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7 UNITED STATES
8 ENVIRONMENTAL PROTECTION AGENCY
9 BEFORE THE ADMINISTRATOR

10 In the Matter of:

11 JOSEPH OH

12 and

13 HOLLY INVESTMENT, LLC

14 Respondents.
15

Docket No. RCRA-10-2011-0164

**AFFIDAVIT OF JOSEPH OH IN
SUPPORT OF MOTION TO SET ASIDE
DEFAULT ORDER OF AUGUST 3, 2012**

16
17 State of Washington)

) ss.

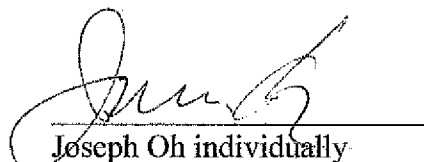
18 County of Pierce)
19

20 The undersigned being first duly sworn on oath states:

- 21 1. I was unaware of the various failed testing until it was reported to me by way of the EPA
22 Complaint.
23 2. The management team consisting of Helen Ho and Chan Ho who were in direct control
24 of the Totem Grocery and Deli physically did not advise me of any failing readings or
25 warnings concerning the EPA requirements for underground storage.
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28

- 1 3. On May 13, 2012 I terminated the operators of the Grocery and Deli and took back
2 possession only to discover management had ignored basic business operations. I was
3 overwhelmed with the financial and internal structural problems of the store.
- 4 4. Additionally I was actively monitoring my bankruptcy along with numerous court
5 appearances. I was unable to respond to the default motion before the EPA.
- 6
7 5. I was also unable to effectively have information translated to me as my daughter was
8 away at law school, she is a resident of New York and recently returned home to assist
9 with my bankruptcy case and English translation.
- 10 6. The statements presented by me in this affidavit are my own words translated from
11 Korean to proper English herein. I have asked the EPA to review my statements set forth
12 and find good cause and excusable neglect to allow me to present my inability to pay as
13 a defense as the excessive fine would increase my post petition debt causing a possible
14 derailment of my chapter 11 reorganization plan.
- 15
16 I have personal knowledge of the facts stated in the foregoing. I certify and declare
17 under the laws of the state of Washington that the foregoing testimony is true and
18 correct.
19

20
21 Submitted this 15th day of August 2012

22
23 
24 _____
25 Joseph Oh individually
26 FBO Holly Investment, LLC
27
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