

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2006-0411-PST-E TCEQ ID: RN102781952 CASE NO.: 29069**  
**RESPONDENT NAME: WESTEX CAPITAL, LTD. DBA CORNER STORE**

<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

**SITE WHERE VIOLATION(S) OCCURRED:** 342 East Main Street, Yorktown, Dewitt 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.

**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 October 22, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Robert R. Mosley, Litigation Division, MC 175, (512) 239-0627  
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

**TCEQ Enforcement Coordinator:** Mr. Samuel Short, Air Enforcement Section, MC 149, (512) 239-5363

**TCEQ Regional Contact:** Mr. Brad Genzer, Corpus Christi Regional Office, MC R-14, (361) 825-3106

**Respondent:** Mr. Anthony Kusenberger, Vice-President, Westex Capital, LTD. dba Corner Store, 307 E. 10<sup>th</sup>, Del Rio, Texas 78840

**Respondent's Attorney:** Not represented by counsel.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> January 27, 2006</p> <p><b>Date of NOV/NOE Relating to this Case:</b> March 17, 2006 (NOE)</p> <p><b>Background Facts:</b></p> <p>An EDRP was filed September 8, 2006. A Default Order was remanded from the June 27, 2007 Agenda. A signed Agreed Order was received on June 25, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PST:</b></p> <p>Failed to have the corrosion protection system operating in a manner that will ensure that corrosion protection will be continuously provided to all underground metal components of the UST system. Specifically, the rectifier switch was off on the Facility's field installed cathodic protection system [30 TEX. ADMIN. CODE § 334.49(a)(2) and TEX. WATER CODE § 26.3475(d)].</p>	<p><b>Total Assessed:</b> \$2,500</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,500</p> <p>The Respondent has paid the administrative penalty in full.</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>Ordering Provisions</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, begin operating the corrosion protection system in a manner that will ensure that corrosion protection will be continuously provided to all underground metal components of the UST system.</li> <li>2. Within 45 days, submit written certification demonstrating compliance.</li> </ol>

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

**TCEQ**

<b>DATES</b>	Assigned	03-Apr-2006		
	PCW	19-Jul-2006	Screening	17-Apr-2006
			EPA Due	

**RESPONDENT/FACILITY INFORMATION**

Respondent	Westex Capital, LTD. dba Corner Store		
Reg. Ent. Ref. No.	RN102781952		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor Source

**CASE INFORMATION**

Enf./Case ID No.	29069	No. of Violations	1
Docket No.	2006-0411-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Samuel Short
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

**Penalty Calculation Section**

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$2,500**

**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 due to 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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: The respondent is not yet in compliance.

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

Total EB Amounts	\$59	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,000	

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$2,500**

**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 **\$2,500****

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$2,500**

**DEFERRAL** 0% Reduction Adjustment **\$0**

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

Notes: No deferral offered for a non-expedited order.

**PAYABLE PENALTY **\$2,500****

**Screening Date** 17-Apr-2006      **Docket No.** 2006-0411-PST-E      **PCW**  
**Respondent** Westex Capital, LTD. dba Corner Store      *Policy Revision 2 (September 2002)*  
**Case ID No.** 29069      *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN102781952  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Samuel Short

**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 <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	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</i>	0	0%
	<i>disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)</i>	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)**

>> **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)**

<b>Screening Date</b> 17-Apr-2006	<b>Docket No.</b> 2006-0411-PST-E	<b>PCW</b>
<b>Respondent</b> Westex Capital, LTD. dba Corner Store		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 29069		<i>PCW Revision May 19, 2005</i>
<b>Reg. Ent. Reference No.</b> RN102781952		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Samuel Short		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Primary Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 334.49(a)(2)"/>	
<b>Secondary Rule Cite(s)</b>	<input type="text" value="Tex. Water Code § 26.3475(d)"/>	
<b>Violation Description</b>	<input type="text" value="Failure to have the corrosion protection system operating in a manner that will ensure that corrosion protection will be continuously provided to all underground metal components of the UST system. Specifically, the rectifier switch was off on the Facility's field installed cathodic protection system."/>	
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>

>> **Environmental, Property and Human Health Matrix**

		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
<b>OR</b>	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text"/>
<b>Matrix Notes</b>	<input type="text" value="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**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

	daily	<input type="text"/>
	monthly	<input type="text"/>
<i>mark only one</i>	quarterly	<input checked="" type="checkbox"/>
<i>use a small x</i>	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

### Economic Benefit Worksheet

Respondent Westex Capital, LTD. dba Corner Store  
 Case ID No. 29069  
 Reg. Ent. Reference No. RN102781952  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment	\$1,000	27-Jan-2006	01-Dec-2006	0.8	\$3	\$56	\$59
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: The delayed cost includes the estimated amount required to have the corrosion protection system operating in a manner that will ensure that corrosion protection will be continuously provided to all underground metal components of the UST system. Date required is the date of 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

## Compliance History

Customer/Respondent/Owner-Operator:	CN601268402 Westex Capital, LTD.	Classification: AVERAGE	Rating: 3.78
Regulated Entity:	RN102781952 CORNER STORE	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	26785
Location:	342 E MAIN ST, YORKTOWN, TX, 78164	Rating Date: 9/1/2005 Repeat Violator: NO	
TCEQ Region:	REGION 14 - CORPUS CHRISTI		
Date Compliance History Prepared:	April 17, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 17, 2001 to April 17, 2006		

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

Name: Joseph Daley Phone: 817-588-5928

### 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?                                                         | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?                                                  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?                                                | <u>N/A</u> |

### 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 03/22/2006 (455229)
  - 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  
AGAINST WESTEX CAPITAL,  
LTD. DBA CORNER STORE;  
RN102781952**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2006-0411-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Westex Capital, Ltd. dba Corner Store ("Westex") under the authority of TEX. WATER CODE ch. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Westex, appear before the Commission and together stipulate that:

1. Westex owns a convenience store with retail sales of gasoline located at 342 East Main Street, Yorktown, Dewitt County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26.
3. The Commission and Westex agree that the Commission has jurisdiction to enter this Agreed Order, and that Westex is subject to the Commission's jurisdiction.
4. Westex received notice of the violation alleged in Section II ("Allegations") on or about March 22, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Westex of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of two thousand five hundred dollars (\$2,500.00) is assessed by the Commission in settlement of the violations alleged in Section II



("Allegations"). Westex has paid two thousand five hundred dollars (\$2,500.00) of the administrative 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 Westex 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 Westex 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

Westex is alleged to have violated 30 TEX. ADMIN. CODE § 334.49(a)(2) and TEX. WATER CODE § 26.3475(d) by failing to have the corrosion protection system operating in a manner that will ensure that corrosion protection will be continuously provided to all underground metal components of the UST system. Specifically, the rectifier switch was off on the Facility's field installed cathodic protection system as documented on January 27, 2006.

## III. DENIALS

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

## IV. ORDER

1. It is, therefore, ordered by the TCEQ that Westex pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Westex'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

considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Westex Capital LTD. dba Corner Store, Docket No. 2006-0411-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. Westex shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, Westex shall begin operating the corrosion protection system in a manner that will ensure that corrosion protection will be continuously provided to all underground metal components of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.49;
  - b. Within 45 days after the effective date of this Agreed Order, Westex shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision number 2.a.

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:

Brad Genzer, Waste Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Unit 5839  
Corpus Christi, Texas 78412

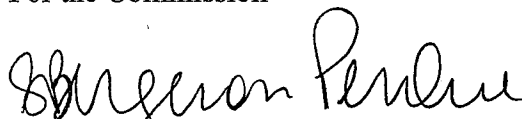
3. The provisions of this Agreed Order shall apply to and be binding upon Westex. Westex is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Westex fails to comply with any of the Ordering Provisions 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, Westex's failure to comply is not a violation of this Agreed Order. Westex shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Westex shall notify the Executive Director within seven days after Westex 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 Westex shall be made in writing to the Executive Director. Extensions are not effective until Westex 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 Westex 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Westex, or three days after the date on which the Commission mails notice of the Order to Westex, 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

9/14/07

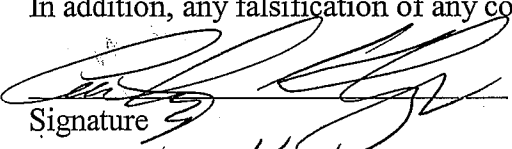
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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

6-28-07  
\_\_\_\_\_  
Date

Anthony Kusenberg  
\_\_\_\_\_  
Name (Printed or typed)

V-P  
\_\_\_\_\_  
Title

Authorized representative of  
Westex Capital LTD. dba Corner Store