

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 49476
S.B. INTERESTS, INC. d/b/a Time Out 1
RN102890407
Docket No. 2014-1510-PST-E

Order Type:

Agreed Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1800 Woodworth Boulevard, Port Arthur, Jefferson County

Type of Operation:

Inactive underground storage tanks ("USTs")

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: July 15, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: \$8,500

Total Paid to General Revenue: \$240

Total Due to General Revenue: \$8,260

Payment Plan: 35 payments of \$236 each

Compliance History Classifications:

Person/CN –Unsatisfactory
Site/RN – Unsatisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: July 1, 2014
Date(s) of NOV(s): N/A
Date(s) of NOE(s): September 4, 2014

Violation Information

1. Failed to notify the agency of the change or additional information regarding the UST system within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE §§ 334.7(d)(3) and 334.54(e)(2)].
2. Failed to maintain all piping, pumps, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons [30 TEX. ADMIN. CODE § 334.54(b)(2)].
3. Failed to monitor for releases a UST system which contained regulated substances [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.54(c)(2)].
4. Failed to provide proper corrosion protection for the UST system, in violation of [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.54(c)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 60 days:
 - a. Properly temporarily remove the UST system from service;
 - b. Properly secure the UST system to prevent access, tampering, or vandalism; and
 - c. Install a corrosion protection system.
2. Within 75 days, submit a properly completed UST registration and self-certification form.
3. Within 90 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1 and 2.

Litigation Information

Date Petition(s) Filed: March 6, 2015
Date Green Card(s) Signed: March 10, 2015
Date Answer(s) Filed: March 27, 2015
SOAH Referral Date: May 15, 2015
Hearing Date(s):
Preliminary hearing: July 2, 2015 (waived)
Evidentiary hearing: December 10, 2015 (scheduled)
Settlement Date: December 1, 2015

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 49476
S.B. INTERESTS, INC. d/b/a Time Out 1
RN102890407
Docket No. 2014-1510-PST-E

Page 3 of 3

Contact Information

TCEQ Attorneys: J. Amber Ahmed, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Rebecca Boyett, Enforcement Division, (512) 239-2503

TCEQ Regional Contact: Marilyn Gates, Beaumont Regional Office, (409) 899-8731

Respondent Contact: Firdous Hamani, President, S.B. INTERESTS, INC., 7447 Harwin Drive,
Suite 213, Houston, Texas 77036

Respondent's Attorney: Ted A. Cox, Ted A. Cox, P.C., 1225 W. 34th St., Houston, Texas 77018

THIS PAGE INTENTIONALLY LEFT BLANK



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	8-Sep-2014		
	PCW	10-Nov-2015	Screening	25-Sep-2014
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	S.B. INTERESTS, INC. dba Time Out 1
Reg. Ent. Ref. No.	RN102890407
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	49476	No. of Violations	2
Docket No.	2014-1510-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Boyett
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	70.0% Enhancement	Subtotals 2, 3, & 7	\$3,500
---------------------------	-------------------	--------------------------------	---------

Notes: Enhancement for one previous administrative order without denial of liability, one previous court order without denial of liability, and unsatisfactory performer classification.

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: \$470
 Estimated Cost of Compliance: \$7,630
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,500
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$8,500
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,500
-----------------------------------	-------------------------------	---------

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	\$8,500
------------------------	---------

Screening Date 25-Sep-2014

Docket No. 2014-1510-PST-E

PCW

Respondent S.B. INTERESTS, INC. dba Time Out 1

Policy Revision 4 (April 2014)

Case ID No. 49476

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102890407

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	1	35%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 60%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one previous administrative order without denial of liability, one previous court order without denial of liability, and unsatisfactory performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 70%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 70%

Screening Date 25-Sep-2014 **Docket No.** 2014-1510-PST-E **PCW**
Respondent S.B. INTERESTS, INC. dba Time Out 1 *Policy Revision 4 (April 2014)*
Case ID No. 49476 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN102890407
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rebecca Boyett

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 334.7(d)(3) and 334.54(e)(2)

Violation Description

Failed to notify the agency of the change or additional information regarding the underground storage tank ("UST") system within 30 days from the date of the occurrence of the change or addition. Specifically the registration had not been updated to reflect the current owner and operator, and the current operational status of the USTs.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent S.B. INTERESTS, INC. dba Time Out 1
Case ID No. 49476
Reg. Ent. Reference No. RN102890407
Media Violation No. 1
Media Petroleum Storage Tank

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)	\$100	1-Jul-2014	8-Jun-2015	0.94	\$5	n/a	\$5

Notes for DELAYED costs
 Estimated delayed cost to submit a properly completed UST registration and self-certification form. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$5

Screening Date 25-Sep-2014

Docket No. 2014-1510-PST-E

PCW

Respondent S.B. INTERESTS, INC. dba Time Out 1

Policy Revision 4 (April 2014)

Case ID No. 49476

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102890407

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 334.54(b)(2), (c)(1), and (c)(2) and Tex. Water Code §§ 26.3475(c)(1) and 26.3475(d)

Violation Description

Failed to maintain all piping, pumps, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, the dispensers were not secured, and the two fill ports and the Stage I dry-break were not locked. Also, failed to monitor for releases a UST system which contained regulated substances and failed to provide proper corrosion protection for the UST system.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

Human health or the environment will or could be exposed to pollutants that 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 86 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

One quarterly event is recommended from the July 1, 2014 investigation date to the September 25, 2014 screening date.

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

Statutory Limit Test

Estimated EB Amount \$465

Violation Final Penalty Total \$6,375

This violation Final Assessed Penalty (adjusted for limits) \$6,375

Economic Benefit Worksheet

Respondent S.B. INTERESTS, INC. dba Time Out 1
Case ID No. 49476
Reg. Ent. Reference No. RN102890407
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	\$6,000	1-Jul-2014	8-Jun-2015	0.94	\$19	\$375	\$394
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)	\$1,530	1-Jul-2014	8-Jun-2015	0.94	\$72	n/a	\$72

Notes for DELAYED costs
 Estimated cost to implement a method of release detection for the USTs (\$1500) and secure (\$30) the UST system. The Date Required is the investigation date and the Final Date is the estimated date of compliance. Estimated cost to provide corrosion protection for the UST system. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$7,530

TOTAL \$465

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 CN604664607, RN102890407, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604664607, S.B. INTERESTS, INC. **Classification:** UNSATISFACTORY **Rating:** 208.75

Regulated Entity: RN102890407, Time Out 1 **Classification:** UNSATISFACTORY **Rating:** 208.75

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations

Location: 1800 WOODWORTH BLVD PORT ARTHUR, TX 77640-3935, JEFFERSON COUNTY

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 16557

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

Date Compliance History Report Prepared: November 19, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 21, 2009 to October 21, 2014

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

Name: Rebecca Boyett

Phone: (512) 239-2503

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? S.B. INTERESTS, INC., OWNER OPERATOR, since 7/1/2014
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? PATHAN INVESTMENTS, INC., OWNER OPERATOR, 10/30/2004 to 6/30/2014
- 5) If YES, when did the change(s) in owner or operator occur? 07/01/2014

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

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 12/08/2011 ADMINORDER 2011-0270-PST-E (Findings Order-Default)

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
5C THSC Chapter 382 382.085(b)

Description: Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, as documented during an investigation conducted on January 13, 2011. Specifically, the Respondent did not conduct the Stage II annual and triennial system compliance testing.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)
5C THSC Chapter 382 382.085(b)

Description: Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems, in violation of 30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 13, 2011.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.222(5)
5C THSC Chapter 382 382.085(b)

Description: Failed to ensure that each underground storage tank vent line is equipped with a pressure-vacuum relief valve set to open at a pressure of no more than eight ounces per square inch, in violation of 30 TEX. ADMIN. CODE § 115.222(5) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 13, 2011. Specifically, neither of the two UST vent lines at the Station were equipped with a California Air Resources Board-approved pressure-vacuum relief valve.

2 Effective Date: 11/28/2012 COURTORDER (Final Judgement-Agreed Order Without Denial)

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failure to number tanks according to the facility's UST Registration & Self-Certification Form.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Failure to securely anchor dispensing unit emergency shutoff valves (shear valves) to the base of the dispenser.

Classification: Major

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)
Rqmt Prov: OP 3 ORDER

Description: Failure to cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 Texas Administrative Code §§ 334.7 and 334.8.

Failure to comply with Commission Order Docket No. 2011-0270-PST-E.

Classification: Major

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(6)
Rqmt Prov:OP 4 ORDER

Description: Failure to provide a revoked UST delivery certificate to the TCEQ within 30 days of the effective date of a Default Order, as required by Ordering Provision 4. Failure to comply with Commission Order Docket No. 2011-0270-PST-E

Classification: Major

Citation: 30 TAC Chapter 334, SubChapter A 334.7
30 TAC Chapter 334, SubChapter A 334.8
Rqmt Prov:OP 3 ORDER

Description: Failure to cease accepting fuel under Ordering Provision 3 of the Default Order until such time that it has complied with the requirements of the Order and obtained a valid delivery certificate in accordance with Tex. Admin. Code §§ 334.7 and 334.8

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 July 05, 2013 (1098870)

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
S.B. INTERESTS, INC.
DBA TIME OUT 1;
RN102890407**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2014-1510-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 S.B. INTERESTS, INC. d/b/a Time Out 1 ("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 Ted A. Cox of the law firm Ted A. Cox, P.C., together stipulate that:

1. Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2(73), an underground storage tank ("UST") system and a former convenience store with retail sales of gasoline located at 1800 Woodworth Boulevard in Port Arthur, Jefferson County, Texas (Facility ID No. 16557) (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 eight thousand five hundred dollars (\$8,500.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid two hundred forty dollars (\$240.00) of the penalty. The remaining amount of eight thousand two hundred sixty dollars (\$8,260.00) shall be paid in thirty-five (35) monthly payments of two hundred thirty-six dollars (\$236.00) 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.

II. ALLEGATIONS

1. During an investigation conducted on July 1, 2014, an investigator documented that Respondent:
 - a. Failed to notify the agency of the change or additional information regarding the UST system within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE §§ 334.7(d)(3) and 334.54(e)(2). Specifically the registration had not been updated to reflect the current owner and operator, and the current operational status of the USTs;
 - b. Failed to maintain all piping, pumps, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(2). Specifically, the dispensers were not secured, and the two fill ports and the Stage I dry-break were not locked;
 - c. Failed to monitor for releases a UST system which contained regulated substances, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.54(c)(2); and
 - d. Failed to provide proper corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.54(c)(1).

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: S.B. INTERESTS, INC. d/b/a Time Out 1, Docket No. 2014-1510-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 60 days after the effective date of this Order:
 - i. Properly temporarily remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.54;
 - ii. Properly secure the UST system to prevent access, tampering, or vandalism; and
 - iii. Install a corrosion protection system.
- b. Within 75 days after the effective date of this Order, submit a properly completed UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.7, to:

Registration and Reporting Section
Permitting & Registration Support Division, MC 129
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 90 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a. and 2.b. 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

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.
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

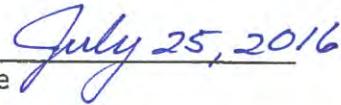
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director



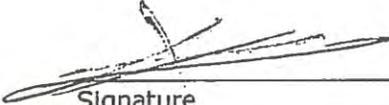
Date

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.

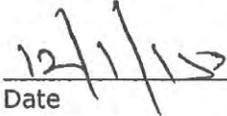
I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

- 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.

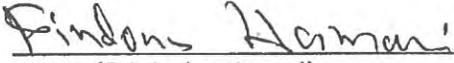
In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.



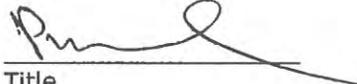
Signature



Date



Name (Printed or typed)
Authorized representative of
S.B. INTERESTS, INC. d/b/a Time Out 1



Title

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