

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 50519**  
**Myung Cha Cha d/b/a Youngs Mart 3**  
**RN102048444**  
**Docket No. 2015-0713-PST-E**

**Order Type:**

Default Shutdown Order (SOAH Evidentiary Hearing)

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

400 North Johnson Street, Alice, Jim Wells 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:** \$19,387

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

**Total Due to General Revenue:** \$19,387

**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):** N/A

**Date(s) of Investigation:** March 10, 2015

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

**Date(s) of NOE(s):** April 28, 2015

**Violation Information**

1. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
2. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C)], and failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years by failing to conduct the triennial testing of the corrosion protection system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(4)].
3. Failed to conduct effective manual or automatic inventory control procedures for the USTs at the Facility [TEX. WATER CODE § 26.3475(c)(1), and 30 TEX. ADMIN. CODE §§ 334.48(c) and 334.50(d)(1)(B)(ii) and (d)(1)(B)(iii)(I)].
4. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure their sides, bottoms, and any penetration points are maintained liquid tight [30 TEX. ADMIN. CODE § 334.42(i)].
5. Failed to identify and designate for each UST facility at least one named individual for each class of operator (Class A, Class B, and Class C) [30 TEX. ADMIN. CODE §§ 334.602(a) and 334.603(b)(2)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately shut down operations of all USTs at the Facility:
  - a. Cease dispensing fuel from the USTs;
  - b. Cease receiving deliveries of regulated substances into the USTs;
  - c. Padlock the dispensers;
  - d. Empty the USTs of all regulated substances; and
  - e. Temporarily remove the USTs from service.
2. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the financial assurance, corrosion protection, and release detection violations have been corrected 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, Respondent shall cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days, Respondent shall surrender the Facility's UST fuel delivery certificate to the TCEQ.
6. Within 15 days, submit a detailed written report documenting the steps taken to comply with Technical Requirements Nos. 1, 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:

**Myung Cha Cha d/b/a Youngs Mart 3****RN102048444****Docket No. 2015-0713-PST-E**

- a. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST;
  - b. Conduct the required triennial testing of the corrosion protection system;
  - c. Begin conducting inspections of the impressed current cathodic protection system at least once every 60 days;
  - d. Install and implement a release detection method for all USTs at the Facility and begin conducting volume measurements and reconciliations of inventory control records;
  - e. Begin conducting bimonthly inspections of all sumps, manways, overspill containers, or catchment basins associated with the UST system once every 60 days;
  - f. Ensure that at least one individual successfully completes the required UST Class C operator training for the Facility; and
  - g. 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**

<b>Date Petition(s) Filed:</b>	October 6, 2015; November 17, 2015; and June 21, 2016
<b>Date Green Card(s) Signed:</b>	October 9, 2015; November 21, 2015; and June 23, 2016
<b>Date Answer(s) Filed:</b>	December 15, 2015
<b>SOAH Referral Date:</b>	January 26, 2016
<b>Hearing Date(s):</b>	
Preliminary hearing:	March 3, 2016
Evidentiary hearing:	July 7, 2016 (defaulted)

**Contact Information**

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

**TCEQ Enforcement Coordinator:** James Baldwin, Enforcement Division, (512) 239-1337

**TCEQ Regional Contact:** Michelle Phillips, Corpus Christi Regional Office, (361) 825-3100

**Respondent Contact:** Myung Cha Cha, 400 North Johnson Street, Alice, Texas 78332-4424  
Myung Cha Cha, 1600 Rose Drive, Alice, Texas 78332-4055

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	4-May-2015		
	<b>PCW</b>	20-Aug-2015	<b>Screening</b>	12-May-2015
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Myung Cha Cha dba Youngs Mart 3
<b>Reg. Ent. Ref. No.</b>	RN102048444
<b>Facility/Site Region</b>	14-Corpus Christi
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	5
<b>Enf./Case ID No.</b>	50519	<b>Order Type</b>	1660
<b>Docket No.</b>	2015-0713-PST-E	<b>Government/Non-Profit</b>	No
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	James Baldwin
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$13,750
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	20.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$2,750
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Notes: Enhancement for one agreed order with denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$2,983  
 Estimated Cost of Compliance: \$4,780  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$16,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	17.5%	<b>Adjustment</b>	\$2,887
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1, 2 and 4.

<b>Final Penalty Amount</b>	\$19,387
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$19,387
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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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.

<b>PAYABLE PENALTY</b>	\$19,387
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**Screening Date** 12-May-2015

**Docket No.** 2015-0713-PST-E

**PCW**

**Respondent** Myung Cha Cha dba Youngs Mart 3

Policy Revision 4 (April 2014)

**Case ID No.** 50519

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN102048444

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** James Baldwin

### 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 agreed order with 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** 12-May-2015 **Docket No.** 2015-0713-PST-E **PCW**  
**Respondent** Myung Cha Cha dba Youngs Mart 3 *Policy Revision 4 (April 2014)*  
**Case ID No.** 50519 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN102048444  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** James Baldwin

**Violation Number** 1

**Rule Cite(s)**

30 Tex. Admin. Code § 37.815(a) and (b)

**Violation Description**

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

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		x			5.0%

Matrix Notes

100% of the rule requirement was not met.

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 3 126 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

*mark only one with an x*

**Violation Base Penalty** \$3,750

Three single events are recommended for three USTs.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/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** \$2,079 **Violation Final Penalty Total** \$5,287

**This violation Final Assessed Penalty (adjusted for limits)** \$5,287

# Economic Benefit Worksheet

**Respondent** Myung Cha Cha dba Youngs Mart 3  
**Case ID No.** 50519  
**Reg. Ent. Reference No.** RN102048444  
**Media Violation No.** Petroleum Storage Tank  
 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]	\$1,980	4-Nov-2014	10-Mar-2015	1.00	\$99	\$1,980	\$2,079
<b>ONE-TIME avoided costs [3]</b>				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to provide financial assurance for three USTs. The Date Required is the expiration date of the previous policy and the Final Date is the investigation date.

Approx. Cost of Compliance \$1,980

**TOTAL** \$2,079

**Screening Date** 12-May-2015  
**Respondent** Myung Cha Cha dba Youngs Mart 3  
**Case ID No.** 50519  
**Reg. Ent. Reference No.** RN102048444  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** James Baldwin

**Docket No.** 2015-0713-PST-E

**PCW**

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

**Violation Number** 2

**Rule Cite(s)** 30 Tex. Admin. Code §§ 334.49(c)(2)(C) and (c)(4) and Tex. Water Code § 26.3475(d)

**Violation Description**

Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial testing had not been conducted.

**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 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 1096 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 for the period preceding the March 10, 2015 investigation.

**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** \$708

**Violation Final Penalty Total** \$5,287

**This violation Final Assessed Penalty (adjusted for limits)** \$5,287

# Economic Benefit Worksheet

**Respondent** Myung Cha Cha dba Youngs Mart 3  
**Case ID No.** 50519  
**Reg. Ent. Reference No.** RN102048444  
**Media Violation No.** 2  
**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	10-Mar-2015	4-Feb-2016	0.91	\$5	n/a	\$5

**Notes for DELAYED costs** Estimated cost to develop and implement procedures to inspect the cathodic protection system at least once every 60 days and to have the system tested at least once every three years. 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]	\$500	10-Mar-2012	10-Mar-2015	3.92	\$98	\$500	\$598
Other (as needed)	\$100	9-Jan-2015	10-Mar-2015	1.08	\$5	\$100	\$105

**Notes for AVOIDED costs** Estimated avoided cost for conducting the triennial test (\$500). The Date Required is three years prior to the investigation date and the Final Date is the investigation date. Estimated avoided cost to conduct bimonthly inspections of the rectifier and other components of the cathodic protection system (\$100). The Date Required is 60 days prior to the investigation date and the Final Date is the investigation date.

Approx. Cost of Compliance \$700

**TOTAL** \$708

**Screening Date** 12-May-2015  
**Respondent** Myung Cha Cha dba Youngs Mart 3  
**Case ID No.** 50519  
**Reg. Ent. Reference No.** RN102048444  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** James Baldwin

**Docket No.** 2015-0713-PST-E

**PCW**

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

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code §§ 334.48(c), 334.50(d)(1)(B)(ii) and (d)(1)(B)(iii)(I), and Tex. Water Code § 26.3475(c)(1)

**Violation Description** Failed to conduct effective manual or automatic inventory control procedures for all USTs at the Facility.

**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 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 63 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
single event		

**Violation Base Penalty** \$3,750

One quarterly event is recommended from the March 10, 2015 investigation to the May 12, 2015 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** \$68

**Violation Final Penalty Total** \$5,287

**This violation Final Assessed Penalty (adjusted for limits)** \$5,287

# Economic Benefit Worksheet

**Respondent** Myung Cha Cha dba Youngs Mart 3  
**Case ID No.** 50519  
**Reg. Ent. Reference No.** RN102048444  
**Media Violation No.** Petroleum Storage Tank  
 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	10-Mar-2015	4-Feb-2016	0.91	\$68	n/a	\$68

**Notes for DELAYED costs**   Estimated cost to monitor the USTs for releases. The Date Required is the investigation date and the Final Date is the 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**   \$1,500

**TOTAL**   \$68

**Screening Date** 12-May-2015  
**Respondent** Myung Cha Cha dba Youngs Mart 3  
**Case ID No.** 50519  
**Reg. Ent. Reference No.** RN102048444  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** James Baldwin

**Docket No.** 2015-0713-PST-E

**PCW**

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

**Violation Number** 4

**Rule Cite(s)**

30 Tex. Admin. Code § 334.42(i)

**Violation Description**

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

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

**Percent** 5.0%

**>> 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** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 1

63 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended from the March 10, 2015 investigation to the May 12, 2015 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** \$1,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$105

**Violation Final Penalty Total** \$1,762

**This violation Final Assessed Penalty (adjusted for limits)** \$1,762

# Economic Benefit Worksheet

**Respondent** Myung Cha Cha dba Youngs Mart 3  
**Case ID No.** 50519  
**Reg. Ent. Reference No.** RN102048444  
**Media Violation No.** Petroleum Storage Tank  
 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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
<b>ONE-TIME avoided costs [3]</b>	\$100	9-Jan-2015	10-Mar-2015	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct bimonthly inspections of the sumps, manways, overfill containers or catchment basins. The Date Required is 60 days before the investigation date and the Final Date is the investigation date.

Approx. Cost of Compliance \$100

**TOTAL** \$105

**Screening Date** 12-May-2015  
**Respondent** Myung Cha Cha dba Youngs Mart 3  
**Case ID No.** 50519  
**Reg. Ent. Reference No.** RN102048444  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** James Baldwin

**Docket No.** 2015-0713-PST-E

**PCW**

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

**Violation Number** 5

**Rule Cite(s)**

30 Tex. Admin. Code §§ 334.602(a) and 334.603(b)(2)

**Violation Description**

Failed to identify and designate for each UST facility at least one named individual for each class of operator (Class A, Class B, and Class C). Specifically, there was no Class C operator trained in both general and facility-specific emergency response procedures.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

**Percent** 5.0%

**>> 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** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 1

63 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended from the March 10, 2015 investigation to the May 12, 2015 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** \$1,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$23

**Violation Final Penalty Total** \$1,762

**This violation Final Assessed Penalty (adjusted for limits)** \$1,762

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**Media Violation No.** Petroleum Storage Tank  
 5

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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	\$500	10-Mar-2015	4-Feb-2016	0.91	\$23	n/a	\$23
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 obtain the required Class C operator training. 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**

\$23

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 CN603569153, RN102048444, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN603569153, Cha, Myung Cha      **Classification:** SATISFACTORY      **Rating:** 33.75

**Regulated Entity:** RN102048444, Youngs Mart 3      **Classification:** SATISFACTORY      **Rating:** 33.75

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

**CH Group:** 14 - Other

**Location:** 400 North Johnson Street, Alice, Texas 78332-4424, Jim Wells County

**TCEQ Region:** REGION 14 - CORPUS CHRISTI

**ID Number(s):** **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 46877

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

**Date Compliance History Report Prepared:** May 12, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 12, 2010 to May 12, 2015

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Allyson Plantz      **Phone:** (512) 239-4593

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

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

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

- 1      Effective Date: 03/15/2013      ADMINORDER 2012-1175-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: Failure to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).  
    Classification: Moderate  
    Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)  
              30 TAC Chapter 334, SubChapter C 334.50(b)(2)  
    Description: Failure to provide proper release detection for the piping associated with UST systems.  
    Classification: Moderate  
    Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)  
    Description: Failure to maintain UST records and make them available for inspection upon request by agency personnel.

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

Item 1      October 19, 2011      (950397)

### **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  
MYUNG CHA CHA  
DBA YOUNGS MART 3;  
RN102048444**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT AND SHUTDOWN ORDER DOCKET NO. 2015-0713-PST-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the facility's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shut down and remove from service the underground storage tanks ("USTs") located at 400 North Johnson Street in Alice, Jim Wells County, Texas. The respondent made the subject of this Order is Myung Cha Cha d/b/a Youngs Mart 3 ("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 at a convenience store with retail sales of gasoline located at 400 North Johnson Street in Alice, Jim Wells County, Texas (Facility ID No. 46877) (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. During an investigation conducted on March 10, 2015, an investigator documented that Respondent:
  - a. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST;
  - b. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly, and failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years by failing to conduct the triennial testing of the corrosion protection system;

- c. Failed to conduct effective manual or automatic inventory control procedures for the USTs at the Facility;
  - d. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure their sides, bottoms, and any penetration points are maintained liquid tight; and
  - e. Failed to identify and designate for each UST facility at least one named individual for each class of operator (Class A, Class B, and Class C). Specifically, there was no Class C operator trained in both general and facility-specific emergency response procedures.
3. By letter dated April 28, 2015, Respondent was provided with written notice of the violations and of the TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overflow prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.
  4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Myung Cha Cha d/b/a Youngs Mart 3" (the "EDPRP") in the TCEQ Chief Clerk's office on October 6, 2015.
  5. Respondent filed an answer requesting a hearing on December 14, 2015, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on January 26, 2016.
  6. On March 7, 2016, the Administrative Law Judge ("ALJ") issued Order No. 2, which set the evidentiary hearing for July 7, 2016. The SOAH docket clerk mailed a copy of Order No. 2 to Respondent at her last known address via first class mail, postage pre-paid.
  7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Myung Cha Cha d/b/a Youngs Mart 3" (the "EDFARP") in the TCEQ Chief Clerk's Office on June 21, 2016.
  8. By letter dated June 21, 2016, sent to Respondent's last known address via certified mail, return receipt requested, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on June 23, 2016, as evidenced by the signature on the card.
  9. On July 7, 2016, the ALJ convened the evidentiary hearing. Respondent failed to appear, and the Executive Director requested the matter be dismissed from the SOAH Docket and remanded to the Executive Director so a Default Order may be entered by the Commission.
  10. On July 19, 2016, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive

Director by SOAH Order No. 3, Granting Motion to Dismiss and Remand, so the TCEQ may dispose of this case on a default basis.

11. By letter dated July 28, 2016, the Executive Director provided Respondent with notice of the TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondent failed to correct the financial assurance, corrosion protection, and release detection violations within 30 days after Respondent's receipt of the notice.
12. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating the financial assurance, corrosion protection, and release detection violations alleged in Findings of Fact Nos. 2.a., 2.b., and 2.c. have been corrected.
13. The USTs at the Facility do not have financial assurance, corrosion protection and release detection as required by TEX. WATER CODE § 26.3475(c)(1) and (d), and 30 TEX. ADMIN. CODE §§ 37.815(a) and (b), 334.49(c)(2)(C) and (c)(4), 334.48(c), and 334.50(d)(1)(B)(ii) and (d)(1)(B)(iii)(I), 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 demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C), and failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years by failing to conduct the triennial testing of the corrosion protection system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(4).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to conduct effective manual or automatic inventory control procedures for the USTs at the Facility, in violation of TEX. WATER CODE § 26.3475(c)(1), and 30 TEX. ADMIN. CODE §§ 334.48(c) and 334.50(d)(1)(B)(ii) and (d)(1)(B)(iii)(I).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure their sides, bottoms, and

- any penetration points are maintained liquid tight, in violation of 30 TEX. ADMIN. CODE § 334.42(i).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to identify and designate for each UST facility at least one named individual for each class of operator (Class A, Class B, and Class C), in violation of 30 TEX. ADMIN. CODE §§ 334.602(a) and 334.603(b)(2).
  7. As evidenced by Finding of Fact No. 5, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
  8. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the evidentiary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401, and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425, and 80.6.
  9. As evidenced by Findings of Fact Nos. 7 and 8, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
  10. As evidenced by Findings of Fact Nos. 9 and 10, Respondent failed to appear for the evidentiary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4), TEX. WATER CODE § 7.057, and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106(b).
  11. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
  12. An administrative penalty in the amount of nineteen thousand three hundred eighty-seven dollars (\$19,387.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
  13. As evidenced by Findings of Fact Nos. 2.a. through 2.e., 3, 11, and 12, Respondent failed to correct documented violations of TCEQ financial assurance, corrosion protection, and release detection requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Facility.
  14. 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.

15. 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.
16. 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 good cause exists.
17. Good cause exists for revoking the Facility's UST fuel delivery certificate, as justified by Findings of Fact Nos. 2 and 4 through 10 and Conclusions of Law Nos. 2 through 10.
18. As evidenced by Findings of Fact Nos. 12 and 13, 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 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 26.352(i) and as directed by Ordering Provisions Nos. 1.a. through 1.e. until such time as Respondent demonstrates to the satisfaction of the Executive Director that the financial assurance, corrosion protection, and release detection violations noted in Conclusions of Law Nos. 2 through 4 have 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 nineteen thousand three hundred eighty-seven dollars (\$19,387.00) 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 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 the TCEQ and shall be sent with the notation "Re: Myung Cha Cha d/b/a Youngs Mart 3; Docket No. 2015-0713-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. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST, in accordance with 30 TEX. ADMIN. CODE § 37.815 (Conclusion of Law No. 2);
  - b. Conduct the required triennial testing of the corrosion protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49 (Conclusion of Law No. 3);
  - c. Begin conducting inspections of the impressed current cathodic protection system at least once every 60 days, in accordance with 30 TEX. ADMIN. CODE § 334.49 (Conclusion of Law No. 3);
  - d. Install and implement a release detection method for all USTs at the Facility and begin conducting volume measurements and reconciliations of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50 (Conclusion of Law No. 4);
  - e. Begin conducting bimonthly inspections of all sumps, manways, overspill containers, or catchment basins associated with the UST system once every 60 days, in accordance with 30 TEX. ADMIN. CODE § 334.42 (Conclusion of Law No. 5);
  - f. Ensure that at least one individual successfully completes the required UST Class C operator training for the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.60 (Conclusion of Law No. 6); and
  - g. 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 based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware 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  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
NRC Building, Suite 1200  
6300 Ocean Drive, Unit 5839  
Corpus Christi, Texas 78412-5839

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 for further enforcement proceedings without notice to Respondent if the Executive Director determines 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 JESS ROBINSON**

**STATE OF TEXAS**

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**COUNTY OF TRAVIS**

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"My name is Jess Robinson. 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 Myung Cha Cha d/b/a Youngs Mart 3" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 6, 2015.

The EDPRP was mailed to Respondent's last known address on October 6, 2015, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on October 9, 2015, as evidenced by the signature on the card.

Respondent filed an answer requesting a hearing on December 14, 2015, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on January 26, 2016. On March 7, 2016, the Administrative Law Judge ("ALJ") issued Order No. 2, which set the evidentiary hearing for July 7, 2016. The SOAH docket clerk mailed a copy of Order No. 2 to Respondent at her last known address via first class mail, postage pre-paid, pursuant to 1 TEX. ADMIN CODE ch. 155.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Myung Cha Cha d/b/a Youngs Mart 3" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on June 21, 2016.

The EDFARP was mailed to Respondent's last known address on June 21, 2016, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDFARP on June 23, 2016, as evidenced by the signature on the card.

Respondent failed to appear at the hearing on July 7, 2016. At that hearing, I requested the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the agency for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 3, Granting Motion to Dismiss and Remand, issued on July 19, 2016, so the TCEQ may dispose of this case on a default basis.

By letter dated July 28, 2016, sent via first class mail and certified mail, return receipt requested article nos. 7013 3020 0001 1906 2447 and 7013 3020 0001 1906 2454, I provided Respondent with notice of the TCEQ's intent to order the

USTs at the Facility be shut down and removed from service if the violations pertaining to financial assurance, corrosion protection, and release detection were not corrected within 30 days of Respondent's receipt of the letter. According to the return receipt "green card," Respondent received the notice on July 30, 2016.

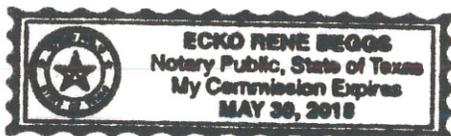
As of the date of this affidavit, I am not aware of any evidence that indicates Respondent has corrected the financial assurance, corrosion protection, and release detection violations noted during the March 10, 2015 investigation."

*Jess Robinson*

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Jess Robinson, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Subscribed and sworn to before me on this 29<sup>th</sup> day of August, A.D. 2016.



Notary without Bond

*Ecko R Beggs*

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Notary Public, State of Texas