May 20, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: $10,420

Total Paid to General Revenue: $305

Total Due to General Revenue: $10,115
Payment Plan: 35 payments of $289 each

Compliance History Classifications:
Person/CN – Satisfactory
Site/RN – High

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: March 27, 2015

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

Date(s) of NOE(s): May 11, 2015

Violation Information

1. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition [TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.51(a)(6)].
2. Failed to report a suspected release to the TCEQ within 24 hours of discovery (inventory control for August and September 2014) [30 TEX. ADMIN. CODE § 334.72].
3. Failed to file a release determination report with the Commission within 45 days after a suspected release has occurred [30 TEX. ADMIN. CODE § 334.74(3)].

Corrective Actions / Technical Requirements

Corrective Action(s) Completed:
Submitted documentation on April 22, 2015, demonstrating that all spill buckets at the Facility have been repaired and are being maintained in good operating condition.

Technical Requirements:
1. Within 30 days:
   a. Establish and implement a process for reporting suspected releases; and
   b. File a release determination report containing a detailed description of the investigative procedures followed in addressing the suspected release.
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: October 14, 2015

Date Answer Filed: October 19, 2015

SOAH Referral Date: November 18, 2015

Hearing Date(s):
Preliminary hearing: January 14, 2016 (waived)
Evidentiary hearing: May 12, 2016 (scheduled)

Settlement Date: April 26, 2016

Contact Information

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

TCEQ Enforcement Coordinator: Keith Frank, Enforcement Division, (512) 239-1203

TCEQ Regional Contact: Jay Keith, Lubbock Regional Office, (806) 796-7092

Respondent Contact: Daniel M. Kendrick, Director, Hub City Convenience Stores, Inc., 4630 50th Street, Suite 408, Lubbock, Texas 79414-3519

Respondent's Attorney: Donald H. Grissom, Grissom & Thompson, LLP, 509 W. 12th Street, Austin, TX 78701

Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014) *PCW Revision March 26, 2014*

DATES					
Assigned	18-May-2015				
PCW	12-Apr-2016	**Screening**	21-May-2015	**EPA Due**	

RESPONDENT/FACILITY INFORMATION			
Respondent	Hub City Convenience Stores, Inc. dba Chisum 35		
Reg. Ent. Ref. No.	RN103154621		
Facility/Site Region	2-Lubbock	**Major/Minor Source**	Major

CASE INFORMATION			
Enf./Case ID No.	50682	**No. of Violations**	3
Docket No.	2015-0904-PST-E	**Order Type**	1660
Media Program(s)	Petroleum Storage Tank	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Keith Frank
		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*** **$11,250**

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*** **-$937**

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

Total EB Amounts $150
Estimated Cost of Compliance $4,700

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 ***Final Subtotal*** **$10,313**

OTHER FACTORS AS JUSTICE MAY REQUIRE **1.0%** ***Adjustment*** **$107**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.

Final Penalty Amount **$10,420**

STATUTORY LIMIT ADJUSTMENT ***Final Assessed Penalty*** **$10,420**

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

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **$10,420**

Screening Date	21-May-2015	**Docket No.** 2015-0904-PST-E	**PCW**
Respondent	Hub City Convenience Stores, Inc. dba Chisum 35		*Policy Revision 4 (April 2014)*
Case ID No.	50682		*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN103154621		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Keith Frank		

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 judgments 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)

Satisfactory Performer

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	21-May-2015	**Docket No.**	2015-0904-PST-E	**PCW**
Respondent	Hub City Convenience Stores, Inc. dba Chisum 35			*Policy Revision 4 (April 2014)*
Case ID No.	50682			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN103154621			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Keith Frank			

Violation Number 1

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 drain valve in spill bucket no. 1A was inoperable and all four spill buckets contained dirt and/or debris.

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 significant amounts of pollutants that would not 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 | 26 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,750

One quarterly event is recommended based on documentation of the violation during the March 27, 2015 investigation to the April 22, 2015 date of compliance.

Good Faith Efforts to Comply

25.0% Reduction $937

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes: The Respondent came into compliance on April 22, 2015, prior to the Notice of Enforcement dated May 11, 2015.

Violation Subtotal $2,813

Economic Benefit (EB) for this violation

Estimated EB Amount $14

Statutory Limit Test

Violation Final Penalty Total $2,842

This violation Final Assessed Penalty (adjusted for limits) $2,842

Economic Benefit Worksheet

Respondent Hub City Convenience Stores, Inc. dba Chisum 35
Case ID No. 50682
Reg. Ent. Reference No. RN103154621
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)	$4,000	27-Mar-2015	22-Apr-2015	0.07	$14	n/a	$14

Notes for DELAYED costs Estimated cost to repair the spill buckets and maintain the overfill protection equipment in proper working condition. Date Required is the investigation date. 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 $4,000

TOTAL $14

Screening Date	21-May-2015	**Docket No.**	2015-0904-PST-E	**PCW**
Respondent	Hub City Convenience Stores, Inc. dba Chisum 35			*Policy Revision 4 (April 2014)*
Case ID No.	50682			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN103154621			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Keith Frank			

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, inventory control records for August and September 2014 indicated a suspected release that was not reported.

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 15.0%

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

Adjustment $21,250

$3,750

Violation Events

Number of Violation Events: 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction $0

	Before NOE/NOV	NOE/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 $129

Statutory Limit Test

Violation Final Penalty Total $3,789

This violation Final Assessed Penalty (adjusted for limits) $3,789

Economic Benefit Worksheet

Respondent Hub City Convenience Stores, Inc. dba Chisum 35
Case ID No. 50682
Reg. Ent. Reference No. RN103154621
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				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)	$500	27-Mar-2015	12-Feb-2016	0.88	$22	n/a	$22
Notes for DELAYED costs	Estimated cost to develop and implement a process for reporting suspected releases. Date Required is the investigation date. Final Date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$100	1-Oct-2014	27-Mar-2015	1.40	$7	$100	$107
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost to report a suspected release. Date Required is the date the report was due. Final Date is the investigation date.						

Approx. Cost of Compliance $600

TOTAL $129

Screening Date	21-May-2015	**Docket No.**	2015-0904-PST-E	**PCW**
Respondent	Hub City Convenience Stores, Inc. dba Chisum 35			*Policy Revision 4 (April 2014)*
Case ID No.	50682			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN103154621			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Keith Frank			

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.74(3)

Violation Description Failed to file a release determination report with the Commission within 45 days after a suspected release has occurred. Specifically, inventory control records for August and September 2014 indicated a suspected release and the Respondent did not file a release determination report with the Commission within the required 45 day time frame which expired on November 14, 2014.

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 15.0%

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

Adjustment $21,250

$3,750

Violation Events

Number of Violation Events: 1

188 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $3,750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction $0

	Before NOE/NOV	NOE/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 $6

Statutory Limit Test

Violation Final Penalty Total $3,789

This violation Final Assessed Penalty (adjusted for limits) $3,789

Economic Benefit Worksheet

Respondent Hub City Convenience Stores, Inc. dba Chisum 35
Case ID No. 50682
Reg. Ent. Reference No. RN103154621
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)	$100	14-Nov-2014	12-Feb-2016	1.25	$6	n/a	$6

Notes for DELAYED costs Estimated cost to submit the suspected release investigation report to the Commission. Date Required is the date the report was due. Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $100

TOTAL $6

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

PUBLISHED Compliance History Report for CN603465642, RN103154621, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN603465642, Hub City Convenience Stores, Inc. **Classification:** SATISFACTORY **Rating:** 2.27

Regulated Entity: RN103154621, Chisum 35 **Classification:** HIGH **Rating:** 0.00

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

CH Group: 14 - Other

Location: 110 ARNETT ST ROPESVILLE, TX 79358, HOCKLEY COUNTY

TCEQ Region: REGION 02 - LUBBOCK

ID Number(s): **PETROLEUM STORAGE TANK REGISTRATION** 75794

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: May 21, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 21, 2010 to May 21, 2015

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

Name: Keith Frank **Phone:** (512) 239-1203

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? YES
3) If **YES** for #2, who is the current owner/operator? HUB CITY CONVENIENCE STORES INC OWNER OPERATOR since 7/4/2014
4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? Ropes Farmers Cooperative Gin, OWNER OPERATOR, 11/27/2002 to 7/3/2014
5) If **YES**, when did the change(s) in owner or operator occur? 7/4/2014

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.):
Item 1 August 06, 2012 (1020251)

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 ENFORCEMENT ACTION CONCERNING HUB CITY CONVENIENCE STORES, INC. DBA CHISUM 35; RN103154621	**§ § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2015-0904-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Hub City Convenience Stores, Inc. dba Chisum 35 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Donald Grissom of the law firm Grissom & Thompson, L.L.P., together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 110 Arnett Street in Ropesville, Hockley County, Texas (Facility ID No. 75794) (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 or contained a regulated petroleum substance as defined in the rules of the TCEQ.

2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.

3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

4. An administrative penalty in the amount of ten thousand four hundred twenty dollars ($10,420.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred five dollars ($305.00) of the penalty. The remaining amount of ten thousand one hundred fifteen dollars ($10,115.00) shall be paid in thirty-five (35) monthly payments of two hundred eighty-nine dollars ($289.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may 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, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.

6. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.

7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.

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

9. The Executive Director recognizes that Respondent submitted documentation on April 22, 2015 demonstrating that all spill buckets at the Facility have been repaired and are being maintained in good operating condition.

II. ALLEGATIONS

1. After an investigation conducted on March 27, 2015, TCEQ staff documented that Respondent:

   a. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.51(a)(6). Specifically, the drain valve in spill bucket no. 1A was inoperable and all four spill buckets contained dirt and/or debris;

   b. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, inventory control records for August and September 2014 indicated a suspected release that was not reported; and

   c. Failed to file a release determination report with the Commission within 45 days after a suspected release has occurred, in violation of 30 TEX. ADMIN. CODE § 334.74(3). Specifically, inventory control records for August and September 2014 indicated a suspected release and Respondent did not file a release determination report with the Commission within the required 45-day time frame, which expired on November 14, 2014.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made

payable to TCEQ and shall be sent with the notation "Re: Hub City Convenience Stores, Inc. dba Chisum 35, Docket No. 2015-0904-PST-E" to:

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

2. Respondent shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Order, Respondent shall:

      i. Establish and implement a process for reporting suspected releases, in accordance with 30 TEX. ADMIN. CODE § 334.74; and

      ii. File a release determination report containing a detailed description of the investigative procedures followed in addressing the suspected release, in accordance with 30 TEX. ADMIN. CODE § 334.74(3).

   b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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."

      The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent 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
      Lubbock Regional Office
      Texas Commission on Environmental Quality
      5012 50th Street, Suite 100
      Lubbock, Texas 79414-3421

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

4. The duties and provisions imposed by 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.

5. 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.

6. 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.

7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.

8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	Date
For the Executive Director	May 20, 2016 Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Signature – Daniel M. Kendrick, Director Hub City Convenience Stores, Inc. 801 Main Street Friona, TX 79035 USA	4/26/16 Date

☐ *If mailing address has changed, please check this box and provide the new address below:*

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