

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1434-AIR-E **TCEQ ID:** RN100225739 **CASE NO.:** 38369

**RESPONDENT NAME:** Explorer Pipeline Company

<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 checked="" 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 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> Arlington Pumping Station Pipeline Breakout Station, 3301 South Highway 157, Euless, Tarrant County</p> <p><b>TYPE OF OPERATION:</b> Pipeline breakout and pumping station</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" 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 BD 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 January 4, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Jim Sieck, Director of Health, Safety, Security and Environment, Explorer Pipeline Company, 6846 South Canton Avenue, Suite 300, Tulsa, Oklahoma 74136-3414                      Mr. R. B. Sands, President/CEO, Explorer Pipeline Company, 6846 South Canton Avenue, Suite 300, Tulsa, Oklahoma 74136-3414  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 9, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 25, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failure to submit an Annual Compliance Certification report. Specifically, the Respondent acquired the Plant on November 1, 2007 and the initial reporting period for which the Respondent is responsible ended on October 31, 2008. Compliance certification was due on November 30, 2008 but was not submitted until September 2, 2009 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1) and (2), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-02891, General Terms and Conditions].</p>	<p><b>Total Assessed:</b> \$3,475</p> <p><b>Total Deferred:</b> \$695  <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 to General Revenue:</b> \$2,780</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on September 2, 2009, the Respondent submitted the Annual Compliance Certification for the November 1, 2007 through October 31, 2008 reporting period.</p>

Additional ID No(s): TA0034C

**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

<b>TCEQ</b>	<b>Assigned</b>	31-Aug-2009	<b>Screening</b>	9-Sep-2009	<b>EPA Due</b>	22-May-2010
<b>DATES</b>	<b>PCW</b>	15-Sep-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Explorer Pipeline Company
<b>Reg. Ent. Ref. No.</b>	RN100225739
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38369	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-1434-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Miriam Hall
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit</b>	Minimum \$0	Maximum	\$10,000

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> \$2,500
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
<b>Compliance History</b>	49.0% Enhancement <b>Subtotal 2, 3, &amp; 7</b> \$1,225
<b>Notes</b>	The penalty was enhanced due to one similar NOV, two non-similar NOVs, and two 1660 Orders.
<b>Culpability</b>	No 0.0% Enhancement <b>Subtotal 4</b> \$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.
<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b> \$250
<b>Economic Benefit</b>	0.0% Enhancement* <b>Subtotal 6</b> \$0
<small>Total EB Amounts</small>	\$9
<small>Approx. Cost of Compliance</small>	\$250
	*Capped at the Total EB \$ Amount
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> \$3,475
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0% <b>Adjustment</b> \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
<b>Notes</b>	
	<b>Final Penalty Amount</b> \$3,475
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> \$3,475
<b>DEFERRAL</b>	20.0% Reduction <b>Adjustment</b> -\$695
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
<b>Notes</b>	Deferral offered for expedited settlement.
<b>PAYABLE PENALTY</b>	\$2,780

**Screening Date** 9-Sep-2009

**Docket No.** 2009-1434-AIR-E

**PCW**

**Respondent** Explorer Pipeline Company

Policy Revision 2 (September 2002)

**Case ID No.** 38369

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN100225739

**Media [Statute]** Air

**Enf. Coordinator** Miriam Hall

### 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)	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 49%

>> **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**

The penalty was enhanced due to one similar NOV, two non-similar NOVs, and two 1660 Orders.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 49%

<b>Screening Date:</b> 9-Sep-2009	<b>Docket No.:</b> 2009-1434-AIR-E	<b>PCW</b>		
<b>Respondent:</b> Explorer Pipeline Company	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.:</b> 38369	<i>PCW Revision October 30, 2008</i>			
<b>Reg. Ent. Reference No.:</b> RN100226739				
<b>Media [Statute]:</b> Air				
<b>Enf. Coordinator:</b> Miriam Hall				
<b>Violation Number:</b> 1				
<b>Rule Cite(s):</b>	30 Tex. Admin. Code §§ 122.143(4) and 122.146(1) and (2), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O-02891, General Terms and Conditions			
<b>Violation Description:</b>	Failed to submit an Annual Compliance Certification report. Specifically, the Respondent acquired the Plant on November 1, 2007 and the initial reporting period for which the Respondent is responsible ended on October 31, 2008. Compliance certification was due on November 30, 2008 but was not submitted until September 2, 2009.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	0%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	25%	
<b>Matrix Notes</b>	100% of the rule requirement was not met.			
<b>Adjustment</b>		\$7,500		
		\$2,500		
<b>Violation Events</b>				
<b>Number of Violation Events:</b>		1	<b>Number of violation days:</b> 276	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input checked="" type="checkbox"/>		
		<b>Violation Base Penalty</b>		
		\$2,500		
One single event is recommended.				
<b>Good Faith Efforts to Comply</b>		10.0% Reduction		\$250
	Extraordinary	Before NOV	NOV to EDPRP/Settlement Offer	
	Ordinary	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	N/A	(mark with x)		
<b>Notes</b>	The Respondent submitted the Annual Compliance Certification report on September 2, 2009, and the NOE was issued on August 25, 2009.			
<b>Violation Subtotal</b>		\$2,250		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<b>Violation Final Penalty Total</b>		
\$9		\$3,475		
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		
		\$3,475		

## Economic Benefit Worksheet

**Respondent:** Explorer Pipeline Company  
**Case ID No.:** 38369  
**Req. Ent. Reference No.:** RN100225739  
**Media:** Air  
**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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	30-Nov-2008	2-Sep-2009	0.76	\$9	n/a	\$9

**Notes for DELAYED costs:** Estimated cost for additional training and oversight to ensure the proper preparation and submittal of Annual Compliance Certification reports. The date required is the date the report should have been submitted. The final date is the date compliance was achieved.

### 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				0.00	\$0	\$0	\$0
Personeel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs:**

<b>Approx. Cost of Compliance</b>	\$250	<b>TOTAL</b>	\$9
-----------------------------------	-------	--------------	-----

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600424584	Explorer Pipeline Company	Classification: AVERAGE	Rating: 1.92
Regulated Entity:	RN100225739	ARLINGTON PUMPING STATION PIPELINE BREAKOUT STATION	Classification: AVERAGE	Site Rating: 2.58
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	TA0034C	
	AIR OPERATING PERMITS	PERMIT	2891	
	AIR OPERATING PERMITS	PERMIT	2891	
	WASTEWATER	PERMIT	WQ0003993000	
	WASTEWATER	PERMIT	TPDES0116530	
	WASTEWATER	PERMIT	TX0116530	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TX0000936633	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	82957	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	TA0034C	
	AIR NEW SOURCE PERMITS	AFS NUM	4843900068	
	AIR NEW SOURCE PERMITS	PERMIT	27987	
	AIR NEW SOURCE PERMITS	PERMIT	28340	
	AIR NEW SOURCE PERMITS	PERMIT	36530	
	AIR NEW SOURCE PERMITS	PERMIT	56218	
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	82957	
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	TA0034C	
Location:	3301 S HIGHWAY 157, EULESS, TX, 76040			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	September 09, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 25, 2004 to August 25, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Juliet Morgan	Phone:	(512) 239 - 0735	

## 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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OWNOPR Explorer Pipeline Company
4. If Yes, who was/were the prior owner(s)/operator(s) ? OWNOPR Citgo Products Pipeline Company
5. When did the change(s) in owner or operator occur? 11/1/2007 Citgo Products Pipeline Company
6. Rating Date: 9/1/2009 Repeat Violator: NO

### 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: 02/18/2007 ADMINORDER 2006-0803-AIR-E
  - Classification: Major
  - Citation: 30 TAC Chapter 122, SubChapter B 122.121  
30 TAC Chapter 122, SubChapter C 122.241(b)
  - Rqmt Prov: Permit OP
  - Description: Failed to timely renew FOP O-1163 and failed to cease operations.
  - Effective Date: 01/30/2009 ADMINORDER 2008-0963-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Conditions OP

Description: Failure to submit compliance certification to the executive director and the EPA administrator no later than 30 days after the end of the certification period.

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. (CEEDS Inv. Track. No.)

1	09/22/2004	(366054)
2	10/18/2004	(366055)
3	10/29/2004	(338338)
4	11/16/2004	(389539)
5	12/27/2004	(366056)
6	01/18/2005	(389540)
7	02/16/2005	(427080)
8	03/21/2005	(491619)
9	04/22/2005	(491621)
10	06/03/2005	(427081)
11	06/27/2005	(427082)
12	07/22/2005	(447214)
13	08/23/2005	(398132)
14	08/23/2005	(447215)
15	09/26/2005	(447216)
16	11/02/2005	(491622)
17	12/20/2005	(491623)
18	01/26/2006	(491624)
19	02/23/2006	(491618)
20	03/22/2006	(491620)
21	04/20/2006	(505847)
22	05/15/2006	(505848)
23	06/16/2006	(479975)
24	06/19/2006	(505849)
25	07/31/2006	(528094)
26	08/21/2006	(528095)
27	09/18/2006	(528096)
28	10/13/2006	(551603)
29	11/20/2006	(551604)
30	12/22/2006	(551605)
31	01/29/2007	(588673)
32	02/20/2007	(588668)
33	02/22/2007	(538464)
34	03/12/2007	(588669)
35	03/29/2007	(540685)
36	03/30/2007	(555448)
37	04/16/2007	(588670)
38	05/21/2007	(588671)
39	06/20/2007	(588672)
40	07/16/2007	(605548)
41	08/13/2007	(605549)
42	08/28/2007	(572560)
43	09/14/2007	(605550)
44	10/22/2007	(630382)
45	11/26/2007	(630383)

46	12/17/2007	(630384)
47	01/28/2008	(676998)
48	02/26/2008	(717162)
49	06/02/2008	(641158)
50	06/10/2008	(657330)
51	02/26/2009	(706206)
52	08/25/2009	(739158)

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

Date: 08/23/2005 (398132)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Description: Notify the Administrator in writing at least 30 days prior to the filling or refilling of each storage vessel for which an inspection is required by paragraphs (a)(1) and (a)(4) of this section to afford the Administrator the opportunity to have an observer present.

Date: 12/31/2006 (588673) CN600424584  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date: 03/02/2009 (706206)

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)  
 5C THSC Chapter 382 382.085(b)

Description: Failure to submit an initial notification for an emission event that was discovered on May 14, 2008, within 24 hours of discovery.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

5C THSC Chapter 382 382.085(a)  
 No. 28340, General Condition No. 8 PERMIT

Description: Failure to comply with the maximum allowable emission rate for volatile organic compounds (VOCs) from emission point number (EPN) T2313, as listed in the MAER table of Permit No. 28340.

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  
EXPLORER PIPELINE COMPANY  
RN100225739**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1434-AIR-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 Explorer Pipeline Company ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a pipeline breakout and pumping station at 3301 South Highway 157 in Euless, Tarrant County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 30, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Four Hundred Seventy-Five Dollars (\$3,475) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Seven Hundred Eighty Dollars (\$2,780) of the administrative penalty and Six Hundred Ninety-Five Dollars (\$695) is deferred

contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent 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 on September 2, 2009, the Respondent submitted the Annual Compliance Certification for the November 1, 2007 through October 31, 2008 reporting period.
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 the Respondent 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 Plant, the Respondent is alleged to have failed to submit an Annual Compliance Certification report, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(1) and (2), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit No. O-02891, General Terms and Conditions, as documented during an investigation conducted on July 9, 2009. Specifically, the Respondent acquired the Plant on November 1, 2007 and the initial reporting period for which the Respondent is responsible ended on October 31, 2008. Compliance certification was due on November 30, 2008 but was not submitted until September 2, 2009.

## **III. DENIALS**

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

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Explorer Pipeline Company, Docket No. 2009-1434-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

John S. Miller  
For the Executive Director

12/11/2009  
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 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

R. E. Sands  
Signature

10-30-09  
Date

R.E. Sands  
Name (Printed or typed)  
Authorized Representative of  
Explorer Pipeline Company

President/CEO  
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.