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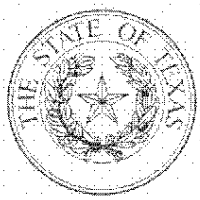

Cathleen Parsley
Chief Administrative Law Judge

October 3, 2011

Les Trobman, General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087
Austin Texas 78711-3087

Re: SOAH Docket No. 582-11-1277; TCEQ Docket No. 2010-0834-PST-E; In Re: Executive Director of the Texas Commission on Environmental Quality v. Dobani inc. d/b/a Gulf Freeway Shell

Dear Mr. Trobman:

On August 31, 2011, the Administrative Law Judge (ALJ) issued her proposal for decision (PFD). On September 20, 2011, the Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) filed his Exceptions to that PFD. The Respondent, Dobani Inc. d/b/a Gulf Freeway Shell, did not file exceptions and did not reply to the ED's exceptions by the due date of September 30, 2011.

The ED filed five exceptions to the PFD. The ALJ recommends that the Commission sustain the ED's Exceptions No. 1, 2, 3, and 5. However, the ALJ recommends that the Commission overrule ED Exception No. 4 regarding the good faith exhibited by Respondent in bringing the facility into compliance. In the ALJ's opinion, there is sufficient evidence in the record to conclude that Respondent acted in good faith. Mr. Dobani met with and spoke to the TCEQ's investigator to remedy the violations, thereby showing that Respondent made an effort to comply with the TCEQ's rules regarding underground storage tanks (UST). At the time of the hearing, the ED was no longer seeking corrective action for any of the violations because Respondent had brought his facility into compliance. The ALJ does not recommend limiting the finding of fact regarding Respondent's good faith to the section 30 TAC § 334.8 allegations.

Sincerely,

Kerrie Jo Qualtrough
Administrative Law Judge

KJQ/nl
cc: Mailing List

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AGENCY: **Environmental Quality, Texas Commission on (TCEQ)**

STYLE/CASE: **DOBANI, INC / GULF FREEWAY SHELL**

SOAH DOCKET NUMBER: **582-11-1277**

REFERRING AGENCY CASE: **2010-0834-PST-E**

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ADMINISTRATIVE LAW JUDGE
ALJ KERRIE QUALTROUGH

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