

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-0217-PST-E **TCEQ ID:** RN101801553 **CASE NO.:** 32647  
**RESPONDENT NAME:** Wilcrest Associate, Inc. dba Sunrise Super Stop 7

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Sunrise Super Stop 7, 2850 Wilcrest Drive, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> A convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 16, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, R-04, (817) 588-5825; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Mr. Karim Ali, President and Registered Agent, Wilcrest Associate, Inc. dba Sunrise Super Stop 7, 2850 Wilcrest Drive, Houston, Texas 77042  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 11, 2007</p> <p><b>Date of NOE Relating to this Case:</b> February 8, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Three violations were documented.</p> <p><b>WASTE</b></p> <p>1) Failure to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, SIR results for April 2006 indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72].</p> <p>2) Failure to investigate a suspected release within 30 days of discovery. Specifically, the suspected release of April 2006 was not investigated [30 TEX. ADMIN. CODE § 334.74(1)].</p> <p>3) Failure to maintain the Stage II Vapor Recovery System in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the swivel was missing on one of the vapor adapters [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$4,050</p> <p><b>Total Deferred:</b> \$810  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$140 (the remaining \$3,100 due in 31 monthly payments of \$100 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that The Respondent has implemented the following corrective measures at the Station:</p> <p>a. As of August 1, 2006, documentation was received at the TCEQ Regional Office verifying that the Station conducted the required release investigation, began using correct tank calibration chart, and achieved passing results in the Statistical Inventory Reconciliation (SIR) reports; and</p> <p>b. As of February 15, 2007, documentation was received at the TCEQ Regional Office verifying that the Station began maintaining the Stage II vapor recovery system in proper operating condition including installing a cap on the Stage II adapter.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	12-Feb-2007	<b>Screening</b>	14-Feb-2007	<b>EPA Due</b>	
	<b>PCW</b>	27-Feb-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Wilcrest Associate, Inc. dba Sunrise Super Stop 7		
<b>Reg. Ent. Ref. No.</b>	RN101801553		
<b>Facility/Site Region</b>	Region 12 - Houston	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	32647	<b>No. of Violations</b>	3
<b>Docket No.</b>	2007-0217-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Judy Kluge
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

**Notes**

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

**Notes**

**Good Faith Effort to Comply** **10%** Reduction **Subtotal 5**

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

**Notes**

**Total EB Amounts**  **0% Enhancement\*** **Subtotal 6**   
**Approx. Cost of Compliance**  **\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **20%** Reduction **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 14-Feb-2007

Docket No. 2007-0217-PST-E

PCW

Respondent Wilcrest Associate, Inc. dba Sunrise Super Stop 7

Policy Revision 2 (September 2002)

Case ID No. 32647

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101801553

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written 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 judgements 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%
<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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date 14-Feb-2007

Docket No. 2007-0217-PST-E

PCW

Respondent Wilcrest Associate, Inc. dba Sunrise Super Stop 7

Policy Revision 2 (September 2002)

Case ID No. 32647

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101801553

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, SIR results for April 2006 indicated a suspected release that was not reported.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the January 11, 2007 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$900

This violation Final Assessed Penalty (adjusted for limits) \$900

## Economic Benefit Worksheet

**Respondent** Wilcrest Associate, Inc. dba Sunrise Super Stop 7  
**Case ID No.** 32647  
**Reg. Ent. Reference No.** RN101801553  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$400	1-May-2006	2-May-2006	0.0	\$0	\$1	\$1
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost to report a suspected release. The date required is the date of the suspected release and the final date is the date the report was due.

Approx. Cost of Compliance	\$400	TOTAL	\$1
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Screening Date 14-Feb-2007

Docket No. 2007-0217-PST-E

PCW

Respondent Wilcrest Associate, Inc. dba Sunrise Super Stop 7

Policy Revision 2 (September 2002)

Case ID No. 32647

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101801553

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.74(1)

Violation Description Failed to investigate a suspected release within 30 days of discovery. Specifically, the suspected release of April 2006 was not investigated.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				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 \$7,500

\$2,500

Violation Events

Number of Violation Events 1 62 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended from the release investigation due date of May 31, 2006 to the August 1, 2006 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$42

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

## Economic Benefit Worksheet

**Respondent** Wilcrest Associate, Inc. dba Sunrise Super Stop 7  
**Case ID No.** 32647  
**Reg. Ent. Reference No.** RN101801553  
**Media** Petroleum Storage Tank  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	31-May-2006	1-Aug-2006	0.2	\$42	n/a	\$42

**Notes for DELAYED costs**  
 Estimated cost to investigate a suspected release from the UST based on SIR results. The date required is the date the release investigation was due and the final date is the date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**  
 (This section is currently blank in the provided image.)

<b>Approx. Cost of Compliance</b>	<span style="border: 1px solid black; padding: 2px;">\$5,000</span>	<b>TOTAL</b>	<span style="border: 1px solid black; padding: 2px;">\$42</span>
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Screening Date 14-Feb-2007

Docket No. 2007-0217-PST-E

PCW

Respondent Wilcrest Associate, Inc. dba Sunrise Super Stop 7

Policy Revision 2 (September 2002)

Case ID No. 32647

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101801553

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 115.242(3) and Tex. Health & Safety Code 382.085(b)

Violation Description

Failed to maintain the Stage II Vapor Recovery System in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the swivel was missing on one of the vapor adapters.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

34 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended based on the January 11, 2007 investigation date to the February 14, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$900

This violation Final Assessed Penalty (adjusted for limits) \$900

## Economic Benefit Worksheet

**Respondent** Wilcrest Associate, Inc. dba Sunrise Super Stop 7  
**Case ID No.** 32647  
**Reg. Ent. Reference No.** RN101801553  
**Media** Petroleum Storage Tank  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment	\$250	11-Jan-2007	15-Feb-2007	0.1	\$0	\$2	\$2
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install swivel adapters. The date required is the investigation date and the final date is the compliance date.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

**TOTAL**

\$2

# Compliance History

Customer/Respondent/Owner-Operator:	CN601583735 WILCREST ASSOCIATE INC	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN101801553 SUNRISE SUPER STOP 7	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	46098
ID Number(s):	_____		
Location:	2850 WILCREST DR, HOUSTON, TX, 77042	Rating Date: September 01 06 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	February 13, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 13, 2002 to February 13, 2007		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Judy Kluge Phone: 817-588-5825

## Site Compliance History Components

- |  |              |
|--|--------------|
| 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 of the site during the compliance period?    | No           |
| 3. If Yes, who is the current owner?   | N/A<br>_____ |
| 4. If Yes, who was/were the prior owner(s)?  | N/A<br>_____ |
| 5. When did the change(s) in ownership occur?  | N/A<br>_____ |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  

N/A	1	02/08/2007	(537733)
	2	11/28/2006	(532058)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - 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  
WILCREST ASSOCIATE, INC. DBA  
SUNRISE SUPER STOP 7  
RN101801553

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-0217-PST-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Wilcrest Associate, Inc. dba Sunrise Super Stop 7 ("Wilcrest Associate, Inc.") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Wilcrest Associate, Inc. appear before the Commission and together stipulate that:

1. Wilcrest Associate, Inc. owns and operates a convenience store with retail sales of gasoline at 2850 Wilcrest Drive in Houston, Harris County, Texas (the "Station").
2. Wilcrest Associate, Inc.'s three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE ch. 382. 003(12).
3. The Commission and Wilcrest Associate, Inc. agree that the Commission has jurisdiction to enter this Agreed Order, and that Wilcrest Associate, Inc. is subject to the Commission's jurisdiction.
4. Wilcrest Associate, Inc. received notice of the violations alleged in Section II ("Allegations") on or about February 13, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Wilcrest Associate, Inc. of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Four Thousand Fifty Dollars (\$4,050) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Wilcrest Associate, Inc. has paid One Hundred Forty Dollars (\$140) of the administrative penalty and Eight Hundred Ten Dollars (\$810) is deferred contingent upon Wilcrest Associate, Inc.'s timely and satisfactory compliance with all the terms of this Agreed Order. If Wilcrest Associate, Inc. fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Wilcrest Associate, Inc. to pay all or part of the deferred penalty.

The remaining amount of Three Thousand One Hundred Dollars (\$3,100) of the administrative penalty shall be payable in 31 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Wilcrest Associate, Inc. fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Wilcrest Associate, Inc. to meet the payment schedule of this Agreed Order constitutes the failure by Wilcrest Associate, Inc. to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Wilcrest Associate, Inc. have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Wilcrest Associate, Inc. has implemented the following corrective measures at the Station:
  - a. As of August 1, 2006, documentation was received at the TCEQ Regional Office verifying that the Station conducted the required release investigation, began using correct tank calibration chart, and achieved passing results in the Statistical Inventory Reconciliation (SIR) reports; and
  - b. As of February 15, 2007, documentation was received at the TCEQ Regional Office verifying that the Station began maintaining the Stage II vapor recovery system in proper operating condition including installing a cap on the Stage II adapter.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Wilcrest Associate, Inc. has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.



12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Station, Wilcrest Associate, Inc. is alleged to have:

1. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72, as documented during an investigation conducted on January 11, 2007. Specifically, SIR results for April 2006 indicated a suspected release that was not reported.
2. Failed to investigate a suspected release to the TCEQ within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74(1), as documented during an investigation conducted on January 11, 2007. Specifically, the suspected release of April 2006 was not investigated.
3. Failed to maintain the Stage II Vapor Recovery System in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE ch 382.085(b), as documented during an investigation conducted on January 11, 2007. Specifically, the swivel was missing on one of the vapor adapters.

## III. DENIALS

Wilcrest Associate, Inc. generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Wilcrest Associate, Inc. pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Wilcrest Associate, Inc.'s compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Wilcrest Associate, Inc. dba Sunrise Super Stop 7, Docket No. 2007-0217-PST-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088



2. The provisions of this Agreed Order shall apply to and be binding upon Wilcrest Associate, Inc. Wilcrest Associate, Inc. is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Wilcrest Associate, Inc. in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. If Wilcrest Associate, Inc. fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Wilcrest Associate, Inc.'s failure to comply is not a violation of this Agreed Order. Wilcrest Associate, Inc. shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Wilcrest Associate, Inc. shall notify the Executive Director within seven days after Wilcrest Associate, Inc. become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Wilcrest Associate, Inc. shall be made in writing to the Executive Director. Extensions are not effective until Wilcrest Associate, Inc. receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Wilcrest Associate, Inc., or three days after the date on which the Commission mails notice of the Order to Wilcrest Associate, Inc., whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

The Board of Directors has the honor to acknowledge the cooperation and assistance of the various departments of the University of California in the preparation of this report.

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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*John Srdelic*  
For the Executive Director

8/29/07  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

*Kas!*  
Signature

4/18/07  
Date

Karim K. AG  
Name (Printed or typed)  
Authorized Representative of  
Wilcrest Associate, Inc. dba Sunrise Super Stop 7

President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

