EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1749-PST-E **TCEQ ID:** RN102410727 **CASE NO.:** 31303

RESPONDENT NAME: Southwest Convenience Stores, LLC dba 7 Eleven 57409

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	X PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: 7 Eleven 57409, 3402 University Avenue, Lubbock, Lubbock County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: ___ Yes __X_ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-5690; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

TCEQ Field Investigator: Mr. Wayne Kohout, Lubbock Regional Office, MC R-02, (806) 796-7092

Respondent: Mr. Jeffrey D. Morris, Registered Agent, Southwest Convenience Stores, LLC dba 7 Eleven 57409, 7616 LBJ Freeway, Suite 300, Dallas, Texas 75251-1100
Mr. Scott Prall, Fuel Manager, Southwest Convenience Stores, LLC dba 7 Eleven 57409, P.O. Box 711, Odessa, Texas 79760

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** June 24, 2006 **Date of NOE Relating to this Case:** August 8, 2006 (NOE) **Background Facts:** This was a routine investigation. Four violations were documented. **WASTE** 1) Failed to provide proper corrosion protection for the underground storage tank ("UST") system. Specifically, Southwest Convenience did not conduct a 10-year inspection and assessment of the internal corrosion protection system by the June 30, 2005 deadline [30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d)]. 2) Failed to electrically isolate UST system components from the corrosive elements of the surrounding soil, backfill, groundwater, and other metallic components. Specifically, three submersible pumps and their components were in contact with soil [30 TEX. ADMIN. CODE § 334.49(b)(2) and TEX. WATER CODE § 26.3475(d)]. 3) Failed to install a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit. Specifically, it was observed that the shear valves in the north and south dispensers had no anchors installed [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)]. 4) Failed to assure that all installed spill and overfill prevention devices are maintained in good operating condition, and that such devices are inspected and serviced in accordance with manufacturer's specifications. Specifically, the spill containment buckets for UST numbers 2 and 3 were filled with dirt and debris and the spill bucket drain valve for UST number 2 was inoperable [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].	**Total Assessed:** $4,500 **Total Deferred:** $900 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $3,600 **Site Compliance History Classification:** _X_ High __ Avg. __ Poor **Person Compliance History Classification:** __ High _X_ Avg. __ Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that Southwest Convenience installed a new drain valve in spill containment bucket number 2 and removed debris from and cleaned the spill containment bucket numbers 2 and 3 on August 3, 2006. **Ordering Provisions:** 2) The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order: i. Install anchors for all shear valves; ii. Implement a corrosion protection method for the UST system and electrically isolate submersible pumps and their components from the corrosive elements; and iii. Conduct a 10-year inspection and assessment of the internal corrosion protection system. b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.a.iii.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	31-Jul-2006				
PCW	22-Sep-2006	Screening	21-Sep-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Southwest Convenience Stores, LLC dba 7 Eleven 57409		
Reg. Ent. Ref. No.	RN102410727		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	31303	No. of Violations	3
Docket No.	2006-1749-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Thomas Greimel
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $4,500

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* $0

Notes: No adjustment for compliance history.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

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

Notes: The respondent does not meet the good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$1,428
Approx. Cost of Compliance	$10,450

SUM OF SUBTOTALS 1-7 Final Subtotal $4,500

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $4,500

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $4,500

DEFERRAL 20% Reduction Adjustment -$900

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $3,600

Screening Date 21-Sep-2006 **Docket No.** 2006-1749-PST-E **PCW**

Respondent Southwest Convenience Stores, LLC dba 7 Eleven 57409 *Policy Revision 2 (September 2002)*

Case ID No. 31303 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102410727

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

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*	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)

Average Performer

Adjustment Percentage (Subtotal 7) **0%**

>> Compliance History Summary

Compliance History Notes No adjustment for compliance history.

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

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date 21-Sep-2006 **Docket No.** 2006-1749-PST-E
Respondent Southwest Convenience Stores, LLC dba 7 Eleven 57409
Case ID No. 31303
Reg. Ent. Reference No. RN102410727
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.49(a) and 334.49(b)(2)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(d)

Violation Description Failed to provide proper corrosion protection for the UST system. Specifically, the respondent did not conduct a 10-year inspection and assessment of the internal corrosion protection system by the June 30, 2005 deadline. Failed to electrically isolate UST system components from the corrosive elements of the surrounding soil, backfill, groundwater, and other metallic components. Specifically, three submersible pumps and their components were in contact with soil.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One quarterly event is recommended from the June 24, 2006 investigation date to the September 21, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $1,417

Statutory Limit Test

Violation Final Penalty Total $2,500

This violation Final Assessed Penalty (adjusted for limits) $2,500

Economic Benefit Worksheet

Respondent Southwest Convenience Stores, LLC dba 7 Eleven 57409
Case ID No. 31303
Reg. Ent. Reference No. RN102410727
Media [Statute] 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				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$10,000	24-Jun-2005	30-Jun-2007	2.0	$67	$1,344	$1,412
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)	$100	24-Jun-2006	30-Jun-2007	1.0	$5	n/a	$5

Notes for DELAYED costs Estimated cost to provide corrosion protection for the UST system and electrical isolation for three submersible pumps and their components. Date required for corrosion protection is the ten year deadline established by TCEQ's PST Technical Services staff. Date required for electrical isolation of UST submersible pumps and components is the investigation date. The final date is the date the respondent is projected to come into compliance.

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 $10,100

TOTAL $1,417

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	21-Sep-2006
Docket No.	2006-1749-PST-E
Respondent	Southwest Convenience Stores, LLC dba 7 Eleven 57409
Case ID No.	31303
Reg. Ent. Reference No.	RN102410727
Media [Statute]	Petroleum Storage Tank
Enf. Coordinator	Thomas Greimel
Violation Number	2
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.45(c)(3)(A)
Secondary Rule Cite(s)	
Violation Description	Failed to install a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit. Specifically, it was observed that the shear valves for the north and south dispensers had no anchors installed.

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

Matrix Notes: Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events: 1

mark only one use a small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the June 24, 2006 investigation date to the September 21, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $10

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent Southwest Convenience Stores, LLC dba 7 Eleven 57409
Case ID No. 31303
Reg. Ent. Reference No. RN102410727
Media [Statute] 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				0.0	$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)	$200	24-Jun-2006	30-Jun-2007	1.0	$10	n/a	$10

Notes for DELAYED costs Estimated cost to install anchors on dispenser shear valves. The Date Required is the date of the investigation and the Final Date is the date the respondent is projected to come into compliance.

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 $200

TOTAL $10

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	21-Sep-2006
Docket No.	2006-1749-PST-E
Respondent	Southwest Convenience Stores, LLC dba 7 Eleven 57409
Case ID No.	31303
Reg. Ent. Reference No.	RN102410727
Media [Statute]	Petroleum Storage Tank
Enf. Coordinator	Thomas Greimel
Violation Number	3
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.51(a)(6)
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(c)(2)
Violation Description	Failed to assure that all installed spill and overfill prevention devices are maintained in good operating condition, and that such devices are inspected and serviced in accordance with manufacturer's specifications. Specifically, the spill containment buckets for UST numbers 2 and 3 were filled with dirt and debris and the spill bucket drain valve for UST number 2 was inoperable.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events: 1

mark only one use a small x	
daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the June 24, 2006 investigation date to the September 21, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent Southwest Convenience Stores, LLC dba 7 Eleven 57409
Case ID No. 31303
Reg. Ent. Reference No. RN102410727
Media [Statute] 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	$50	24-Jun-2006	03-Aug-2006	0.1	$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)	$100	24-Jun-2006	03-Aug-2006	0.1	$1	n/a	$1

Notes for DELAYED costs Estimated cost to replace one spill bucket drain valve and remove debris from 2 spill buckets. 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				0.0	$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 $150

TOTAL $1

Compliance History

Customer/Respondent/Owner-Operator:	CN601563778	Southwest Convenience Stores, LLC	Classification: AVERAGE	Rating: 1.28
Regulated Entity:	RN102410727	7 ELEVEN 57409	Classification: HIGH	Site Rating: 0.00

ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	7057
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	938343A
	LEAKING PETROLEUM STORAGE TANKS REMEDIATION	ID NUMBER	101410

Location:	3402 UNIVERSITY AVE, LUBBOCK, TX, 79413	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 02 - LUBBOCK		
Date Compliance History Prepared:	October 04, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 04, 2001 to October 04, 2006		

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

Name: Thomas Greimel Phone: (512) 239-5690

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
4. if Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

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.)

1 08/08/2006 (488360)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

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 SOUTHWEST CONVENIENCE STORES, LLC DBA 7 ELEVEN 57409 RN102410727	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1749-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 Southwest Convenience Stores, LLC dba 7 Eleven 57409 ("Southwest Convenience") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Southwest Convenience appear before the Commission and together stipulate that:

1. Southwest Convenience owns and operates a convenience store with retail sales of gasoline at 3402 University Avenue in Lubbock, Lubbock County, Texas (the "Facility").

2. Southwest Convenience's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.

3. The Commission and Southwest Convenience agree that the Commission has jurisdiction to enter this Agreed Order, and that Southwest Convenience is subject to the Commission's jurisdiction.

4. Southwest Convenience received notice of the violations alleged in Section II ("Allegations") on or about August 13, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Southwest Convenience of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Five Hundred Dollars ($4,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Southwest Convenience has paid Three Thousand Six Hundred Dollars ($3,600) of the administrative penalty and Nine Hundred Dollars ($900) is deferred contingent upon Southwest Convenience's

timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Southwest Convenience fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Southwest Convenience to pay all or part of the deferred penalty.

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 Southwest Convenience 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 Southwest Convenience installed a new drain valve in spill containment bucket number 2 and removed debris from and cleaned the spill containment bucket numbers 2 and 3 on August 3, 2006.

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 Southwest Convenience 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 Facility, Southwest Convenience is alleged to have:

1. Failed to provide proper corrosion protection for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on June 24, 2006. Specifically, Southwest Convenience did not conduct a 10-year inspection and assessment of the internal corrosion protection system by the June 30, 2005 deadline.

2. Failed to electrically isolate UST system components from the corrosive elements of the surrounding soil, backfill, groundwater, and other metallic components, in violation of 30 TEX. ADMIN. CODE § 334.49(b)(2) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on June 24, 2006. Specifically, three submersible pumps and their components were in contact with soil.

3. Failed to install a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), as documented during an investigation

conducted on June 24, 2006. Specifically, it was observed that the shear valves in the north and south dispensers had no anchors installed.

4. Failed to assure that all installed spill and overfill prevention devices are maintained in good operating condition, and that such devices are inspected and serviced in accordance with manufacturer's specifications, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on June 24, 2006. Specifically, the spill containment buckets for UST numbers 2 and 3 were filled with dirt and debris and the spill bucket drain valve for UST number 2 was inoperable.

III. DENIALS

Southwest Convenience generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Southwest Convenience pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Southwest Convenience'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: Southwest Convenience Stores, LLC dba 7 Eleven 57409, Docket No. 2006-1749-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. It is further ordered that Southwest Convenience shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order:

      i. Install anchors for all shear valves, in accordance with 30 TEX. ADMIN. CODE § 334.45;

      ii. Implement a corrosion protection method for the UST system and electrically isolate submersible pumps and their components from the corrosive elements, in accordance with 30 TEX. ADMIN. CODE § 334.49; and

      iii. Conduct a 10-year inspection and assessment of the internal corrosion protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49.

b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.a.iii.

The certification shall be notarized by a State of Texas Notary Public and 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 certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
3113 34th Street
Lubbock, Texas 79410-3227

3. The provisions of this Agreed Order shall apply to and be binding upon Southwest Convenience. Southwest Convenience is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If Southwest Convenience 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, Southwest Convenience's failure to comply is not a violation of this Agreed Order. Southwest Convenience shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Southwest Convenience shall notify the Executive Director within seven days after Southwest Convenience becomes 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 Southwest Convenience shall be made in writing to the Executive Director. Extensions are not effective until Southwest Convenience receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Southwest Convenience 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.

7. 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Southwest Convenience, or three days after the date on which the Commission mails notice of the Order to Southwest Convenience, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 3/26/07
For the Executive Director 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.

_____ 10/17/06
Signature Date

SCOTT PRALL _____ FUEL MANAGER
Name (Printed or typed) Title
Authorized Representative of
Southwest Convenience Stores, LLC dba 7 Eleven 57409

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.