

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 51835
SARVODAY ENTERPRISES LLC d/b/a Times Market
RN101811081
Docket No. 2016-0165-PST-E

Order Type:

Default Shutdown Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

6104 Montgomery Drive, Windcrest, Bexar 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: August 26, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: \$85,600

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$85,600

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): August 27, 2015

Complaint Information: While conducting maintenance on a sewer manhole next to the Facility, strong gas fumes were detected.

Date(s) of Investigation: August 27, 2015 through December 8, 2015

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

Date(s) of NOE(s): January 22, 2016

Violation Information

1. Failed to designate at least one Class A, Class B, and Class C operator for the Facility [30 TEX. ADMIN. CODE § 334.602(a)].
2. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)(1)(B)].
3. Failed to provide corrosion protection for all underground and/or totally or partially submerged metal components of any existing or new UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(4)].
4. Failed to report a suspected release to the TCEQ within 24 hours of discovery [30 TEX. ADMIN. CODE § 334.72].
5. Failed to investigate a suspected release of a regulated substance within 30 days of discovery [30 TEX. ADMIN. CODE § 334.74].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On or about November 14, 2014, Respondent reported the suspected release for tank no. 1 indicated on SIR records for August 2014 by submitting a properly completed Texas Petroleum Storage Tank Program Incident Report form.

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. Secure the dispensers to prevent access;
 - 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 corrosion protection violation has been corrected and Respondent obtains a new fuel delivery certificate for the Facility.
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 set forth in the Order, including payment of the administrative penalty in full.
4. Immediately upon the effective date of this Order, cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days, 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 retail sales of gasoline:
 - a. Ensure that at least one individual completes the Class C operator training for the Facility and implement procedures to ensure that at least one certified operator is on site at all times during hours of operation;

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SARVODAY ENTERPRISES LLC d/b/a Times Market
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- b. Begin maintaining all UST records at the Facility and make them immediately available for inspection upon request by agency personnel;
 - c. Install and test, with passing results, a corrosion protection system for the STP sumps at the Facility;
 - d. Conduct an investigation of the suspected release and implement appropriate corrective measures; and
 - e. 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: June 28, 2016
Date Green Card(s) Signed: June 30, 2016
Date Answer(s) Filed: N/A

Contact Information

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

TCEQ Enforcement Coordinator: Jessica Bland, Enforcement Division, (512) 239-4967

TCEQ Regional Contact: Cameron Lopez, San Antonio Regional Office, (210) 490-3096

Respondent Contact: Sami Sana, Managing Member, SARVODAY ENTERPRISES LLC, 6104 Montgomery, Windcrest, Texas 78239

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	25-Jan-2016	Screening	4-Feb-2016	EPA Due	
	PCW	1-Aug-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	SARVODAY ENTERPRISES LLC dba Times Market				
Reg. Ent. Ref. No.	RN101811081				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	51835	No. of Violations	5
Docket No.	2016-0165-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jessica Bland
		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** **\$71,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **20.0%** Adjustment **Subtotals 2, 3, & 7** **\$14,250**

Notes	Enhancement for one Order containing a denial of liability.
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Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

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

Total EB Amounts	\$676	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$6,815	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$85,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.1%** Adjustment **\$100**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with violation no. 4.
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Final Penalty Amount **\$85,600**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$85,600**

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.
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PAYABLE PENALTY **\$85,600**

Screening Date 4-Feb-2016

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PCW

Respondent SARVODAY ENTERPRISES LLC dba Times Market

Policy Revision 4 (April 2014)

Case ID No. 51835

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101811081

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jessica Bland

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>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of 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	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> 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

Enhancement for one Order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 4-Feb-2016

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Respondent SARVODAY ENTERPRISES LLC dba Times Market

Policy Revision 4 (April 2014)

Case ID No. 51835

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101811081

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jessica Bland

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.602(a)

Violation Description Failed to designate at least one Class A, Class B, and Class C operator for the Facility. Specifically, the Facility did not have a designated Class C operator or at least one certified operator on-site at all times during hours of operation.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (5.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and 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 \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 58

Table for event frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$1,250

One quarterly event is recommended from the December 8, 2015 investigation date to the February 4, 2016 screening date.

Good Faith Efforts to Comply

0.0% Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked 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

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,502

This violation Final Assessed Penalty (adjusted for limits) \$1,502

Economic Benefit Worksheet

Respondent SARVODAY ENTERPRISES LLC dba Times Market
Case ID No. 51835
Reg. Ent. Reference No. RN101811081
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$15	8-Dec-2015	21-Oct-2016	0.87	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	8-Dec-2015	21-Oct-2016	0.87	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to obtain the required Class C operator training (\$15) and estimated cost to implement procedures to ensure at least one certified operator is on-site at all times during hours of operation (\$100). 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

\$115

TOTAL

\$5

Screening Date 4-Feb-2016

Docket No. 2016-0165-PST-E

PCW

Respondent SARVODAY ENTERPRISES LLC dba Times Market

Policy Revision 4 (April 2014)

Case ID No. 51835

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101811081

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jessica Bland

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)(1)(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

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, 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 Number of violation days 1

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked 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

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$1,502

This violation Final Assessed Penalty (adjusted for limits) \$1,502

Economic Benefit Worksheet

Respondent SARVODAY ENTERPRISES LLC dba Times Market
Case ID No. 51835
Reg. Ent. Reference No. RN101811081
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	8-Dec-2015	21-Oct-2016	0.87	\$22	n/a	\$22
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 estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$22

Screening Date 4-Feb-2016

Docket No. 2016-0165-PST-E

PCW

Respondent SARVODAY ENTERPRISES LLC dba Times Market

Policy Revision 4 (April 2014)

Case ID No. 51835

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101811081

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jessica Bland

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.49(a)(4) and Tex. Water Code § 26.3475(d)

Violation Description Failed to provide corrosion protection for all underground and/or totally or partially submerged metal components of any existing or new UST system. Specifically, the submersible turbine pump ("STP") sumps do not have corrosion protection.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> 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 58 Number of violation days

mark only one with an x	daily		Violation Base Penalty \$3,750
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

One quarterly event is recommended from the December 8, 2015 investigation date to the February 4, 2016 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 \$44

Violation Final Penalty Total \$4,505

This violation Final Assessed Penalty (adjusted for limits) \$4,505

Economic Benefit Worksheet

Respondent SARVODAY ENTERPRISES LLC dba Times Market
Case ID No. 51835
Reg. Ent. Reference No. RN101811081
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				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)	\$1,000	8-Dec-2015	21-Oct-2016	0.87	\$44	n/a	\$44

Notes for DELAYED costs

Estimated cost to provide corrosion protection for the STP sumps. 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

\$1,000

TOTAL

\$44

Screening Date 4-Feb-2016

Docket No. 2016-0165-PST-E

PCW

Respondent SARVODAY ENTERPRISES LLC dba Times Market

Policy Revision 4 (April 2014)

Case ID No. 51835

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101811081

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jessica Bland

Violation Number 4

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, the statistical inventory reconciliation ("SIR") records for August 2014 indicated a suspected release for tank no. 1 that was not reported.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%
100% of the rule requirement was not met.					

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 161 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 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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$101

Violation Final Penalty Total \$1,502

This violation Final Assessed Penalty (adjusted for limits) \$1,502

Economic Benefit Worksheet

Respondent SARVODAY ENTERPRISES LLC dba Times Market
Case ID No. 51835
Reg. Ent. Reference No. RN101811081
Media Petroleum Storage Tank
Violation No. 4

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	16-Sep-2014	14-Nov-2014	0.16	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to establish and implement a process for reporting suspected releases. The Date Required is the date the report was due, and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	15-Sep-2014	16-Sep-2014	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to report a suspected release. The Date Required is the date the suspected release was discovered, and the Final Date is the date the report was due.

Approx. Cost of Compliance

\$200

TOTAL

\$101

Screening Date 4-Feb-2016

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PCW

Respondent SARVODAY ENTERPRISES LLC dba Times Market

Policy Revision 4 (April 2014)

Case ID No. 51835

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101811081

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jessica Bland

Violation Number 5

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

Violation Description Failed to investigate a suspected release of a regulated substance within 30 days of discovery. Specifically, the SIR records for August 2014 indicated a suspected release for tank no. 1 that was not investigated.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (15.0%).

>> Programmatic Matrix

Table with columns: 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 16 477 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$60,000

Sixteen monthly events are recommended from the release investigation due date of October 15, 2014 to the February 4, 2016 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, (mark with x).

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

Violation Subtotal \$60,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$505

Violation Final Penalty Total \$72,084

This violation Final Assessed Penalty (adjusted for limits) \$72,084

Economic Benefit Worksheet

Respondent SARVODAY ENTERPRISES LLC dba Times Market
Case ID No. 51835
Reg. Ent. Reference No. RN101811081
Media Petroleum Storage Tank
Violation No. 5

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)	\$5,000	15-Oct-2014	21-Oct-2016	2.02	\$505	n/a	\$505

Notes for DELAYED costs

Estimated cost to investigate a suspected release. The Date Required is the date the release investigation was due, 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

\$5,000

TOTAL

\$505

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 CN603976234, RN101811081, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN603976234, SARVODAY ENTERPRISES LLC **Classification:** SATISFACTORY **Rating:** 16.88

Regulated Entity: RN101811081, Times Market **Classification:** SATISFACTORY **Rating:** 16.88

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

CH Group: 14 - Other

Location: 6104 Montgomery Drive, WINDCREST, TX 78239-3235, BEXAR COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 36574

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: January 27, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 27, 2011 to January 27, 2016

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

Name: Jessica Bland **Phone:** (512) 239-4967

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? SARVODAY ENTERPRISES LLC OWNER OPERATOR since 7/1/2011
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? Reshma Groceries, Inc., OWNER OPERATOR, 3/6/2006 to 6/30/2011

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

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

- 1 **Effective Date:** 06/27/2013 **ADMINORDER 2013-0078-PST-E (1660 Order-Agreed Order With Denial)**
 - Classification:** Moderate
 - Citation:** 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
 - Description:** Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 Tex. Admin. Code §334.50(b)(1)(A) and Tex. Water Code §26.3475(c)(1), as documented during an investigation conducted July 30, 2012 and a record review conducted November 26, 2012.
 - Classification:** Moderate
 - Citation:** 2D TWC Chapter 26, SubChapter A 26.3475(a)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)
 - Description:** Failed to provide release detection for the pressurized piping associated with the UST system, in violation of 30 Tex. Admin. Code §334.50(b)(2) and Tex. Water Code §26.3475(a), as documented during an investigation conducted on July 30, 2012 and a record review conducted on November 26, 2012. Specifically, Respondent did not conduct the annual piping tightness test.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SARVODAY ENTERPRISES LLC
DBA TIMES MARKET;
RN101811081**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT AND SHUTDOWN ORDER DOCKET NO. 2016-0165-PST-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary 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 shut down and remove from service the underground storage tanks ("USTs") located at 6104 Montgomery Drive in Windcrest, Bexar County, Texas. The respondent made the subject of this Order is SARVODAY ENTERPRISES LLC d/b/a Times Market ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), a UST system and a convenience store with retail sales of gasoline located at 6104 Montgomery Drive in Windcrest, Bexar County, Texas (Facility ID No. 36574) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted August 27, 2015 through December 8, 2015, an investigator documented that Respondent:
 - a. Failed to designate at least one Class A, Class B, and Class C operator for the Facility. Specifically, the Facility did not have a designated Class C operator or at least one certified operator on site at all times during hours of operation;
 - b. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel;
 - c. Failed to provide corrosion protection for all underground and/or totally or partially submerged metal components of any existing or new UST system. Specifically, the submersible turbine pump ("STP") sumps do not have corrosion protection;

- d. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, the statistical inventory reconciliation ("SIR") records for August 2014 indicated a suspected release for tank no. 1 that was not reported; and
 - e. Failed to investigate a suspected release of a regulated substance within 30 days of discovery. Specifically, SIR records for August 2014 indicated a suspected release for tank no. 1 that was not investigated.
3. The Executive Director recognizes that on or about November 14, 2014, Respondent reported the suspected release for tank no. 1 indicated on SIR records for August 2014 by submitting a properly completed Texas Petroleum Storage Tank Program Incident Report form (Conclusion of Law No. 5).
4. By letter dated January 22, 2016, Respondent was provided with written 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.
5. 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 SARVODAY ENTERPRISES LLC d/b/a Times Market" (the "EDPRP") in the TCEQ Chief Clerk's office on June 28, 2016.
6. By letter dated June 28, 2016, 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 the return receipt "green card," Respondent received notice of the EDPRP on June 30, 2016, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.
8. By letter dated August 2, 2016, 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 corrosion protection violation within 30 days after Respondent's receipt of the notice.
9. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the corrosion protection violation alleged in Finding of Fact No. 2.c. has been corrected.
10. The USTs at the Facility do not have corrosion protection as required by TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a), 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 TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to designate at least one Class A, Class B, and Class C operator for the Facility, in violation of 30 TEX. ADMIN. CODE § 334.602(a).
3. As evidenced by Finding of Fact No. 2.b., 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)(1)(B).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to provide corrosion protection for all underground and/or totally or partially submerged metal components of any existing or new UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(4).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72.
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to investigate a suspected release of a regulated substance within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74.
7. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, 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. 7, 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 TCEQ'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 eighty-five thousand six hundred dollars (\$85,600.00) 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.c., 4, 8, and 9, Respondent failed to correct documented violations of TCEQ corrosion protection 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 TCEQ regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill prevention 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 5 through 7, and Conclusions of Law Nos. 2 through 8.
16. As evidenced by Findings of Fact Nos. 9 and 10, 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 it is signed by the Commission.

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. Secure the dispensers to prevent access;
 - 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 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, including payment of the administrative penalty in full.
3. The USTs at the Facility shall remain out of service, pursuant to TEX. WATER CODE § 26.3475(e) 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 corrosion protection violation noted in Conclusion of Law No. 4 has been corrected and Respondent obtains a new fuel delivery certificate for the Facility.

4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Facility 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.
5. 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
6. 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., 4 and 5.
7. 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
8. Respondent is assessed an administrative penalty in the amount of eighty-five thousand six hundred dollars (\$85,600.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only 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 violations which are not raised here.
9. The 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 TCEQ and shall be sent with the notation "Re: SARVODAY ENTERPRISES LLC d/b/a Times Market; Docket No. 2016-0165-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

10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
 - a. Ensure that at least one individual completes the Class C operator training for the Facility and implement procedures to ensure that at least one certified operator is on site at all times during hours of operation, in accordance with 30 TEX. ADMIN. CODE 334.602 (Conclusion of Law No. 2);
 - b. Begin maintaining all UST records at the Facility and make them immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10 (Conclusion of Law No. 3);
 - c. Install and test, with passing results, a corrosion protection system for the STP sumps at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.49 (Conclusion of Law No. 4);
 - d. Conduct an investigation of the suspected release and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74 (Conclusion of Law No. 6); and
 - e. 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 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.”

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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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. 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.
17. 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.
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. 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.
20. 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.

21. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

AFFIDAVIT OF ELIZABETH CARROLL HARKRIDER

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is Elizabeth Carroll Harkrider. 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.

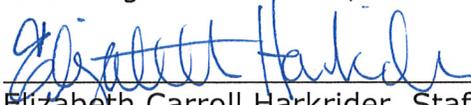
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of SARVODAY ENTERPRISES LLC d/b/a Times Market" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on June 28, 2016.

The EDPRP was mailed to Respondent's last known address on June 28, 2016, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on June 30, 2016, as evidenced by the signature on the card.

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

By letter dated August 2, 2016, sent via first class mail and certified mail, return receipt requested article no. 7015 0640 0006 9895 5807, 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 violation pertaining to corrosion protection was not corrected within 30 days of Respondent's receipt of the letter. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received the notice on August 4, 2016.

As of the date of this affidavit, I am not aware of any evidence that indicates that Respondent has corrected the corrosion protection violation noted during the investigation conducted August 27, 2015 through December 8, 2015."


Elizabeth Carroll Harkrider, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Subscribed and sworn to before me on this 8th day of August, A.D. 2016.


Notary Public, State of Texas



Notary without Bond