EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 46077
CHAU MANAGEMENT, Inc. d/b/a Times Market 101 and d/b/a Times Market 102
RN101748911 and RN101752194
Docket No. 2013-0187-PST-E

Order Type:
Default Order (SOAH evidentiary hearing)

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
630 North Virginia Street, Port Lavaca, Calhoun County (Facility 1) and 107 Seadrift Street, Port Lavaca, Calhoun County (Facility 2).

Type of Operation:
underground storage tank (UST) system and convenience store with retail sale 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: September 23, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: $19,558

Total Paid to General Revenue: $0

Total Due to General Revenue: $19,558

Compliance History Classifications:
Person/CN – Unclassified
Site/RN – (PCW 1) Unclassified (PCW 2) Unclassified

Major Source: No

Statutory Limit Adjustment: None
Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: December 12, 2012

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

Date(s) of NOE(s): January 17, 2013

Violation Information

Facility 1

1. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
2. Failed to test the cathodic protection system for performance and operability at a frequency of at least once every three years [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(4)].
3. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].

Facility 2

4. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
5. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
Implemented the following corrective measures:

1. Obtained acceptable financial assurance coverage for all USTs at each Facility on January 7, 2013;
2. Successfully conducted the triennial testing of the corrosion protection system for the Times Market 101 Facility on January 10, 2013; and
3. Implemented statistical inventory reconciliation and inventory control as a release detection method for all USTs at the Times Market 101 Facility on January 15, 2013, and at the Times Market 102 Facility on December 31, 2012.

Technical Requirements:

1. Immediately cease accepting fuel at the Facilities until such times as valid delivery certificates are obtained from the TCEQ;
2. Within 10 days, send the Facilities' UST fuel delivery certificates; and
3. Within 15 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed:	May 14, 2015; July 7, 2015; April 21, 2016; June 17, 2016
Date Green Card(s) Signed:	Unclaimed; July 30, 2015; April 27, 2016; June 24, 2016
Date Answer(s) Filed:	September 8, 2015
SOAH Referral Date:	October 20, 2015
Hearing Date(s):	
Preliminary hearing:	December 10, 2015
Evidentiary hearing:	May 17, 2016 (defaulted)

Contact Information

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

TCEQ Enforcement Coordinator: Abigail Lindsey, Enforcement Division, (512) 239-2576

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

Respondent Contact: Dinh Chau, CHAU MANAGEMENT, Inc., 549 Jacob Road, Port Lavaca, Texas 77979

Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	22-Jan-2013				
PCW	22-Mar-2016	Screening	22-Jan-2013	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	CHAU MANAGEMENT, Inc. dba Times Market 101		
Reg. Ent. Ref. No.	RN101748911		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	46077	No. of Violations	3
Docket No.	2013-0187-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$25,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement *Subtotals 2, 3, & 7* **$0**

Notes: No adjustment for compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **-$2,499**

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

Total EB Amounts $1,929
Estimated Cost of Compliance $3,320

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$7,501**

OTHER FACTORS AS JUSTICE MAY REQUIRE **25.6%** *Adjustment* **$1,922**

Reduces or enhances the Final Subtotal by the indicated percentage.

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

Final Penalty Amount **$9,423**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$9,423**

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

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **$9,423**

Screening Date	22-Jan-2013	**Docket No.** 2013-0187-PST-E	**PCW**
Respondent	CHAU MANAGEMENT, Inc. dba Times Market 101		*Policy Revision 3 (September 2011)*
Case ID No.	46077		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101748911		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Abigail Lindsey		

Compliance History Worksheet

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

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

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

Screening Date	22-Jan-2013	**Docket No.** 2013-0187-PST-E	**PCW**
Respondent	CHAU MANAGEMENT, Inc. dba Times Market 101		*Policy Revision 3 (September 2011)*
Case ID No.	46077		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101748911		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Abigail Lindsey		

Violation Number 1

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

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

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

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

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events 2 | 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

Two single events are recommeneded (one event per UST).

Good Faith Efforts to Comply

25.0% Reduction $625

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

Notes: The Respondent came into compliance on January 7, 2013, prior to the Notice of Enforcement ("NOE") dated January 17, 2013.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $1,386

Statutory Limit Test

Violation Final Penalty Total $2,355

This violation Final Assessed Penalty (adjusted for limits) $2,355

Economic Benefit Worksheet

Respondent CHAU MANAGEMENT, Inc. dba Times Market 101
Case ID No. 46077
Reg. Ent. Reference No. RN101748911
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance [2]	$1,320	10-Jun-2012	7-Jan-2013	1.00	$66	$1,320	$1,386
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost to provide financial assurance for two petroleum USTs (at $660 per tank). The date required is one year to the investigation date, and the final date is the compliance date.						

Approx. Cost of Compliance $1,320

TOTAL $1,386

Screening Date	22-Jan-2013	**Docket No.** 2013-0187-PST-E	**PCW**
Respondent	CHAU MANAGEMENT, Inc. dba Times Market 101		*Policy Revision 3 (September 2011)*
Case ID No.	46077		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101748911		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Abigail Lindsey		

Violation Number 2

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

Violation Description Failed to test the cathodic protection system for performance and operability at a frequency of at least once every three years. Specifically, the triennial test was not conducted.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $21,250

$3,750

Violation Events

Number of Violation Events: 1 — 1095 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 December 12, 2012 investigation.

Good Faith Efforts to Comply

25.0% Reduction $937

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

Notes: The Respondent came into compliance on January 10, 2013, prior to the Notice of Enforcement ("NOE") dated January 17, 2013.

Violation Subtotal $2,813

Economic Benefit (EB) for this violation

Estimated EB Amount $536

Statutory Limit Test

Violation Final Penalty Total $3,534

This violation Final Assessed Penalty (adjusted for limits) $3,534

Economic Benefit Worksheet

Respondent CHAU MANAGEMENT, Inc. dba Times Market 101
Case ID No. 46077
Reg. Ent. Reference No. RN101748911
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				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
ONE-TIME avoided costs [3]	$500	30-Jun-2012	10-Jan-2013	1.45	$36	$500	$536
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost for completeing the triennial testing. The date rquired is the date the test was due, and the final date is the compliance date.						

Approx. Cost of Compliance $500

TOTAL $536

Screening Date	22-Jan-2013	**Docket No.** 2013-0187-PST-E	**PCW**
Respondent	CHAU MANAGEMENT, Inc. dba Times Market 101		*Policy Revision 3 (September 2011)*
Case ID No.	46077		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101748911		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Abigail Lindsey		

Violation Number 3

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

Violation 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).

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $21,250

$3,750

Violation Events

Number of Violation Events: 1 — 34 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,750

One quarterly event is recommended based on documentation of the violation durng the December 12, 2012 investigation to the January 15, 2013 compliance date.

Good Faith Efforts to Comply

25.0% — Reduction $937

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

Notes: The Respondent came into compliance on January 15, 2013, prior to the Notice of Enforcement ("NOE") dated January 17, 2013.

Violation Subtotal $2,813

Economic Benefit (EB) for this violation

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $3,534

This violation Final Assessed Penalty (adjusted for limits) $3,534

Economic Benefit Worksheet

Respondent CHAU MANAGEMENT, Inc. dba Times Market 101
Case ID No. 46077
Reg. Ent. Reference No. RN101748911
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$1,500	12-Dec-2012	15-Jan-2013	0.09	$7	n/a	$7

Notes for DELAYED costs: The estimated cost of monitoring the USTs for releases. The date required is the investigation date, 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]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $1,500

TOTAL $7

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 CN602866188, RN101748911, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN602866188, CHAU MANAGEMENT, INC. **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN101748911, TIMES MARKET 101 **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 630 N VIRDINIA ST PORT LAVACA, TX 77979-3022, CALHOUN COUNTY

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s): **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 28719

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

Date Compliance History Report Prepared: January 22, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 22, 2008 to January 22, 2013

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

Name: Abigail Lindsey **Phone:** (512) 239-2576

Site and Owner/Operator History:

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

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

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

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

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

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

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Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	22-Jan-2013				
PCW	22-Mar-2015	Screening	22-Jan-2013	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	CHAU MANAGEMENT, Inc. dba Times Market 102		
Reg. Ent. Ref. No.	RN101752194		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	46077	No. of Violations	2
Docket No.	2013-0187-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **$6,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement *Subtotals 2, 3, & 7* **$0**

Notes: No adjustment for compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **-$1,562**

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

Total EB Amounts $1,390
Estimated Cost of Compliance $2,820

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$4,688**

OTHER FACTORS AS JUSTICE MAY REQUIRE **29.6%** *Adjustment* **$1,386**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated violation no. 1.

Final Penalty Amount **$6,074**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$6,074**

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

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **$6,074**

Screening Date	22-Jan-2013	**Docket No.** 2013-0187-PST-E	**PCW**
Respondent	CHAU MANAGEMENT, Inc. dba Times Market 102		*Policy Revision 3 (September 2011)*
Case ID No.	46077		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101752194		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Abigail Lindsey		

Compliance History Worksheet

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

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

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

Screening Date	22-Jan-2013	**Docket No.** 2013-0187-PST-E	**PCW**
Respondent	CHAU MANAGEMENT, Inc. dba Times Market 102		*Policy Revision 3 (September 2011)*
Case ID No.	46077		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101752194		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Abigail Lindsey		

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 compnesating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum underground storage tanks ("USTs").

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

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

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events: 2 | 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

Two single events are recommended (one event per UST).

Good Faith Efforts to Comply

25.0% Reduction $625

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

Notes: The Respondent came into compliance on January 7, 2013, prior to the Notice of Enforcement ("NOE") dated January 17, 2013.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $1,386

Statutory Limit Test

Violation Final Penalty Total $2,429

This violation Final Assessed Penalty (adjusted for limits) $2,429

Economic Benefit Worksheet

Respondent CHAU MANAGEMENT, Inc. dba Times Market 102
Case ID No. 46077
Reg. Ent. Reference No. RN101752194
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance [2]	$1,320	10-Jun-2012	7-Jan-2013	1.00	$66	$1,320	$1,386
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost to provide financial assurance for two petroleum USTs (at 660 per tank). The date required is one year prior to the investigation date, and the final date is the compliance date.						

Approx. Cost of Compliance $1,320

TOTAL $1,386

Screening Date	22-Jan-2013	**Docket No.** 2013-0187-PST-E	**PCW**
Respondent	CHAU MANAGEMENT, Inc. dba Times Market 102		*Policy Revision 3 (September 2011)*
Case ID No.	46077		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101752194		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Abigail Lindsey		

Violation Number 2

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

Violation 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.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $21,250

$3,750

Violation Events

Number of Violation Events: 1 — 35 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,750

One quarterly event is recommehnded based on documentation of the violation during the December 12, 2012 investigation to the January 16, 2013 compliance date.

Good Faith Efforts to Comply

25.0% — Reduction $937

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

Notes: The Respondent came into compliance on January 16, 2013, prior to the Notice of Enforcement ("NOE") dated January 17, 2013.

Violation Subtotal $2,813

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $3,645

This violation Final Assessed Penalty (adjusted for limits) $3,645

Economic Benefit Worksheet

Respondent CHAU MANAGEMENT, Inc. dba Times Market 102
Case ID No. 46077
Reg. Ent. Reference No. RN101752194
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$1,500	12-Dec-2012	31-Dec-2012	0.05	$4	n/a	$4
Notes for DELAYED costs	The estimated cost of monitoring the USTs for releases. The date required is the investigation date and final date is the date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $1,500

TOTAL $4

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 CN602866188, RN101752194, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN602866188, CHAU MANAGEMENT, INC. **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN101752194, TIMES MARKET 102 **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 107 SEADRIFT ST PORT LAVACA, TX 77979-3843, CALHOUN COUNTY

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s): **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 28720

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

Date Compliance History Report Prepared: January 22, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 22, 2008 to January 22, 2013

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

Name: Abigail Lindsey **Phone:** (512) 239-2576

Site and Owner/Operator History:

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

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

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

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

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

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING CHAU MANAGEMENT, INC. DBA TIMES MARKET 101 AND DBA TIMES MARKET 102; RN101748911 AND RN101752194	**§ § § § § § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2013-0187-PST-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Second 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 respondent made the subject of this Order is CHAU MANAGEMENT, Inc. d/b/a Times Market 101 and d/b/a Times Market 102 ("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), two underground storage tank ("UST") systems and convenience stores with retail sales of gasoline located at the following locations (collectively referred to as the "Facilities"):

   a. Times Market 101, located at 630 North Virginia Street in Port Lavaca, Calhoun County, Texas (RN101748911; Facility ID No. 28719) (the "Times Market 101 Facility"); and

   b. Times Market 102, located at 107 Seadrift Street in Port Lavaca, Calhoun County, Texas (RN101752194; Facility ID No. 28720) (the "Times Market 102 Facility").

   The USTs at the Facilities 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 at the Times Market 101 Facility on December 12, 2012, 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 the petroleum USTs;

b. Failed to test the cathodic protection system for performance and operability at a frequency of at least once every three years. Specifically, the triennial test was not conducted; and

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

3. During an investigation conducted at the Times Market 102 Facility on December 12, 2012, 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 the petroleum USTs; and

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

4. The Executive Director recognizes that Respondent implemented the following corrective measures:

a. Obtained acceptable financial assurance coverage for all USTs at each Facility on January 7, 2013 (Findings of Fact Nos. 2.a. and 3.a.);

b. Successfully conducted the triennial testing of the corrosion protection system for the Times Market 101 Facility on January 10, 2013 (Finding of Fact No. 2.b.); and

c. Implemented statistical inventory reconciliation and inventory control as a release detection method for all USTs at the Times Market 101 Facility on January 15, 2013, and at the Times Market 102 Facility on December 31, 2012 (Findings of Fact Nos. 2.c. and 3.b.).

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 CHAU MANAGEMENT, Inc. d/b/a Times Market 101 and d/b/a Times Market 102" (the "EDPRP") in the TCEQ Chief Clerk's office on July 7, 2015.

6. Respondent filed an answer to the EDPRP requesting a hearing on September 9, 2015, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on October 20, 2015.

7. On December 10, 2015, the Administrative Law Judge ("ALJ") issued Order No. 1, which set the evidentiary hearing for April 14, 2016. The SOAH docket clerk mailed a copy of Order No. 1 Respondent at its last known address via first class mail, postage pre-paid.

8. On April 5, 2016, the ALJ issued Order No. 2, which rescheduled the evidentiary hearing for May 17, 2016. The SOAH docket clerk mailed a copy of Order No. 2 to Respondent at its last known address via first class mail, postage pre-paid.

9. On May 17, 2016, the ALJ convened the evidentiary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.

10. On June 6, 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. 4 so that TCEQ may dispose of this case on a default basis.

11. The Executive Director filed the "Executive Director's Second Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against CHAU MANAGEMENT, Inc. d/b/a Times Market 101 and d/b/a Times Market 102" (the "EDSARP") in the TCEQ Chief Clerk's office on June 17, 2016.

12. By letter dated June 17, 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 EDSARP. According to the return receipt "green card," Respondent received notice of the EDSARP on June 24, 2016, as evidenced by the signature on the card.

13. More than 20 days have elapsed since Respondent received notice of the EDSARP. Respondent failed to file an answer or request a hearing for the EDSARP.

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 Nos. 2.a. and 3.a., Respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs for the Facilities, 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 test the cathodic protection system for performance and operability at a frequency of at least once every three years, 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 Nos. 2.c. and 3.b., Respondent failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).

5. As evidenced by Finding of Fact No. 6, Respondent filed an answer requesting a hearing in response to the EDPRP 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.

6. As evidenced by Findings of Fact Nos. 7 and 8, 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.

7. 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) and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that 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).

8. As evidenced by Findings of Fact Nos. 11 and 12, the Executive Director timely served Respondent with proper notice of the EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).

9. As evidenced by Finding of Fact No. 13, Respondent failed to file a timely answer to the EDSARP 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.

10. 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.

11. An administrative penalty in the amount of nineteen thousand five hundred fifty-eight dollars ($19,558.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

12. 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.

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

14. Good cause for revocation of the Facilities' UST fuel delivery certificates exists as justified by Findings of Fact Nos. 2 and 10 through 13, and Conclusions of Law Nos. 2 through 4, 8, and 9.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of nineteen thousand five hundred fifty-eight dollars ($19,558.00) 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.

2. 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: CHAU MANAGEMENT, Inc. d/b/a Times Market 101 and d/b/a Times Market 102; Docket No. 2013-0187-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

3. The Facilities' UST fuel delivery certificates are revoked immediately upon the effective date of this Order. Respondent may submit applications for a new fuel delivery certificates only after Respondent has complied with all of the requirements of this 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 Facilities until such time as valid delivery certificates are 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 Facilities' UST fuel delivery certificates 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 written certification in accordance with Ordering Provision No. 7 to demonstrate compliance with Ordering Provisions Nos. 4 and 5.

7. The certification 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."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
NRC Bldg, Ste 1200
6300 Ocean Dr, Unit 5839
Corpus Christi TX 78412-5839

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

9. 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 each Facility's operations referenced in this Order.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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 IAN GROETSCH

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

"My name is Ian Groetsch. 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.

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 CHAU MANAGEMENT, Inc. d/b/a Times Market 101 and d/b/a Times Market 102" (the "EDPRP") in the TCEQ Chief Clerk's office on July 7, 2015.

Respondent filed an answer to the EDPRP requesting a hearing on September 9, 2015, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on October 20, 2015.

On December 10, 2015, the Administrative Law Judge ("ALJ") issued Order No. 1, which set the evidentiary hearing for April 14, 2016. The SOAH docket clerk mailed a copy of Order No. 1 Respondent at its last known address via first class mail, postage pre-paid.

On April 5, 2016, the ALJ issued Order No. 2, which rescheduled the evidentiary hearing for May 17, 2016. The SOAH docket clerk mailed a copy of Order No. 2 to Respondent at its last known address via first class mail, postage pre-paid.

On May 17, 2016, the ALJ convened the evidentiary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.

On June 6, 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. 4 so that TCEQ may dispose of this case on a default basis.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against CHAU MANAGEMENT, Inc. d/b/a Times Market 101 and d/b/a Times Market 102" (the "EDSARP") was filed in the TCEQ Chief Clerk's office on June 17, 2016.

The EDSARP was mailed to Respondent's last known address on June 17, 2016, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDSARP on June 24, 2016, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDSARP. Respondent failed to file an answer or request a hearing for the EDSARP."

Ian Groetsch, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Ian Groetsch, 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 1st day of September, A.D. 2016.

Notary Public, State of Texas

DONNA MAE DELGADO
Notary Public, State of Texas
My Commission Expires
NOVEMBER 20, 2016

Notary without Bond