

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO. 2008-1590-MLM-E      RN102042280      CASE NO. 36501**  
**RESPONDENT NAME: WILLIAM CARL BELL d/b/a POPOPS ICE HOUSE**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" 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

**SITE WHERE VIOLATIONS OCCURRED:** 1018 East U.S. Highway 175, Crandall, Kaufman County

**TYPE OF OPERATION:** inactive underground storage tanks (USTs)

**SMALL BUSINESS:**     Yes     No     N/A

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

**INTERESTED PARTIES:** No one other than the ED and Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired March 21, 2011. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Rudy Calderon, Litigation Division, MC 175, (512) 239-3400  
 Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Wallace Myers, Waste Enforcement Section, MC 128, (512) 239-6580

**TCEQ Regional Contact:** Sam Barrett, Dallas/Fort Worth Regional Office, MC R-4, (817)588-5903

**Respondent:** William Carl Bell, 302 W. Trunk, Crandall, Texas 75114

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**RESPONDENT NAME: WILLIAM CARL BELL d/b/a  
POPOPS ICE HOUSE  
DOCKET NO. 2008-1590-MLM-E**

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint:</b> N/A</p> <p><b>Dates of Investigation:</b> July 8, 2008 August 8, 2008 (Record Review)</p> <p><b>Date of NOE:</b> August 8, 2008</p> <p><b>Background Facts:</b> The case was referred to the Litigation Division on May 20, 2010. The EDPRP was filed on July 16, 2010. Respondent filed an answer and the case was referred to SOAH. The Agreed Order was signed on January 24, 2011.</p> <p><b>Current Compliance Status:</b> Respondent has not yet submitted documentation demonstrating compliance with the technical requirements. Respondent does not have a delivery certificate.</p> <p><b>MLM:</b></p> <ol style="list-style-type: none"> <li>1. Failed to file a written notification with the TCEQ at least 30 days prior to performing a major UST construction activity [30 TEX. ADMIN. CODE § 334.6(b)(2)].</li> <li>2. Failed to conduct the required release determination prior to permanent removal of the UST system from service, and failed to dispose of a UST in such a manner to protect human health, safety, and the environment and in accordance with all applicable federal, state, and local regulations [30 TEX. ADMIN. CODE § 334.55(a)(6) and (b)(5)(A)] .</li> <li>3. Failed to obtain the proper TCEQ license or certification prior to removing a UST system [30 TEX. ADMIN. CODE §§ 30.5(a) and 30.301(b) and TEX WATER CODE § 37.003].</li> <li>4. Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0049809U for fiscal years 2001 through 2006 [TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].</li> </ol>	<p><b>Total Assessed:</b> \$5,291</p> <p><b>Total Deferred:</b> \$1,691  <input type="checkbox"/> Expedited Order  <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid/Due to General Revenue:</b> \$100/\$3,500</p> <p>Respondent paid \$100 of the undeferred administrative penalty. The remaining amount of \$3,500 shall be payable in 35 monthly payments of \$100 each.</p> <p><b>Compliance History Classifications:</b>  <i>Person/CN</i> – Average  <i>Site/RN</i> – Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> Respondent has demonstrated a pattern of disregard for environmental laws.</p>	<p><b>Corrective Actions Taken:</b> The Executive Director recognizes that Respondent performed the following corrective actions:</p> <ol style="list-style-type: none"> <li>1. Paid all outstanding UST fees and associated late fees for TCEQ Financial Account No. 0049809U for fiscal years 2001 through 2006; and</li> <li>2. Retained a licensed on-site supervisor/contractor to conduct a site assessment at the Facility on December 31, 2010.</li> </ol> <p><b>Ordering Provisions:</b> Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 180 days submit to TCEQ a Site Assessment Report and a proposal for corrective action. Upon approval of the proposal, implement the proposal in accordance with the approved implementation schedule. If the TCEQ determines that additional investigation is necessary, implement such investigation and report the results to the TCEQ within the specified time-frame. If the TCEQ determines that additional information or additional actions are required to ensure adequate remediation of all contaminated areas, submit the additional information to the TCEQ and perform the additional actions within the specified time-frame.</li> <li>2. Within 190 days, submit written certification demonstrating compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	11-Aug-2008			
	<b>PCW</b>	13-May-2010	<b>Screening</b>	18-Aug-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	William Carl Bell dba PoPoPs Ice House				
<b>Reg. Ent. Ref. No.</b>	RN102042280				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	36501	<b>No. of Violations</b>	3		
<b>Docket No.</b>	2008-1590-MLM-E	<b>Order Type</b>	Findings		
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Wallace Myers		
		<b>EC's Team</b>	Enforcement Team 7		
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$10,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$3,500
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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.

<b>Compliance History</b>	27.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$945
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Notes: Enhancement for one Default Order and one NOV for dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$538  
 Approx. Cost of Compliance \$10,100  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,445
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	1.2%	<b>Adjustment</b>	\$53
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation number 1.

<b>Final Penalty Amount</b>	\$4,498
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$4,498
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$4,498
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Screening Date 18-Aug-2008

Docket No. 2008-1590-MLM-E

PCW

Respondent William Carl Bell dba PoPoPs Ice House

Policy Revision 2 (September 2002)

Case ID No. 36501

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102042280

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

### 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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 27%

#### >> 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 one Default Order and one NOV for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

**Screening Date** 18-Aug-2008 **Docket No.** 2008-1590-MLM-E **PCW**  
**Respondent** William Carl Bell dba PoPoPs Ice House *Policy Revision 2 (September 2002)*  
**Case ID No.** 36501 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN102042280  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Wallace Myers

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin Code § 334.6(b)(2)  
**Violation Description** Failed to file a written notification with the TCEQ at least 30 days prior to performing a major UST construction activity. Specifically, the Respondent removed four USTs from the ground without a construction notification.

**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

OR	<b>Harm</b>			Percent
	Major	Moderate	Minor	
	Actual			
Potential				

**>> Programmatic Matrix**

	Major	Moderate	Minor	Percent
Falsification	x			

**Matrix Notes** 100% of the rule requirement was not met.

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events 1 41 Number of violation days

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

**Violation Base Penalty** \$1,000

One single event is recommended based on documentation of the violation during the July 8, 2008 investigation.

**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** \$1,000

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

Estimated EB Amount \$105 Violation Final Penalty Total \$1,285

**This violation Final Assessed Penalty (adjusted for limits)** \$1,285

# Economic Benefit Worksheet

**Respondent** William Carl Bell dba PoPoPs Ice House  
**Case ID No.** 36501  
**Req. Ent. Reference No.** RN102042280  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### 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)	\$100	6-Jun-2008	6-Jul-2008	1.00	\$5	\$100	\$105

Notes for AVOIDED costs

Estimated cost to accurately prepare and submit a notification. The Date Required is 30 days prior to the construction activity date. The Final Date is the date the USTs were removed from the ground.

Approx. Cost of Compliance

\$100

**TOTAL**

\$105

**Screening Date** 18-Aug-2008 **Docket No.** 2008-1590-MLM-E **PCW**  
**Respondent** William Carl Bell dba PoPoPs Ice House *Policy Revision 2 (September 2002)*  
**Case ID No.** 36501 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN102042280  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Wallace Myers

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** William Carl Bell dba PoPoPs Ice House  
**Case ID No.** 36501  
**Req. Ent. Reference No.** RN102042280  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$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)	\$10,000	6-Jul-2008	18-May-2009	0.87	\$433	n/a	\$433

Notes for DELAYED costs

The estimated cost to conduct release determination and implement appropriate correction measures. The Date Required is the date of UST removal. The Final Date is 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

\$10,000

**TOTAL**

\$433

**Screening Date** 18-Aug-2008 **Docket No.** 2008-1590-MLM-E **PCW**  
**Respondent** William Carl Bell dba PoPoPs Ice House *Policy Revision 2 (September 2002)*  
**Case ID No.** 36501 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN102042280  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Wallace Myers

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin Code § 334.22(a) and Tex. Water Code § 5.702  
**Violation Description** Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0049809U for fiscal years 2001 through 2006.  
**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

OR	<b>Harm</b>			Percent
	Major	Moderate	Minor	
	Actual			
	Potential			

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent

**Matrix Notes**  
 [Empty text box]

**Adjustment** \$10,000  
 \$0

**Violation Events**

Number of Violation Events [ ] Number of violation days [ ]  
 mark only one with an x  
 daily [ ]  
 monthly [ ]  
 quarterly [ ]  
 semiannual [ ]  
 annual [ ]  
 single event [ ]  
**Violation Base Penalty** \$0

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

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A		(mark with x)
Notes	[Empty text box]	

**Violation Subtotal** \$0

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$0 **Violation Final Penalty Total** \$0

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

## Economic Benefit Worksheet

**Respondent** William Carl Bell dba PoPoPs Ice House  
**Case ID No.** 36501  
**Req. Ent. Reference No.** RN102042280  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

### Avoided Costs

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

Disposal				0.00	\$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

N/A

Approx. Cost of Compliance

\$0

**TOTAL**

\$0



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	11-Aug-2008			
	<b>PCW</b>	13-May-2010	<b>Screening</b>	18-Aug-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	William Carl Bell dba PoPoPs Ice House				
<b>Reg. Ent. Ref. No.</b>	RN102042280				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	36501	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2008-1590-MLM-E	<b>Order Type</b>	Findings		
<b>Media Program(s)</b>	All Occupational Licenses	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Wallace Myers		
		<b>EC's Team</b>	Enforcement Team 7		
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$2,500	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$625
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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.

<b>Compliance History</b>	27.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$168
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Notes: Enhancement for one Default Order and one NOV for dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$19  
 Approx. Cost of Compliance \$450  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$793
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$793
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$793
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$793
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Screening Date 18-Aug-2008

Docket No. 2008-1590-MLM-E

PCW

Respondent William Carl Bell dba PoPoPs Ice House

Policy Revision 2 (September 2002)

Case ID No. 36501

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102042280

Media [Statute] All Occupational Licenses

Enf. Coordinator Wallace Myers

### 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	1	25%
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) 27%

#### >> 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 one Default Order and one NOV for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

**Screening Date** 18-Aug-2008 **Docket No.** 2008-1590-MLM-E **PCW**  
**Respondent** William Carl Bell dba PoPoPs Ice House *Policy Revision 2 (September 2002)*  
**Case ID No.** 36501 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN102042280  
**Media [Statute]** All Occupational Licenses  
**Enf. Coordinator** Wallace Myers

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin Code §§ 30.5(a), 30.301(b) and Tex. Water Code § 37.003  
**Violation Description** Failed to obtain the proper TCEQ license or certification prior to removing a UST system. Specifically, the Respondent removed four USTs from the ground without possessing a TCEQ license or certification.

**Base Penalty** \$2,500

**>> Environmental, Property and Human Health Matrix**

OR	<b>Harm</b>			Percent
	Major	Moderate	Minor	
	Actual			
	Potential	x		25%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes** Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$1,875

\$625

**Violation Events**

Number of Violation Events 1 1 Number of violation days

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

**Violation Base Penalty** \$625

One single event is recommended based on documentation of the violation during the July 8, 2008 investigation.

**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** \$625

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$19

**Violation Final Penalty Total** \$793

**This violation Final Assessed Penalty (adjusted for limits)** \$793

## Economic Benefit Worksheet

**Respondent** William Carl Bell dba PoPoPs Ice House  
**Case ID No.** 36501  
**Req. Ent. Reference No.** RN102042280  
**Media** All Occupational Licenses  
**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

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)	\$450	8-Jul-2008	18-May-2009	0.86	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to obtain an on-site supervisor license. The Date Required is the investigation date. The Final Date is 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

\$450

**TOTAL**

\$19

# Compliance History

Customer/Respondent/Owner-Operator: CN601109275 BELL, WILLIAM CARL Classification: AVERAGE Rating: 6.00  
 Regulated Entity: RN102042280 POPOPS ICE HOUSE Classification: AVERAGE Site Rating: 6.00  
 ID Number(s):  
 Location: 1018 E US HIGHWAY 175, CRANDALL, TX, 75114  
 TCEQ Region: REGION 04 - DFW METROPLEX  
 Date Compliance History Prepared: July 02, 2010  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: September 11, 2003 to September 11, 2008  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: W. Myers Phone: 512-239-2545

## 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 |
| 6. Rating Date: 9/1/2007 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: 07/23/2008**

**ADMINORDER 2006-1781-PST-E**

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)

30 TAC Chapter 334, SubChapter C 334.54(d)(2)

Description: Failure to empty an underground storage tank of any remaining residue to less than 2.5 centimeters (1 inch) at the deepest point.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence

- 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 08/28/2006 (510244)

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

**Date: 02/27/2006**

**(456281)**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)

30 TAC Chapter 334, SubChapter C 334.54(d)(2)

Description: Failure to empty an underground storage tank of any remaining residue to less than 2.5 centimeters (1 inch) at the deepest point.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)

Description: Failure to assure that the vent lines for out-of service tanks are kept open and functioning and that all other piping, pumps, manways (e.g. fill risers) and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

- 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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
WILLIAM CARL BELL DBA POPOPS  
ICE HOUSE;  
RN102042280**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2008-1590-MLM-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding William Carl Bell d/b/a PoPoPs Ice House ("Respondent") under the authority of TEX. WATER CODE chs. 5, 7, 26, and 37. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

Respondent understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Respondent owned, as defined in 30 TEX. ADMIN. CODE § 334.2(73), four underground storage tanks ("USTs") located at 1018 East U.S. Highway 175 in Crandall, Kaufman County, Texas (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ. Respondent removed the four USTs from the Facility's grounds. Therefore, Respondent is subject to TCEQ jurisdiction under TEX. WATER CODE chs. 26 and 37.
2. During an investigation conducted on July 8, 2008, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:

- a. Failed to file a written notification with the TCEQ at least 30 days prior to performing a major UST construction activity. Specifically, Respondent removed the Facility's four USTs from the ground without a construction notification;
  - b. Failed to conduct the required release determination prior to permanent removal of the UST system from service. Also, Respondent failed to dispose of a UST in such a manner to protect human health, safety, and the environment and in accordance with all applicable federal, state and local regulations. Specifically, Respondent improperly buried a used fiberglass UST at the Facility; and
  - c. Failed to obtain the proper TCEQ license or certification prior to removing a UST system. Specifically, Respondent removed the Facility's four USTs from the ground without possessing a TCEQ license or certification.
3. During a record review conducted on August 8, 2008, a TCEQ Central Office investigator documented that Respondent failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0049809U for fiscal years 2001 through 2006.
  4. Respondent received notice of the violations alleged in Finding of Fact Nos. 2.a. through 2.c. on or about August 13, 2008. Respondent received notice of the violation alleged in Finding of Fact No. 3 on or about July 21, 2010.
  5. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
    - a. Respondent has paid all outstanding UST fees and associated late fees for TCEQ Financial Account No. 0049809U for fiscal years 2001 through 2006; and
    - b. Respondent retained a licensed on-site supervisor/contractor to conduct a site assessment at the Facility on December 31, 2010.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 26, and 37 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent violated 30 TEX. ADMIN. CODE § 334.6(b)(2), by failing to file a written notification with the TCEQ at least 30 days prior to performing a major UST construction activity.
3. As evidenced by Finding of Fact No. 2.b., Respondent violated 30 TEX. ADMIN. CODE § 334.55(a)(6) and (b)(5)(A), by failing to conduct the required release determination prior to permanent removal of the UST system from service; and, by failing to dispose of a UST in such a manner to protect human health, safety, and the environment and in accordance with all applicable federal, state and local regulations.

4. As evidenced by Finding of Fact No. 2.c., Respondent violated 30 TEX. ADMIN. CODE §§ 30.5(a) and 30.301(b), and TEX. WATER CODE § 37.003, by failing to obtain the proper TCEQ license or certification prior to removing a UST system.
5. As evidenced by Finding of Fact No. 3, Respondent violated 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702, by failing to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0049809U for fiscal years 2001 through 2006.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of five thousand two hundred ninety-one dollars (\$5,291.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay part of the administrative penalty and qualifies for a deferral of all or part of the administrative penalty under TEX. WATER CODE § 7.034. Therefore, one thousand six hundred ninety-one dollars (\$1,691.00) of the administrative penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Agreed Order and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the payment schedule, the Executive Director may require Respondent to pay all or part of the deferred administrative penalty.

Respondent paid one hundred dollars (\$100.00) of the undeferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) shall be payable in 35 monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of the deferred penalty amount.

#### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 7, above, for violations of state statutes and rules of the TCEQ. The payment of

this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions 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: William Carl Bell d/b/a PoPoPs Ice House, Docket No. 2008-1590-MLM-E" to:

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

2. Respondent shall undertake the following technical requirements:
  - a. Within 180 days after the effective date of this Agreed Order, Respondent shall submit to the Executive Director a report which summarizes the findings of the Site Assessment (the "Site Assessment Report"). The Site Assessment Report shall include a proposal for corrective action under 30 TEX. ADMIN. CODE § 334.79 ("Removal of Non-Aqueous Phase Liquids (NAPLs)). The proposal shall be submitted in accordance with 30 TEX. ADMIN. CODE ch. 334, subchs. D and G (relating to Release Reporting and Corrective Action, and Target Concentration Criteria, respectively) or other applicable guidance approved by the Executive Director. Upon approval of the proposal by the Executive Director, the Respondent shall implement the proposal in accordance with the approved implementation schedule. The Site Assessment report shall be submitted to:

Texas Commission on Environmental Quality  
Remediation Division  
PST Section, MC – 137  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Texas Commission on Environmental Quality  
Dallas/Fort Worth Regional Office  
ATTN: Doug Reske  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

If, after receipt of the Site Assessment Report, the Executive Director determines that additional investigation is necessary, Respondent shall implement such investigation and report the results to the Executive Director within the time-frame specified in the request.

If the Executive Director determines that additional information or additional actions are required to ensure that adequate remediation of all contaminated areas has been completed, Respondent shall submit the additional information

to the Executive Director, and perform the additional actions within the time-frame specified in the request.

- b. Within 190 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and shall 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."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and

Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

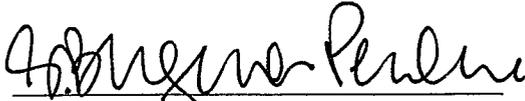
3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondent 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.
10. Pursuant to 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 this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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



\_\_\_\_\_  
For the Executive Director

2/17/2011

\_\_\_\_\_  
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 William Carl Bell d/b/a PoPoPs Ice House, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature - William Carl Bell

1-24-11  
\_\_\_\_\_  
Date