EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48545
Charles F. Bell
RN102434602
Docket No. 2014-0545-PST-E

Order Type:
Default Order

Media:
PST

Small Business:
N/A

Location(s) Where Violation(s) Occurred:
1596 Farm-to-Market Road 969, Elgin, Bastrop County

Type of Operation:
inactive underground storage tank system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: November 7, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: $15,750

Total Paid to General Revenue: $0

Total Due to General Revenue: $15,750

Compliance History Classifications:
Person/CN –Satisfactory
Site/RN – Satisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: February 12, 2014

Date(s) of NOV(s): April 5, 2013

Date(s) of NOE(s): April 3, 2014

Violation Information

1. Failed to temporarily remove from service a UST system for which the normal operation and use of the UST system is deliberately, but temporarily, discontinued for any reason [30 TEX. ADMIN. CODE § 334.54].
2. Failed to comply with UST operator training requirements [30 TEX. ADMIN. CODE § 334.601(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Either:
   a. Within 180 days, permanently remove the UST system from service, which includes the following actions:
      i. Providing a Construction Notification to the TCEQ at least 30-days prior to any removal activities; and
      ii. Employing a Licensed Underground Storage Tank Contractor to perform all removal activities, including:
         A. Removing the USTs from the ground, abandoning the USTs in-place, or conducting a permanent change-in-service;
         B. Emptying the USTs of all regulated substances and accumulated sludges or residues and purging the USTs of all residual vapors;
         C. Handling, transporting, and properly disposing of the empty USTs, of the regulated substances removed from the UST system, and of any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility; and
         D. Determining whether or not there has been a release of regulated substance from the UST system, performance of a comprehensive site assessment, reporting confirmed or suspected releases, preparing a detailed written record of the release determination, and compliance with all applicable corrective action requirements; and
   b. Within 195 days, submit an amended registration to reflect the operational status of the UST system; and
   c. Within 210 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. through 1.b.
2. Or:
   a. Within 60 days:
      i. Designate and train a Facility operator;
      ii. Temporarily remove the UST system from service; and
      iii. Ensure that the UST system is maintained in compliance with the following requirements for as long as the UST system remains temporarily out of service:
         A. All vent lines shall be kept open and functioning;
         B. All other piping, pumps, manways, tank access points (e.g., fill risers, automatic tank gauging risers, Stage I vapor recovery risers) and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons;
         C. The UST system shall be adequately protected from corrosion; and
         D. Unless the UST system has been emptied of all regulated substances at the time it is temporarily removed from service:

I. The UST system shall be monitored for releases; and

II. Maintain adequate financial assurance for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and non-sudden accidental releases from the UST system; and

b. Within 75 days, submit an amended registration to reflect the operational status of the UST system; and

c. Within 90 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 2.a. through 2.b.

Litigation Information

Date Petition(s) Filed: July 16, 2014; August 25, 2014

Date Green Card(s) Signed: Unclaimed; Unclaimed

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Michael Vitris, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Isabel Segerra Treviño, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Allyson Plantz, Enforcement Division, (512) 239-4593

TCEQ Regional Contact: David Mann, Austin Regional Office, (512) 339-2929

Respondent Contact: Charles F. Bell, 1586 Farm-to-Market Road 969, Elgin, Texas 78621

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011) *PCW Revision August 3, 2011*

DATES					
Assigned	31-Mar-2014				
PCW	13-Aug-2014	Screening	4-Apr-2014	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Charles F. Bell		
Reg. Ent. Ref. No.	RN102434602		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	48545	No. of Violations	2
Docket No.	2014-0545-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Allyson Plantz
		EC's Team	Enforcement Team 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **$15,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement *Subtotals 2, 3, & 7* **$750**

Notes: Enhancement for one NOV with same violations.

Culpability No **0.0%** Enhancement *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **$0**

Economic Benefit **0.0%** Enhancement* *Subtotal 6* **$0**

Total EB Amounts $801
Approx. Cost of Compliance $6,600

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$15,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$15,750**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$15,750**

DEFERRAL **0.0%** 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 **$15,750**

Screening Date	4-Apr-2014	**Docket No.**	2014-0545-PST-E	**PCW**
Respondent	Charles F. Bell			*Policy Revision 3 (September 2011)*
Case ID No.	48545			*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102434602			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Allyson Plantz			

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	1	5%
	Other written NOVs	0	0%
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)*	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 5%

Screening Date	4-Apr-2014	**Docket No.** 2014-0545-PST-E	**PCW**
Respondent	Charles F. Bell		*Policy Revision 3 (September 2011)*
Case ID No.	48545		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102434602		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Allyson Plantz		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.54

Violation Description Failed to temporarily remove from service an underground storage tank ("UST") system for which the normal operation and use of the UST system is deliberately, but temporarily, discontinued for any reason.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			
	Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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 $21,250

$3,750

Violation Events

Number of Violation Events 2 | 51 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $7,500

Two monthly events are recommended from the February 12, 2014 record review to the April 4, 2014 screening date.

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 $7,500

Economic Benefit (EB) for this violation

Estimated EB Amount $757

Statutory Limit Test

Violation Final Penalty Total $7,875

This violation Final Assessed Penalty (adjusted for limits) $7,875

Economic Benefit Worksheet

Respondent Charles F. Bell
Case ID No. 48545
Reg. Ent. Reference No. RN102434602
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$6,000	5-Feb-2013	17-Nov-2014	1.78	$36	$712	$748
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)	$100	5-Feb-2013	17-Nov-2014	1.78	$9	n/a	$9
Notes for DELAYED costs	Estimated cost to temporarily remove from service the UST system ($6,000) and submit an updated UST registration ($100). The Date Required is the initial investigation date and 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 $6,100

TOTAL $757

Screening Date	4-Apr-2014	**Docket No.** 2014-0545-PST-E	**PCW**
Respondent	Charles F. Bell		*Policy Revision 3 (September 2011)*
Case ID No.	48545		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102434602		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Allyson Plantz		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.601(b)

Violation Description Failed to comply with UST operator training requirements.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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 $21,250

$3,750

Violation Events

Number of Violation Events: 2 — 51 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $7,500

Two monthly events are recommended from the February 12, 2014 record review to the April 4, 2014 screening date.

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 $7,500

Economic Benefit (EB) for this violation

Estimated EB Amount $45

Statutory Limit Test

Violation Final Penalty Total $7,875

This violation Final Assessed Penalty (adjusted for limits) $7,875

Economic Benefit Worksheet

Respondent Charles F. Bell
Case ID No. 48545
Reg. Ent. Reference No. RN102434602
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$500	5-Feb-2013	17-Nov-2014	1.78	$45	n/a	$45
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	Estimated cost to complete the operator training course. The Date Required is the initial investigation date and 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 $500

TOTAL $45

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

Compliance History Report

PUBLISHED Compliance History Report for CN601257439, RN102434602, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN601257439, Charles F. Bell **Classification:** SATISFACTORY **Rating:** 2.00

Regulated Entity: RN102434602, REDDYS STOP 1 **Classification:** SATISFACTORY **Rating:** 2.00

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 1596 FM 969, ELGIN, TX 78621-5777, BASTROP COUNTY

TCEQ Region: REGION 11 - AUSTIN

ID Number(s): **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 46577
PETROLEUM STORAGE TANK NON REGISTERED ID NUMBER R11102434602

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: August 13, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 04, 2009 to April 04, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Allyson Plantz **Phone:** (512) 239-4593

Site and Owner/Operator History:

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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
Item 1 August 28, 2012 (1027921)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 04/05/2013 (1057040) CN601257439
Self Report? NO Classification: Moderate Citation:
30 TAC Chapter 334, SubChapter C 334.54
Description: Failed to temporarily remove from service an underground storage tank ("UST") system for which the normal operation and use of the UST system is deliberately, but temporarily, discontinued for any reason
Self Report? NO Classification: Moderate Citation:
30 TAC Chapter 334, SubChapter N 334.601(b)
Description: Failed to comply with UST operator training requirements.

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 CHARLES F. BELL; RN102434602	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2014-0545-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Charles F. Bell ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2(73), an inactive underground storage tank ("UST") system located at 1596 Farm-to-Market Road 969 in Elgin, Bastrop County, Texas (Facility ID No. 46577) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ.

2. During a record review conducted on February 12, 2014, a TCEQ Austin Regional Office investigator documented that Respondent:

   a. Failed to temporarily remove from service a UST system for which the normal operation and use of the UST system is deliberately, but temporarily, discontinued for any reason; and

   b. Failed to comply with UST operator training requirements.

3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Charles F. Bell" (the "EDPRP") in the TCEQ Chief Clerk's office on July 16, 2014.

4. The EDPRP was mailed to Respondent's last known address on July 16, 2014, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

5. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on August 25, 2014.

6. By letter dated August 25, 2014, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.

7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

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 ch. 26 and the rules of the TCEQ.

2. As evidenced by Finding of Fact No. 2.a., Respondent failed to temporarily remove from service a UST system for which the normal operation and use of the UST system is deliberately, but temporarily, discontinued for any reason, in violation of 30 TEX. ADMIN. CODE § 334.54.

3. As evidenced by Finding of Fact No. 2.b., Respondent failed to comply with UST operator training requirements, in violation of 30 TEX. ADMIN. CODE § 334.601(b).

4. As evidenced by Findings of Fact Nos. 3 through 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).

5. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.

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 TCEQ'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 fifteen thousand seven hundred fifty dollars ($15,750.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

8. TEX. WATER CODE § § 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of fifteen thousand seven hundred fifty dollars ($15,750.00) 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 Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Charles F. Bell; Docket No. 2014-0545-PST-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

3. Respondent shall undertake the following technical requirements:

   a. Either:

      i. Within 180 days after the effective date of this Order, Respondent shall permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, which includes the following actions:

         A. Providing a Construction Notification to the TCEQ at least 30-days prior to any removal activities; and

         B. Employing a Licensed Underground Storage Tank Contractor to perform all removal activities, including:

            1. Removing the USTs from the ground, abandoning the USTs in-place, or conducting a permanent change-in-service;

            2. Emptying the USTs of all regulated substances and accumulated sludges or residues and purging the USTs of all residual vapors;

            3. Handling, transporting, and properly disposing of the empty USTs, of the regulated substances removed from the UST system, and of any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility; and

            4. Determining whether or not there has been a release of regulated substance from the UST system, performance of a comprehensive site assessment, reporting confirmed or suspected releases to the TCEQ, preparing a detailed written record of the release determination, and compliance with all applicable corrective action requirements.

      ii. Within 195 days after the effective date of this Order, Respondent shall submit an amended registration to reflect the operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

         Registration and Reporting Section
         Permitting & Registration Support Division, MC 129
         Texas Commission on Environmental Quality
         P.O. Box 13087
         Austin, Texas 78711-3087

      iii. Within 210 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 3.c., below, to demonstrate compliance with Ordering Provisions Nos. 3.a.i. and 3.a.ii.

   b. Or:

      i. Within 60 days after the effective date of this Order, Respondent shall:

         A. Designate and train a Facility operator in accordance with 30 TEX. ADMIN. CODE § 334.601;

         B. Temporarily remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.54; and

         C. Ensure that the UST system is maintained in compliance with the following requirements for as long as the UST system remains temporarily out of service:

            1. All vent lines shall be kept open and functioning;

2. All other piping, pumps, manways, tank access points (e.g., fill risers, automatic tank gauging risers, Stage I vapor recovery risers) and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons;

3. The UST system shall be adequately protected from corrosion in accordance with the applicable requirements of 30 TEX. ADMIN. CODE § 334.49 (relating to Corrosion Protection); and

4. Unless the UST system has been emptied of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d) at the time it is temporarily removed from service:

   a) The UST system shall be monitored for releases in accordance with the applicable requirements of 30 TEX. ADMIN. CODE § 334.50 (relating to Release Detection); and

   b) Respondent shall maintain adequate financial assurance for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and non-sudden accidental releases from the UST system in accordance with TEX. WATER CODE § 26.235(e-2) and 30 TEX. ADMIN. CODE §§ 37.867 and 334.54(e)(5).

ii. Within 75 days after the effective date of this Order, Respondent shall submit an amended registration to reflect the operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Registration Support Division, MC 129
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

iii. Within 90 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 3.c., below, to demonstrate compliance with Ordering Provisions Nos. 3.b.i. and 3.b.ii.

c. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, 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 certifications and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

David Mann, Waste Section Manager
Texas Commission on Environmental Quality
Austin Regional Office, MC R11
PO Box 13087
Austin TX 78711-3087

4. All relief not expressly granted in this Order is denied.

5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

6. If Respondent fails to comply with any of the Ordering Provisions in this 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 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.

7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed in Ordering Provision No. 3.c., above.

8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

AFFIDAVIT OF MICHAEL VITRIS

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

"My name is Michael Vitris. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Charles F. Bell" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 16, 2014.

The EDPRP was mailed to Respondent's last known address on July 16, 2014, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on August 25, 2014.

The EDPRP was mailed to Respondent's last known address on August 25, 2014, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

Michael Vitris

Michael Vitris, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Michael Vitris, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Subscribed and sworn to before me on this 8th day of October, A.D. 2014.

Alisa Louise Richey

Notary Public, State of Texas

ALISA LOUISE RICHEY
NOTARY PUBLIC
State of Texas
Comm. Exp. 05-17-2017
NOTARY WITHOUT BOND