

**Executive Summary – Enforcement Matter – Case No. 42893**  
**Texan Tulip, Inc. dba Fuel Express 6**  
**RN102685286**  
**Docket No. 2011-2030-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Fuel Express 6, 1460 Highway 146, Dickinson, Galveston County

**Type of Operation:**

Retail convenience store and gas station with a public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** February 17, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,360

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$1,360

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average by Default

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 42893  
Texan Tulip, Inc. dba Fuel Express 6  
RN102685286  
Docket No. 2011-2030-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** August 23, 2011

**Date(s) of NOE(s):** October 20, 2011

***Violation Information***

1. Failed to obtain a sanitary control easement for all land within 150 feet of the groundwater well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].
2. Failed to locate the Facility's groundwater well at least 150 feet from underground petroleum storage tanks [30 TEX. ADMIN. CODE § 290.41(c)(1)(A)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days:
  - i. Submit an administratively complete exception request to the TCEQ to obtain an exception to the rule that requires all underground petroleum storage tanks to be located a minimum of 150 feet away from the groundwater source; and
  - ii. Submit an administratively complete exception request to the TCEQ to obtain an exception to the rule that requires a recorded sanitary control easement that covers the land within 150 feet of the drinking water well.
- b. Respond completely and adequately to all requests for information concerning the rule exception applications within 30 days after the date of such requests, or by any other deadline specified in writing.
- c. Within 150 days:
  - i. Obtain TCEQ approval of the exception requests to 30 TEX. ADMIN. CODE § 290.41(c)(1)(A) regarding the proximity of the well to underground petroleum storage tanks and 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) regarding a sanitary control easement; or
  - ii. Locate the well at the Facility such that it is greater than 150 feet away from all underground petroleum storage tanks; and

**Executive Summary – Enforcement Matter – Case No. 42893  
Texan Tulip, Inc. dba Fuel Express 6  
RN102685286  
Docket No. 2011-2030-PWS-E**

- iii. Obtain a sanitary control easement that covers the land within 150 feet of the drinking water well at the Facility and record the easement in the county deed records.
- d. Within 165 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Katy Schumann, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2602; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Ghulam Sarwar, President, Texan Tulip, Inc., 918 Knotty Elmwood, Houston, Texas 77062  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	24-Oct-2011	<b>Screening</b>	31-Oct-2011	<b>EPA Due</b>	
	<b>PCW</b>	14-Nov-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Texan Tulip, Inc. dba Fuel Express 6		
<b>Reg. Ent. Ref. No.</b>	RN102685286		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	42893	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-2030-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Katy Schumann
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts	\$22,174
Approx. Cost of Compliance	\$100,020

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 31-Oct-2011

**Docket No.** 2011-2030-PWS-E

**PCW**

**Respondent** Texan Tulip, Inc. dba Fuel Express 6

Policy Revision 2 (September 2002)

**Case ID No.** 42893

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102685286

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Katy Schumann

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	4	20%
	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 submitted</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%

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)** 20%

>> **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 four NOVs with same/similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

Screening Date 31-Oct-2011

Docket No. 2011-2030-PWS-E

PCW

Respondent Texan Tulp, Inc. dba Fuel Express 6

Policy Revision 2 (September 2002)

Case ID No. 42893

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102685286

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description Failed to obtain a sanitary control easement for all land within 150 feet of the groundwater well, as documented in a record review conducted on August 23, 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (5%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Failure to have a sanitary control easement in place could allow activities to occur next to the well which could cause customers of the Facility to be exposed to insignificant amounts of contaminants, which would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 69

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$85

This violation Final Assessed Penalty (adjusted for limits) \$85

## Economic Benefit Worksheet

**Respondent** Texan Tulip, Inc. dba Fuel Express 6

**Case ID No.** 42893

**Req. Ent. Reference No.** RN102685286

**Media** Public Water Supply

**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
<i>No commas or \$</i>							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$20	2-Jun-2009	1-May-2012	2.92	\$0	\$4	\$4
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)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to record a sanitary control easement for the groundwater well, calculated from the date of the investigation originally documenting the violation to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				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**

**Approx. Cost of Compliance**

\$20

**TOTAL**

\$4

Screening Date 31-Oct-2011

Docket No. 2011-2030-PWS-E

PCW

Respondent Texan Tulip, Inc. dba Fuel Express 6

Policy Revision 2 (September 2002)

Case ID No. 42893

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102685286

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(A)

Violation Description Failed to locate the Facility's groundwater well at least 150 feet from underground petroleum storage tanks, as documented in a record review conducted on August 23, 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Locating the well within 150 feet of the underground petroleum storage tanks could result in contamination of the well from any leaks or spills of petroleum products from the tanks, causing customers and employees of the Facility to be exposed to significant amounts of contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3 Number of violation days 69

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$750

Three monthly events are recommended, calculated from the record review date, August 23, 2011, to the screening date, October 31, 2011.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22,170

Violation Final Penalty Total \$1,275

This violation Final Assessed Penalty (adjusted for limits) \$1,275

## Economic Benefit Worksheet

**Respondent** Texan Tulip, Inc. dba Fuel Express 6  
**Case ID No.** 42893  
**Reg. Ent. Reference No.** RN102685286  
**Media** Public Water Supply  
**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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100,000	2-Jun-2009	1-Aug-2012	3.17	\$1,056	\$21,114	\$22,170
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to drill a new well that is not within 150 feet of the underground petroleum storage tanks, calculated from the date of the investigation originally documenting the violation to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				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

Approx. Cost of Compliance

\$100,000

**TOTAL**

\$22,170

# Compliance History

Customer/Respondent/Owner-Operator:	CN602933566 Texan Tulip, Inc.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN102685286 FUEL EXPRESS 6	Classification: AVERAGE	Site Rating: 3.01
		BY DEFAULT	
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0840171
	PETROLEUM STORAGE TANK	REGISTRATION	27224
Location:	1460 HIGHWAY 146, DICKINSON, GALVESTON COUNTY, TEXAS		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	October 27, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 27, 2006 to October 27, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Katy Schumann	Phone:	(512) 239-2602

## 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	New Alia Enterprise, Inc.
OWNOPR	Texan Tulip, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)?
 

OWNOPR	Bayou Incorporated
--------	--------------------
5. When did the change(s) in owner or operator occur?
 

OWNOPR	Bayou Incorporated
--------	--------------------
6. Rating Date: 9/1/2011 Repeat Violator: NO

### Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, 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	07/16/2009	(747849)
2	02/02/2010	(789946)
3	08/25/2010	(849848)
4	03/01/2011	(895434)
5	10/19/2011	(950434)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date:	06/29/2009	(747849)	CN602933566
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		
Description:	Failure to obtain an easement for the well.		
Self Report?	NO		Classification: Major
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)		
Description:	Failure to locate the well at least 150' from a gasoline UST.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.110(b)(4)		
Description:	Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine, as per agency regulations.		

Date: 02/19/2010 (789946) CN602933566  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
Description: Failure to obtain an easement for the well.  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)  
Description: Failure to locate the well at least 150' from a gasoline UST.

Date: 09/03/2010 (849848) CN602933566  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
Description: Failure to obtain an easement for the well.  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)  
Description: Failure to locate the well at least 150' from a gasoline UST.

Date: 03/02/2011 (895434) CN602933566  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
Description: Failure to obtain an easement for the well.  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)  
Description: Failure to locate the well at least 150' from a gasoline UST.

- 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



2. During a record review conducted on August 23, 2011, TCEQ staff documented that the Respondent did not obtain a sanitary control easement for all land within 150 feet of the groundwater well.
3. During a record review conducted on August 23, 2011, TCEQ staff documented that the Respondent did not locate the Facility's groundwater well at least 150 feet from underground petroleum storage tanks.
4. The Respondent received notice of the violations on October 25, 2011.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to obtain a sanitary control easement for all land within 150 feet of the groundwater well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to locate the Facility's groundwater well at least 150 feet from underground petroleum storage tanks, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(A).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of One Thousand Three Hundred Sixty Dollars (\$1,360) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Three Hundred Sixty Dollar (\$1,360) administrative penalty.

## **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Three Hundred Sixty Dollars (\$1,360) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this

action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texan Tulip, Inc. dba Fuel Express 6, Docket No. 2011-2030-PWS-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 Respondent shall undertake the following technical requirements:

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

- i. Submit an administratively complete exception request to the TCEQ, pursuant to 30 TEX. ADMIN. CODE § 290.39(l), to obtain an exception to the rule that requires all underground petroleum storage tanks to be located a minimum of 150 feet away from the groundwater source; and
- ii. Submit an administratively complete exception request to the TCEQ, pursuant to 30 TEX. ADMIN. CODE § 290.39(l), to obtain an exception to the rule that requires a recorded sanitary control easement that covers the land within 150 feet of the drinking water well.

The exception requests shall be submitted to:

Technical Review & Oversight Team  
Water Supply Division, MC 159  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

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

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the rule exception applications within 30 days after the date of such requests, or by any other deadline specified in writing.
- c. Within 150 days after the effective date of this Agreed Order:

- i. Obtain TCEQ approval of the exception requests to 30 TEX. ADMIN. CODE § 290.41(c)(1)(A) regarding the proximity of the well to underground petroleum storage tanks and 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) regarding a sanitary control easement; or
  - ii. Locate the well at the Facility such that it is greater than 150 feet away from all underground petroleum storage tanks, in accordance with 30 TEX. ADMIN. CODE § 290.41; and
  - iii. Obtain a sanitary control easement that covers the land within 150 feet of the drinking water well at the Facility and record the easement in the county deed records, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- d. Within 165 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 No. 2.c. 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 fines 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:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. 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 Facility operations referenced in this Agreed Order.

4. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

3/2/12  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Texan Tulip, Inc. dba Fuel Express 6. I am authorized to agree to the attached Agreed Order on behalf of Texan Tulip, Inc. dba Fuel Express 6, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Texan Tulip, Inc. dba Fuel Express 6 waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

  
Signature

1/9/2012  
Date

GHULAM SARWAR  
Name (Printed or typed)  
Authorized Representative of  
Texan Tulip, Inc. dba Fuel Express 6

President TEXAN TULIP INC  
Title

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