

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-0043-PST-E **TCEQ ID:** RN101894178 **CASE NO.:** 32116  
**RESPONDENT NAME:** Zulfiqar Ali dba Fuel Express 4

<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> Fuel Express 4, 638 Dell Dale Street, Channelview, Harris County</p> <p><b>TYPE OF OPERATION:</b> 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 November 19, 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> Mr. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577;  Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Zulfiqar Ali, Owner, Fuel Express 4, 5911 Briar Hill Circle, Sugarland, Texas 77479  <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 checked="" 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> November 10, 2006 and January 4, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 20, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation and a record review. Four violations were documented.</p> <p><b>WASTE</b></p> <p>1) Failed to install overfill prevention equipment for the underground storage tank ("UST") system [30 TEX. ADMIN. CODE § 334.51(b)(1)(B) and TEX. WATER CODE § 26.3475(c)(2)].</p> <p>2) Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0065857U for fiscal year 2006 [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].</p> <p>3) Failed to conduct reconciliation of detailed inventory control records at least once each month [30 TEX. ADMIN. CODE § 334.50(d)(4)(A)(i) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>4) Failed to perform an automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallons per hour from any portion of the UST system [30 TEX. ADMIN. CODE § 334.50(d)(4)(A)(ii)(II) and TEX. WATER CODE § 26.3475(c)(1)].</p>	<p><b>Total Assessed:</b> \$4,340</p> <p><b>Total Deferred:</b> \$868  <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> \$172 (remaining \$3,300 due in 33 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>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Install overfill prevention equipment for all USTs at the Facility;</p> <p>ii. Submit payment for outstanding fees, including any associated penalties; and</p> <p>iii. Implement a release detection method for all USTs at the Facility and begin conducting proper inventory control procedures.</p> <p>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 Provisions a.i through a.iii.</p>

Additional ID No(s): PST 39740



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 15, 2006

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	3-Jan-2007	<b>Screening</b>	4-Jan-2007	<b>EPA Due</b>	
	<b>PCW</b>	4-Jan-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Zulfiqar Ali dba Fuel Express 4
<b>Reg. Ent. Ref. No.</b>	RN101894178
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	32116	<b>No. of Violations</b>	3	
<b>Docket No.</b>	2007-0043-PST-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Patricia Chawla	
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 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* **\$3,500**

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

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

**Compliance History** 24% Enhancement *Subtotals 2, 3, & 7* **\$840**

**Notes** Enhancement for two NOVs without same or similar violations and one 1660 order.

**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 x)

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

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

Total EB Amounts	\$116	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,400	

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$4,340**

**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* **\$4,340**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$4,340**

**DEFERRAL** 20% Reduction *Adjustment* **-\$868**

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** **\$3,472**

Screening Date 4-Jan-2007

Docket No. 2007-0043-PST-E

PCW

Respondent Zulfiqar Ali dba Fuel Express 4

Policy Revision 2 (September 2002)

Case ID No. 32116

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN101894178

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Patricia Chawla

### 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	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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%
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) 24%

>> 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

Enhancement for two NOVs without same or similar violations and one 1660 order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 24%

**Screening Date** 4-Jan-2007  
**Respondent** Zulfiqar Ali dba Fuel Express 4  
**Case ID No.** 32116  
**Reg. Ent. Reference No.** RN101894178  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Patricia Chawla

**Docket No.** 2007-0043-PST-E

**PCW**

*Policy Revision 2 (September 2002)*  
*PCW Revision November 15, 2006*

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 334.51(b)(1)(B) and Tex. Water Code § 26.3475(c)(2)

**Violation Description** Failed to install overfill prevention equipment for the UST system.

**Base Penalty**

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Violation Events

Number of Violation Events  Number of violation days

*mark only one with an x*

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended for the period from the November 10, 2006 investigation date to the January 4, 2007 screening date.

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:** Zulfikar All dba Fuel Express 4  
**Case ID No.:** 32116  
**Reg. Ent. Reference No.:** RN101894178  
**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
No commas or \$							

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$1,200	10-Nov-2006	1-Sep-2007	0.8	\$3	\$65	\$68
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 overfill protection equipment. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,200

**TOTAL**

\$68

Screening Date 4-Jan-2007

Docket No. 2007-0043-PST-E

PCW

Respondent Zulfiqar Ali dba Fuel Express 4

Policy Revision 2 (September 2002)

Case ID No. 32116

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN101894178

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Patricia Chawla

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.22(a) and Tex. Water Code § 5.702

Violation Description Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0065857U for fiscal year 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

OR

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

No penalty is recommended because penalty and interest will be assessed at the next billing.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

## Economic Benefit Worksheet

**Respondent** Zulfqar Ali dba Fuel Express 4  
**Case ID No.** 32116  
**Reg. Ent. Reference No.** RN101894178  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### 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	N/A						

### 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
Notes for AVOIDED costs							

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 4-Jan-2007

Docket No. 2007-0043-PST-E

PCW

Respondent Zulfiqar Ali dba Fuel Express 4

Policy Revision 2 (September 2002)

Case ID No. 32116

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN101894178

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Patricia Chawla

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 334.50(d)(4)(A)(i) and 334.50(d)(4)(A)(ii)(II) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to conduct reconciliation of detailed inventory control records at least once each month. The respondent also failed to perform an automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallons per hour from any portion of the UST system.

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 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

55 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended for the period from the November 10, 2006 investigation date to the January 4, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$48

Violation Final Penalty Total \$3,100

This violation Final Assessed Penalty (adjusted for limits) \$3,100

## Economic Benefit Worksheet

**Respondent:** Zulfiqar Ali dba Fuel Express 4  
**Case ID No.:** 32116  
**Reg. Ent. Reference No.:** RN101894178  
**Media:** Petroleum Storage Tank  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,200	10-Nov-2006	1-Sep-2007	0.8	\$48	n/a	\$48

Notes for DELAYED costs

Estimated cost to monitor USTs for releases. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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
				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,200

TOTAL \$48

# Compliance History

Customer/Respondent/Owner-Operator:	CN603043845 ALI, ZULFIQAR	Classification: AVERAGE	Rating: 37.00
Regulated Entity:	RN101894178 FUEL EXPRESS 4	Classification: AVERAGE	Site Rating: 37.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		39740
Location:	638 DELL DALE ST, CHANNELVIEW, TX, 77530	Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	January 19, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 19, 2002 to January 19, 2007		

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

Name: Patricia Chawla Phone: 512-239-0739

## 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?    | Yes  |
| 3. If Yes, who is the current owner?   | ALI, ZULFIQAR  |
| 4. If Yes, who was/were the prior owner(s)?  | <u>Bay City, Ltd.</u><br><u>Khanjiman, Llc</u><br><u>SMS Destiny, Inc.</u> |
| 5. When did the change(s) in ownership occur?  | <u>02/28/2005</u><br><u>04/19/2006</u>                                     |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 07/13/2002 ADMINORDER 2000-0664-PST-E
  - Classification: Moderate
  - Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)  
5C THC Chapter 382, SubChapter A 382.085(b)
  - Description: Failed to perform an annual pressure decay test on the Stage II Vapor Recovery System.
  - Classification: Minor
  - Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)  
5C THC Chapter 382, SubChapter A 382.085(b)
  - Description: Failed to maintain proof of training for each employee by a facility representative.
  - Classification: Minor
  - Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)  
5C THC Chapter 382, SubChapter A 382.085(b)
  - Description: Failed to maintain a log of the Stage II daily inspections.
  - Classification: Moderate
  - Citation: 2C TWC Chapter 20, SubChapter A 26.3475(a)  
30 TAC Chapter 334, SubChapter C 334.50(b)(2)[G]
  - Description: Failed to provide proper release detection for the piping associated with the UST system.
  - Classification: Moderate
  - Citation: 2C TWC Chapter 20, SubChapter A 26.3475(a)  
30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)
  - Description: Failed to perform annual performance test on line leak detectors.
  - Classification: Moderate
  - Citation: 30 TAC Chapter 334, SubChapter C 334.49(e)[G]
  - Description: Failed to maintain corrosion protection records.
- 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 06/24/2003 (277437)
- 2 04/07/2005 (372397)
- 3 10/21/2004 (290783)
- 4 08/18/2006 (508911)
- 5 06/26/2006 (481558)
- 6 12/20/2006 (519235)

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

Date: 06/26/2006 (481558)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)[G]  
 Description: Failure to develop and maintain all UST records.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)  
 Description: Failure to maintain a daily inspection log according to 115.244 (Inspection Requirements).

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)  
 Description: Failure to maintain proof of attendance and completion of training as specified in 115.248 (state approved Stage II training course) and documentation of all Stage II training for each employee.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)  
 Description: Failure to maintain a record of the results of testing conducted at the facility according to 115.245 (Testing Requirements).

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)  
 Description: Failure to provide and maintain the Stage II Vapor Recovery system in proper operating condition, as specified by the California Air Resources Board (CARB) Executive Order, including the absence or disconnection of any component that is a part of the approved system.

Date: 06/24/2003 (277437)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]  
 30 TAC Chapter 37, SubChapter I 37.815(b)[G]  
 Description: Failure to provide acceptable financial assurance

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  
ZULFIQAR ALI  
DBA FUEL EXPRESS 4  
RN101894178

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

## AGREED ORDER DOCKET NO. 2007-0043-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 Zulfiqar Ali dba Fuel Express 4 ("Mr. Ali") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Ali appear before the Commission and together stipulate that:

1. Mr. Ali owns and operates a convenience store with retail sales of gasoline at 638 Dell Dale Street in Channelview, Harris County, Texas (the "Facility").
2. Mr. Ali's two 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. Ali agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Ali is subject to the Commission's jurisdiction.
4. Mr. Ali received notice of the violations alleged in Section II ("Allegations") on or about December 25, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Ali of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Three Hundred Forty Dollars (\$4,340) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Ali has paid One Hundred Seventy-Two Dollars (\$172) of the



administrative penalty and Eight Hundred Sixty-Eight Dollars (\$868) is deferred contingent upon Mr. Ali's timely and satisfactory compliance with all the terms of this Agreed Order. If Mr. Ali fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Ali to pay all or part of the deferred penalty.

The remaining amount of Three Thousand Three Hundred Dollars (\$3,300) of the administrative penalty shall be payable in 33 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. Ali 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. Ali to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Ali 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. Ali 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. Ali 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 Facility, Mr. Ali is alleged to have:

1. Failed to install overflow prevention equipment for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.51(b)(1)(B) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on November 10, 2006.
2. Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0065857U for fiscal year 2006, in violation of 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702, as documented during a record review conducted on January 4, 2007.



3. Failed to conduct reconciliation of detailed inventory control records at least once each month, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(4)(A)(i) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on November 10, 2006.
4. Failed to perform an automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallons per hour from any portion of the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(4)(A)(ii)(II) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on November 10, 2006.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Ali pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Ali'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: Zulfiqar Ali dba Fuel Express 4, Docket No. 2007-0043-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. Ali shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Install overfill prevention equipment for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.51;
    - ii. Submit payment for outstanding fees, including any associated penalties and interest and with the notation, "Zulfiqar Ali dba Fuel Express 4, TCEQ Financial Account No. 0065857U", to the address listed in Paragraph 1 of this section; and
    - iii. Implement a release detection method for all USTs at the Facility and begin conducting proper inventory control procedures, in accordance with 30 TEX. ADMIN. CODE § 334.50.



- 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  
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. Ali. Mr. Ali is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility the operations referenced in this Agreed Order.
4. If Mr. Ali 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. Ali's failure to comply is not a violation of this Agreed Order. Mr. Ali shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Ali shall notify the Executive Director within seven days after Mr. Ali 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. Ali shall be made in writing to the Executive Director. Extensions are not effective until Mr. Ali 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. Ali 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. Ali, or three days after the date on which the Commission mails notice of the Order to Mr. Ali, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*John Szallier*  
For the Executive Director

12/03/2007  
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.

*Zulfiqar*  
Signature

9-18-07  
Date

ZULFIQAR A. ALI  
Name (Printed or typed)  
Authorized Representative of  
Zulfiqar Ali dba Fuel Express 4.

OWNER  
Title

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

