

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1651-PST-E **TCEQ ID:** RN101930873 **CASE NO.:** 31220
RESPONDENT NAME: Simon Stephen dba KK Food Store

ORDER TYPE:

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: KK Food Store, 6650 Bellfort Street, Houston, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes 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 March 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Shontay Wilcher, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-2136; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Simon Stephen, Owner, KK Food Store, 6650 Bellfort Street, Houston, Texas 77087-6407

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 25, 2006</p> <p>Date of NOE Relating to this Case: August 30, 2006 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation was documented.</p> <p>WASTE</p> <p>Failed to provide proper corrosion protection for the underground storage tank ("UST") system [30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d)].</p>	<p>Total Assessed: \$2,250</p> <p>Total Deferred: \$450 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$100 (remaining \$1,700 due in 17 monthly payments of \$100 each)</p> <p>Site Compliance History Classification: <input checked="" type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input checked="" type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, install and implement a corrosion protection system for all USTs at the Facility; and</p> <p>b. Within 45 days after the effective date of the Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	05-Sep-2006	Screening	13-Sep-2006	EPA Due	
	PCW	20-Sep-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Simon Stephen dba KK Food Store
Reg. Ent. Ref. No.	RN101930873
Facility/Site Region	12-Houston
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	31220	No. of Violations	1
Docket No.	2006-1651-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Jason Godeaux
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	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10% Enhancement	Subtotals 2, 3, & 7	-\$250
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Notes: Reduction for high performer classification.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	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
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Total EB Amounts	\$478	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$2,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,250
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DEFERRAL	20% Reduction	Adjustment	-\$450
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,800
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Screening Date	13-Sep-2006	Docket No.	2006-1651-PST-E	PCW
Respondent	Simon Stephen dba KK Food Store			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	31220			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN101930873			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Jason Godeaux			

Compliance History Worksheet

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

Component	Number of..	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action <i>(number of NOV's meeting criteria)</i>	0	0%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were disclosed)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
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)

>> **Repeat Violator (Subtotal 3)**

Adjustment Percentage (Subtotal 3)

>> **Compliance History Person Classification (Subtotal 7)**

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

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

Screening Date	13-Sep-2006	Docket No.	2006-1651-PST-E	PCW
Respondent	Simon Stephen dba KK Food Store			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	31220			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN101930873			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Jason Godeaux			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.49(a)			
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(d)			
Violation Description	Failed to provide proper corrosion protection for the UST system.			
	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

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

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events: 1

daily	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty: \$2,500

One monthly event is recommended from the August 25, 2006 investigation date to the September 13, 2006 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$478	Violation Final Penalty Total: \$2,250
This violation Final Assessed Penalty (adjusted for limits): \$2,250	

Economic Benefit Worksheet

Respondent: Simon Stephen dba KK Food Store
 Case ID No: 31220
 Reg. Ent. Reference No: RN101930873
 Media [Statute]: Petroleum Storage Tank
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$10,000	25-Aug-2006	01-May-2007	0.7	\$23	\$455	\$478
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 provide corrosion protection for the UST. Date Required is the date of the investigation. Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$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

TOTAL

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SIMON STEPHEN DBA KK FOOD
STORE
RN101930873**

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

AGREED ORDER DOCKET NO. 2006-1651-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 Simon Stephen dba KK Food Store ("Mr. Stephen") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Stephen appear before the Commission and together stipulate that:

1. Mr. Stephen owns and operates a convenience store with retail sales of gasoline at 6650 Bellfort Street in Houston, Harris County, Texas (the "Station").
2. Mr. Stephen'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 Mr. Stephen agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Stephen is subject to the Commission's jurisdiction.
4. Mr. Stephen received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Stephen of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Two Hundred Fifty Dollars (\$2,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Stephen has paid One Hundred Dollars (\$100) of the administrative penalty and Four Hundred Fifty Dollars (\$450) is deferred contingent upon Mr. Stephen'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 Mr. Stephen fails to timely and satisfactorily comply with all

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requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Stephen to pay all or part of the deferred penalty.

The remaining amount of One Thousand Seven Hundred Dollars (\$1,700) of the administrative penalty shall be payable in 17 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 Mr. Stephen 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 Mr. Stephen to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Stephen 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 Mr. Stephen have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Mr. Stephen has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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, Mr. Stephen is alleged to have 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 August 25, 2006.

III. DENIALS

Mr. Stephen generally denies each allegation in Section II ("Allegations").

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in financial reporting.

2. The second part of the document outlines the various methods and techniques used to collect and analyze data. It includes a detailed description of the experimental procedures and the tools used for data collection.

3. The third part of the document presents the results of the study. It includes a series of tables and graphs that illustrate the findings. The data shows a clear trend in the relationship between the variables being studied.

4. The fourth part of the document discusses the implications of the findings. It highlights the potential applications of the research and the need for further investigation in this area.

5. The fifth part of the document provides a conclusion and a summary of the key points. It reiterates the importance of the research and the need for continued efforts in this field.

6. The sixth part of the document includes a list of references and a bibliography. It cites the works of other researchers in the field and provides a comprehensive overview of the current state of knowledge.

7. The seventh part of the document contains a list of appendices and supplementary materials. These materials provide additional information and data that support the findings of the study.

8. The eighth part of the document includes a list of acknowledgments and a list of authors. It expresses gratitude to the individuals and organizations that supported the research and identifies the authors of the document.

9. The ninth part of the document contains a list of footnotes and a list of references. It provides additional information and citations for the research and includes a list of references for further reading.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Stephen pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Stephen'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: Simon Stephen dba KK Food Store, Docket No. 2006-1651-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 Mr. Stephen shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, install and implement a corrosion protection system for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.49.
- b. Within 45 days after the effective date of the 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 No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and include the following 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:

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Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Stephen. Mr. Stephen 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.
4. If Mr. Stephen 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, Mr. Stephen's failure to comply is not a violation of this Agreed Order. Mr. Stephen shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Stephen shall notify the Executive Director within seven days after Mr. Stephen 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 Mr. Stephen shall be made in writing to the Executive Director. Extensions are not effective until Mr. Stephen 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 Mr. Stephen 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 Mr. Stephen, or three days after the date on which the Commission mails notice of the Order to Mr. Stephen, 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



For the Executive Director

4/12/07
~~1/08/07~~

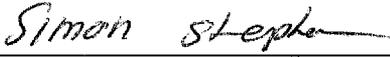
Date

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.



Signature

1/08/07

Date

SIMON STEPHEN
Name (Printed or typed)
Authorized Representative of
Simon Stephen dba KK Food Store

OWNER
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.

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