

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2007-0748-MLM-E: TCEQ ID RN103004867: CASE NO.: 33142
RESPONDENT NAME: ICE MELT PRODUCTS, LLC

ORDER TYPE:		
<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	

CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Six miles south of Gail, one mile east of Farm-to-Market Road 669, Borden County

TYPE OF OPERATION: Brine evaporation pit

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: Surrounding land owners (collectively referred to as the "Claytons") and the Colorado Municipal Water District have expressed an interest in this matter. None of the interested parties have expressed an interest in speaking at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired November 16, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Water Enforcement Section, MC 169, (512) 239-4490

TCEQ Regional Contact: Mr. Michael Edmiston, Midland Regional Office, MC R-7, (432) 570-1359

Respondent: Mr. Dick Crill, Director, Ice Melt Products, LLC, 3707 34th Street, Snyder, Texas 79549

Respondent's Attorney: Mr. Michael L. Woodward, Hance, Scarborough, Woodward, & Weisbart, L.L.P., 111 Congress Avenue, Suite 500, Austin, Texas 78701

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: February 19, 2007 March 6, 2007</p>	<p>Total Assessed: \$1,980</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$1,980</p> <p>The Respondent paid the administrative penalty in full.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Immediately:</p> <p>a. Begin maintaining and managing all existing catch basins, drainage systems, and containment structures to prevent unauthorized discharges; conduct investigations, no less than quarterly, to ensure proper maintenance and management. Records of the investigations must be maintained and available for review for the duration of the closure activities;</p>
<p>Dates of NOEs Relating to this Case: March 1, 2007 April 24, 2007</p> <p>Background Facts: The EDPRP was filed on July 26, 2007. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the Agreed Order was signed on September 25, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>MLM:</p> <p>1. Failed to prevent an unauthorized discharge, as documented on February 19, 2007 [TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 335.4(1)].</p> <p>2. Failed to prevent an unauthorized discharge, as documented on March 6, 2007 [TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 335.4(1)].</p>	<p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>b. Ensure that the current storm water control structures are maintained in a manner that will prevent the run-on of storm water into the evaporation ponds, and conduct investigations, no less than monthly, to ensure the storm water control structures continued maintenance. Records of the investigations must be maintained and available for review for the duration of the closure activities; and</p> <p>c. Comply with General Permit No. TXR050000.</p> <p>2. Within 30 days:</p> <p>a. Submit written certification demonstrating compliance with Ordering Provisions Nos. 1.a., 1.b., and 1.c.; and</p> <p>b. Submit a Storm Water Management and Control Plan prepared and sealed by a Texas Registered Professional Engineer to the ED for review and approval. The plan shall include provisions for the construction of catch basins or containment structures to prevent unauthorized discharges from the brine evaporation pit facility, installation or construction of any additional devices or structures, including but not limited to berms, necessary to ensure that storm water run-off is diverted away from or otherwise prevented from entering the brine evaporation pits or ponds, and a schedule for implementation. Upon approval by the ED, implement the Storm Water Management and Control Plan in accordance with the schedule contained therein, and complete implementation of the Storm Water Management and Control Plan within six months of the effective date of this Agreed Order.</p> <p>3. Within 60 days:</p> <p>a. Submit a plan for closure of the Facility (the "Closure Plan"), prepared and sealed by a Texas Registered Professional Engineer and shall include the following:</p>

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
		<ol style="list-style-type: none"> i. A plan for removal of the Salt to the maximum extent practicable and/or closure on-site; ii. A plan for remediation and closure of the property; and iii. A schedule for implementing the Closure Plan, which is to include dates by which specific benchmarks of progress toward removal, remediation, and closure must be achieved. Salt removal activities shall be completed within 10 years of the effective date of this Agreed Order, and final closure, in accordance with the approved Closure Plan shall be completed within 12 years of the effective date of this Agreed Order. <ol style="list-style-type: none"> b. Submit a Funding Plan to establish financial assurance remediation, closure and post-closure care of the Facility, which is to include maintenance and management of the storm water control system, and provide financial assurance in accordance with 30 TEX. ADMIN. CODE chapter 37, Subchapter X. The Funding Plan shall include the following: <ol style="list-style-type: none"> i. Financial assurance of at least \$100,000 by December 31, 2011; ii. Financial assurance of at least \$300,000 by December 31, 2012; iii. Financial assurance of at least \$500,000 by December 31, 2013; iv. Financial assurance of at least \$700,000 by December 31, 2014; v. Submission on or before January 1, 2015, of a closure cost estimate signed and sealed by a Texas Registered Professional Engineer for approval by the Executive Director; and vi. Submission, within 90 days of the approval of the cost estimate, financial assurance in the amount of the closure cost estimate. c. Submit the Storm Water Management and Control Plan, the Closure Plan, and the Funding Plan to the ED for approval. <ol style="list-style-type: none"> 4. Implement the plans in accordance with the provisions of each of the approved plans. 5. If the Respondent fails to meet the scheduled benchmarks of the Closure Plan or an approved extension of the scheduled benchmarks, immediately cease operation and grant the State full access to the site for purposes of preventing or controlling any current or potential unauthorized discharges, including removal and disposal of any material that is or may be contributing to any current or potential unauthorized discharge.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
		<p>6. Within 90 days after the ED's approval of the Closure Plan, submit written certification demonstrating compliance with Ordering Provisions Nos. 3.a. through 4.</p> <p>7. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the above within 30 days after the date of such requests or by any other deadline specified in writing. If the Respondent receives written notice from the ED that the Respondent has failed to timely and adequately respond to requests for information, the Respondent shall immediately cease operating.</p>
		<p>8. If response actions are necessary, comply with all applicable provisions of all applicable statutes and rules.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

DATES	Assigned	30-Apr-2007	Screening	8-May-2007	EPA Due	
	PCW	14-May-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Ice Melt Products, LLC
Reg. Ent. Ref. No.	RN103004867
Facility/Site Region	7-Midland
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33142	No. of Violations	1
Docket No.	2007-0748-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Merrilee Hupp
Multi-Media	Industrial and Hazardous Waste	EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1: **\$1,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History -1% Enhancement Subtotals 2, 3, & 7: **-\$10**

Notes: Respondent received an NOV without same or similar violations to those in this case and provided one notice of intent for an audit and one disclosure of violation.

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	\$2,508	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$30,000	

SUM OF SUBTOTALS 1-7 Final Subtotal: **\$990**

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: **\$990**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty: **\$990**

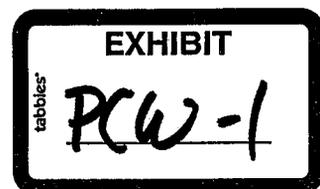
DEFERRAL Reduction Adjustment: **\$0**

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

Notes

Deferral not offered for non-expedited settlement

PAYABLE PENALTY **\$990**



Screening Date 8-May-2007

Docket No. 2007-0748-MLM-E

PCW

Respondent Ice Melt Products, LLC

Policy Revision 2 (September 2002)

Case ID No. 33142

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN103004867

Media [Statute] Water Quality

Ent. Coordinator Merrilee Hupp

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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments 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)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Respondent received an NOV without same or similar violations to those in this case and provided one notice of intent for an audit and one disclosure of violation.

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

Screening Date 8-May-2007

Docket No. 2007-0748-MLM-E

PCW

Respondent Ice Melt Products, LLC

Policy Revision 2 (September 2002)

Case ID No. 33142

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN103004867

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a) and 30 Tex. Admin. Code § 335.4(1)

Violation Description

Failed to prevent an unauthorized discharge, as documented during a March 6, 2007 investigation. Specifically, samples show significantly elevated levels of sodium and chloride concentrations in the soils and water about 1,000 feet downgradient of the evaporation ponds compared to background samples collected about 5,000 feet southwest of the ponds.

Base Penalty

\$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent

10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment

\$9,000

\$1,000

Violation Events

Number of Violation Events 1

63

Number of violation days

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

Violation Base Penalty

\$1,000

One quarterly event is recommended from the March 6, 2007 investigation date to the May 8, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,508

Violation Final Penalty Total

\$990

This violation Final Assessed Penalty (adjusted for limits)

\$990

Economic Benefit Worksheet

Respondent: Ice Melt Products, LLC
Case ID No.: 33142
Reg. Ent. Reference No.: RN103004867
Media: Water Quality
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
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$30,000	6-Mar-2007	15-May-2008	1.2	\$119	\$2,389	\$2,508
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

Cost is estimate for the construction of additional containment structures to prevent unauthorized discharges of brine water from the ponds. Date required is the investigation date where such discharge was documented and final date is when future discharges are expected to be prevented and the remediation of the soils completed.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$30,000

TOTAL \$2,508



Penalty Calculation Worksheet (PCW)

DATES	Assigned	5-Mar-2007		
	PCW	3-Apr-2007	Screening	3-Apr-2007
			EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Ice Melt Products, LLC		
Reg. Ent. Ref. No.	RN103004867		
Facility/Site Region	7-Midland	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33142	No. of Violations	1
Docket No.	2007-0748-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Merrilee Hupp
Multi-Media	Industrial and Hazardous Waste	EC's Team	Enforcement Team 1
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-1% Enhancement	Subtotal 2, 3, & 7	-\$10
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Notes: Respondent received an NOV without same or similar violations to those in this case and provided one notice of intent for an audit and one disclosure of violation.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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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.

	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$154	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$990
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$990
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STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$990
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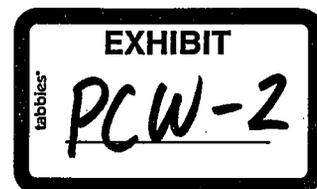
DEFERRAL		Reduction		Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement

PAYABLE PENALTY	\$990
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Screening Date 3-Apr-2007

Docket No. 2007-0748-MLM-E

PCW

Respondent Ice Melt Products, LLC

Policy Revision 2 (September 2002)

Case ID No. 33142

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103004867

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (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)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Respondent received an NOV without same or similar violations to those in this case and provided one notice of intent for an audit and one disclosure of violation.

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

Screening Date 3-Apr-2007

Docket No. 2007-0748-MLM-E

PCW

Respondent Ice Melt Products, LLC

Policy Revision 2 (September 2002)

Case ID No. 33142

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103004867

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number

Rule Cite(s)

Tex. Water Code § 26.121(a) and 30 Tex. Admin. Code § 335.4(1)

Violation Description

Failed to prevent an unauthorized discharge. Approximately 50-100 barrels of brine water overflowing from a loading tank and its spill containment trap continued to flow along the caliche road dividing the Respondent's property from adjacent ranch land and onto the adjacent ranch land, within ten to twenty feet from Little Grape Creek, as documented during a February 19, 2007 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

43 Number of violation days

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the February 19, 2007 investigation date to the April 3, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$154

Violation Final Penalty Total \$990

This violation Final Assessed Penalty (adjusted for limits) \$990

Economic Benefit Worksheet

Respondent: Ice Melt Products, LLC
 Case ID No. 33142
 Reg. Ent. Reference No. RN103004867
 Media Water Quality
 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
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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	\$2,500	19-Feb-2007	15-May-2008	1.2	\$154	n/a	\$154
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Cost includes estimates for cost of labor, sampling analysis, chemicals for treatment of the affected property, as well as labor and materials associated with the prevention of brine discharges through the enlargement of the spill containment trap. Date required is the date the discharge was reported and final date is when future discharges are expected to be prevented and the remediation of the soils completed.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$2,500	TOTAL	\$154
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Compliance History

Customer/Respondent/Owner-Operator:	CN601542665 Ice Melt Products, L.L.C.	Classification: AVERAGE	Rating: 4.25
Regulated Entity:	RN103004867 ICE MELT PRODUCTS	Classification: AVERAGE	Site Rating: 4.25
ID Number(s):	STORMWATER PERMIT	TXR05Q769	
Location:	8860 ROADRUNNER PATH, SNYDER, Borden Co.	Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 07 - MIDLAND		
Date Compliance History Prepared:	April 03, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 03, 2002 to April 03, 2007		

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

Name: Merrilee G. Hupp Phone: 512-239-4490

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|---|------------|----------|
| 1 | 06/30/2004 | (278458) |
| 2 | 02/22/2005 | (371663) |
| 3 | 01/09/2006 | (434775) |
| 4 | 11/09/2006 | (518793) |
| 5 | 03/01/2007 | (542092) |

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

Date: 01/10/2006 (434775)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 281, SubChapter A 281.25[G]

Rqmt Prov: PERMIT MSGP, Part III, Section A(3)(b)

Description: Failure to identify the specific individuals and their responsibilities as members of the pollution prevention team.

Self Report? NO Classification: Minor

Citation: 2D TWC Chapter 26, SubChapter A 26.121[G]

Rqmt Prov: PERMIT MSGP, Part III, Section A(3)(b)

Description: Failure to conduct an investigation of potential non-storm water discharges (dry weather flows).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 281, SubChapter A 281.25[G]

Rqmt Prov: PERMIT MSGP, Part III, Section A(3)(c)

Description: Failure to provide a Certification of Evaluation of Storm Water System for non-storm water discharges.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 281, SubChapter A 281.25[G]

Rqmt Prov: PERMIT MSGP, Part III, Section A(3)(d)

Description: Failure to conduct a complete evaluation of the storm sewer system and a failure to submit a Notice of Deficiency.

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section A(4)(b)		
Description:	Failure to include all activities that could potentially be expected to contribute pollutants to storm water in the narrative description.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section A(4)(c)(12)		
Description:	Failure to provide the loading area on the site map.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section A(4)(e)		
Description:	Failure to collect storm water discharge samples.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section A(5)(b)(6&7)		
Description:	Failure to have equipment available for spills (with maintained inventory).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Sect. A(5)(d) & E(5)(f)		
Description:	Failure to maintain written records of structural control maintenance and volumes removed from storm water catch basins.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section A(5)(e)		
Description:	Failure to have adequate BMPs based on the activities and potentials for contamination from materials noted in the inventory of exposed materials.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section A(5)(f)		
Description:	Failure to train employees on the SWP3.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section A(5)(g)		
Description:	Failure to conduct quarterly inspections.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section A(5)(h)		
Description:	Failure to conduct quarterly visual monitoring of each outfall.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section A(7)(b)		
Description:	Failure to conduct an annual evaluation.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section A(7)(c)		
Description:	Failure to prepare a site compliance evaluation report.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section D(1,2)(c)		
Description:	Failure to collect annual samples.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section E(3)(b)		
Description:	Failure to collect annual samples.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25[G]		
Rqmt Prov:	PERMIT MSGP, Part III, Section A(5)(b)(3)		
Description:	Failure to clearly label drums, tanks, containers, etc.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Description:	Failure to secure the truck loading area.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Description:	Failure to locate hose connection points within the containment areas.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
Description:	Failure to collect samples.		
Self Report?	NO	Classification:	Minor

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure to collect grab samples per MSGP #TXR050000 Part V Section C(4).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure to conduct benchmark monitoring.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure to use drainage controls to minimize contamination of storm water in all other areas outside the active process area.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 281, SubChapter A 281.25[G]
Rqmt Prov: PERMIT MSGP, Part III, Section A(4)(c)
Description: Failure to document the complete facility on the site map.

F. Environmental audits.

Notice of Intent Date: 08/22/2002 (33024)
Disclosure Date: 2/19/2003 12:00:00AM
Viol. Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A
Description: Discharge of industrial waste into or adjacent to the waters of the State.
Viol. Classification: Major
Citation: TWC Chapter 26
Description: Operating without authorization, failure to submit a Notice of Intent for coverage under the General Storm Water Permit.

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
ICE MELT PRODUCTS, L.L.C.;
RN103004867

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0748-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ice Melt Products, L.L.C. ("Ice Melt") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Ice Melt represented by Mr. Michael Woodward of the law firm Hance, Scarborough, Wright, Woodward, & Weisbart, L.L.P. appear before the Commission and together stipulate that:

1. Ice Melt owns a brine evaporation pit facility, which includes five brine evaporation pits, designed to produce brine water (magnesium chloride and sodium chloride solution) and solid sodium chloride salt (collectively referred to as the "Salt") located six miles south of Gail, one mile east of Farm-to-Market Road 669 in Borden County, Texas (the "Facility"). The five brine evaporation pits located at this Facility have not been operated since May 2007.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The terms "remediation" and "closure" as used herein are defined in 30 TEX. ADMIN. CODE ch. 350.
4. The Commission and Ice Melt agree that the Commission has jurisdiction to enter this Agreed Order, and that Ice Melt is subject to the Commission's jurisdiction.

5. Ice Melt received notice of the violations alleged in Section II ("Allegations") on or about March 6, 2007 and April 29, 2007.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ice Melt of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
7. An administrative penalty in the amount of one thousand nine hundred eighty dollars (\$1,980.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Ice Melt has paid one thousand nine hundred eighty dollars (\$1,980.00) of the administrative penalty.
8. 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.
9. The Executive Director of the TCEQ and Ice Melt have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
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 Ice Melt 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

1. Ice Melt is alleged to have violated TEX. WATER CODE §26.121(a) and 30 TEX. ADMIN. CODE § 335.4(1) by failing to prevent an unauthorized discharge as documented on February 19, 2007. Specifically approximately 50 to 100 barrels of brine overflowing from a loading tank and its spill containment trap continued to flow along the caliche road dividing Ice Melt's property from adjacent ranch land and onto the adjacent ranch land, and within ten to twenty feet from Little Grape Creek.
2. Ice Melt is alleged to have violated TEX. WATER CODE §26.121(a) and 30 TEX. ADMIN. CODE § 335.4(1) by failing to prevent an unauthorized discharge, as documented during an investigation conducted on March 6, 2007. Specifically samples showed significantly

elevated levels of sodium and chloride concentrations in the soils and water about 1,000 feet down-gradient of the evaporation ponds as compared to background samples collected about 5,000 feet southwest of the ponds.

III. DENIALS

Ice Melt generally denies each allegation in Section II (“Allegations”).

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ice Melt pay an administrative penalty as set forth in Section I, Paragraph 7, above. The payment of this administrative penalty and Ice Melt’s compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Ice Melt Products, L.L.C., Docket No. 2007-0748-MLM-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. Ice Melt shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Ice Melt shall:
 - i. Begin maintaining and managing all existing catch basins, drainage systems, and containment structures to prevent unauthorized discharges; conduct investigations, no less than quarterly, to ensure proper maintenance and management. Records of the investigations must be maintained and available for review for the duration of the closure activities;
 - ii. Ensure that the current stormwater control structures are maintained in a manner that will prevent the run-on of stormwater into the evaporation ponds, and conduct investigations, no less than monthly, to ensure the stormwater control structures continued maintenance. Records of the investigations must be maintained and available for review for the duration of the closure activities; and

- iii. Comply with General Permit No. TXR050000.
- b. Within 30 days after the effective date of this Agreed Order, Ice Melt shall submit written certification of compliance with Ordering Provision 2.a. The certification shall be notarized by a State of Texas Notary Public and include the certification language as described in 2.g. below.
- c. Within 30 days of the effective date of this Agreed Order, Ice Melt shall submit a stormwater management and control plan prepared and sealed by a Texas Registered Professional Engineer to the Executive Director for review and approval. The plan shall include provisions for the construction of catch basins or containment structures to prevent unauthorized discharges from the brine evaporation pit facility, installation or construction of any additional devices or structures, including but not limited to berms, necessary to ensure that storm water runoff is diverted away from or otherwise prevented from entering the brine evaporation pits or ponds, and a schedule for implementation. Upon approval by the Executive Director, Ice Melt shall implement the stormwater management and control plan in accordance with the schedule contained therein, and shall complete implementation of the stormwater management and control plan within six months of the effective date of this Agreed Order.
- d. Within 60 days after the effective date of this Agreed Order, Ice Melt shall:
 - i. Submit a plan for closure of the Facility (the "Closure Plan"). The Closure Plan shall be prepared and sealed by a Texas Registered Professional Engineer and shall include the following:
 - A. A plan for removal of the Salt to the maximum extent practicable and/or closure onsite;
 - B. A plan for remediation and closure of the property in accordance with 30 TEX. ADMIN. CODE chapter 350 submitted to the Executive Director for approval; and
 - C. A schedule for implementing the Closure Plan, which is to include dates by which specific benchmarks of progress toward removal, remediation, and closure must be achieved. Salt removal activities shall be completed within 10 years of the effective date of this Order, and final closure, in accordance with the approved Closure Plan, shall be completed within 12 years of the effective date of this Order.

- ii. Submit a Funding Plan to establish financial assurance to assure remediation, closure and post-closure care of the Facility, which is to include maintenance and management of the stormwater control system. Ice Melt shall provide financial assurance in accordance with 30 TEX. ADMIN. CODE chapter 37, Subchapter X. The Funding Plan shall include the following:
 - A. Financial assurance of at least \$100,000.00 by December 31, 2011;
 - B. Financial assurance of at least \$300,000.00 by December 31, 2012;
 - C. Financial assurance of at least \$500,000.00 by December 31, 2013;
 - D. Financial assurance of at least \$700,000.00 by December 31, 2014;
 - E. Submission on or before January 1, 2015, of a closure cost estimate signed and sealed by a Texas Registered Professional Engineer for approval by the Executive Director; and
 - F. Financial assurance in the amount of the closure cost estimate within 90 days of the approval of the cost estimate by the Executive Director.
- iii. Submit the Stormwater Management and Control Plan, the Closure Plan and the Funding Plan for approval to:

Mr. Brent Wade, Director
Remediation Division, MC 225
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and cc:

John Grant, General Manager
Colorado River Municipal Water District
400 East 24th Street
P.O. Box 869
Big Spring, Texas 79721-0869

- e. Immediately upon the Executive Director's approval of each of the above plans, Ice Melt shall implement the plans in accordance with the provisions of each of the approved plan.
- f. If Ice Melt fails to meet the scheduled benchmarks of the Closure Plan or an approved extension of the scheduled benchmarks as provided for below by Ordering Provision 8, Ice Melt shall immediately cease operation and grant the State full access to the Facility for purposes of preventing or controlling any current or potential unauthorized discharges, including removal and disposal of any material that is or may be contributing to any current or potential unauthorized discharge.
- g. Within 90 days after the Executive Director's approval of the Closure Plan, Ice Melt shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.d. through 2.e. 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."

Ice Melt shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a., 2.c. through 2.e. to:

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

and:

Mr. Michael Edmiston, Water/Waste Section Manager
Texas Commission on Environmental Quality
Midland Regional Office
3300 North A Street, Building 4-107
Midland, Texas 79705-5451

3. Ice Melt shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the above within 30 days after the date of such requests or by any other deadline specified in writing. After written notice from the Executive Director that Ice Melt has failed to timely and adequately respond to requests for information, Ice Melt shall immediately cease operating.

4. If response actions are necessary, Ice Melt shall comply with all applicable provisions of the applicable statutes and rules.
5. The provisions of this Agreed Order shall apply to and be binding upon Ice Melt. Ice Melt 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.
6. Nothing in this Order shall affect TCEQ statutory access rights or inhibit the exercise of those rights in accordance with statutory authority or is intended as a waiver by TCEQ of any immunity from suit to which it is entitled under Texas Law.
7. If Ice Melt 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, Ice Melt's failure to comply is not a violation of this Agreed Order. Ice Melt shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ice Melt shall notify the Executive Director within seven days after Ice Melt becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. 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 Ice Melt shall be made prior to the passing of the deadline and in writing to the Executive Director. Extensions are not effective until Ice Melt receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. This Agreed Order, issued by the Commission, shall not be admissible against Ice Melt 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.

10. 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.
11. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Ice Melt, or three days after the date on which the Commission mails notice of the Order to Ice Melt, 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

[Handwritten Signature]
For the Executive Director

9/25/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or Ice Melt's failure to timely pay the penalty amount, may result in:

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

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution

C.D. Gray, Jr.
Signature

9-25-09
Date

C.D. GRAY, JR.
Name (Printed or typed)

PRESIDENT
Title

Authorized representative of
Ice Melt Products, L.L.C.