

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2005-1657-PWS-E TCEQ ID NO.: RN101446698 CASE NO.: 26915**  
**RESPONDENT NAME: SAK DIAMOND PETROLEUM, LLC**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 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 type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input 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 VIOLATION(S) OCCURRED:** 9800 Interstate 20, Canton, Van Zandt County

**TYPE OF OPERATION:** Non-community public water supply

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on April 9, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Robert R. Mosley, Litigation Division, MC 175, (512) 239-0627  
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

**TCEQ Enforcement Coordinator:** Ms. Catherine Albrecht, Enforcement Division, Section I, MC R-12, (713) 767-3672

**TCEQ Regional Contact:** Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5174

**Respondent:** Mr. Shauket Khimani, Registered Agent, SAK Diamond Petroleum, LLC, 9800 Interstate 20, Canton, Texas 75103

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

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> April 29, 2005 and August 30, 2005</p> <p><b>Date of NOEs/NOVs Relating to this Case:</b> April 29, 2005 (NOE), May 2, 2005 and May 31, 2005 (NOVs)</p> <p><b>Background Facts:</b></p> <p>An EDPRP was filed on March 30, 2006. A signed Agreed Order was received on January 25, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PWS:</b></p> <p>Failed to collect and submit routine monthly bacteriological samples and failed to notify the public of the omissions during the months of March 2005 through December 2005 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH &amp; SAFETY CODE § 341.033(d)].</p>	<p><b>Total Assessed:</b> \$3,175</p> <p><b>Total Deferred:</b> \$0</p> <p><b>Total Paid/Due to General Revenue:</b> \$175/3,000</p> <p>The Respondent has paid \$175 of the administrative penalty. The remaining amount of \$3,000 of the administrative penalty shall be payable in 30 monthly payments of \$100 each.</p> <p><b>Site Compliance History Classification:</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</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> The Respondent has had three repeated enforcement actions over a five year period for the same violation.</p>	<p><b>Ordering Provisions</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, begin collecting monthly samples which are representative of the Facility's water system.</li> <li>2. Within 15 days, submit written certification demonstrating compliance with Ordering Provision No. 1.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision May 19, 2005

<b>DATES</b>	Assigned	25-Jul-2005			
	PCW	08-Jan-2007	Screening	30-Aug-2005	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	SAK Diamond Petroleum, LLC
Reg. Ent. Ref. No.	RN101446698
Facility/Site Region	5-Tyler <input type="checkbox"/> Major/Minor Source <input checked="" type="checkbox"/> Minor Source

CASE INFORMATION			
Enf./Case ID No.	26915	No. of Violations	1
Docket No.	2005-1657-PWS-E	Order Type	Findings <input checked="" type="checkbox"/>
Media Program(s)	Public Water Supply <input checked="" type="checkbox"/>	Enf. Coordinator	Catherine Albrecht
Multi-Media		EC's Team	Enforcement Team 1 <input checked="" type="checkbox"/>
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> <span style="float: right;">\$2,500</span>
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
<b>Compliance History</b>	<b>27% Enhancement</b> <span style="float: right;"><b>Subtotals 2, 3, &amp; 7</b> <span style="float: right;">\$675</span></span>
Notes	The respondent received seven NOV's with same or similar violations. The respondent also received one NOV with other violations.
<b>Culpability</b>	<b>No</b> <input checked="" type="checkbox"/> <span style="float: right;"><b>0% Enhancement</b> <span style="float: right;"><b>Subtotal 4</b> <span style="float: right;">\$0</span></span></span>
Notes	The respondent does not meet the culpability criteria.
<b>Good Faith Effort to Comply</b>	<b>0% Reduction</b> <span style="float: right;"><b>Subtotal 5</b> <span style="float: right;">\$0</span></span>
Extraordinary	Before NOV    NOV to EDPRP/Settlement Offer
Ordinary	
N/A	X    (mark with a small x)
Notes	The respondent is not yet in compliance.
<b>Economic Benefit</b>	<b>0% Enhancement*</b> <span style="float: right;"><b>Subtotal 6</b> <span style="float: right;">\$0</span></span>
Total EB Amounts	\$1,841 <span style="float: right;"><small>*Capped at the Total EB \$ Amount</small></span>
Approx. Cost of Compliance	\$1,000
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> <span style="float: right;">\$3,175</span>
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0%</b> <span style="float: right;"><b>Adjustment</b> <span style="float: right;">\$0</span></span>
<small>Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)</small>	
Notes	
<b>Final Penalty Amount</b> <span style="float: right;">\$3,175</span>	
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> <span style="float: right;">\$3,175</span>
<b>DEFERRAL</b>	<b>0% Reduction</b> <span style="float: right;"><b>Adjustment</b> <span style="float: right;">\$0</span></span>
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
Notes	No deferral is offered with Findings Orders.
<b>PAYABLE PENALTY</b>	<b>\$3,175</b>

<b>Screening Date</b>	30-Aug-2005	<b>Docket No.</b>	2005-1657-PWS-E	<b>PCW</b>
<b>Respondent</b>	SAK Diamond Petroleum, LLC		Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	26915		PCW Revision May 19, 2005	
<b>Reg. Ent. Reference No.</b>	RN101446698			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Catherine Albrecht			

**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 ( <i>number of NOVs meeting criteria</i> )	7	35%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<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) 37%**

**>> Repeat Violator (Subtotal 3)**

<input type="text" value="No"/>	<b>Adjustment Percentage (Subtotal 3) 0%</b>
---------------------------------	--

**>> Compliance History Person Classification (Subtotal 7)**

<input type="text" value="High Performer"/>	<b>Adjustment Percentage (Subtotal 7) -10%</b>
---	--

**>> Compliance History Summary**

<b>Compliance History Notes</b>	The respondent received seven NOVs with same or similar violations. The respondent also received one NOV with other violations.
---------------------------------	---

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

<b>Screening Date</b>	30-Aug-2005	<b>Docket No.</b>	2005-1657-PWS-E	<b>PCW</b>
<b>Respondent</b>	SAK Diamond Petroleum, LLC		<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	26915		<i>PCW Revision May 19, 2005</i>	
<b>Reg. Ent. Reference No.</b>	RN101446698			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Catherine Albrecht			
<b>Violation Number</b>	1			
<b>Primary Rule Cite(s)</b>	30 Texas Admin. Code § 290.109(c)(2)(A)(i)			
<b>Secondary Rule Cite(s)</b>	30 Texas Admin. Code § 290.122(c)(2)(B) and Texas Health & Safety Code § 341.033(d)			
<b>Violation Description</b>	Failed to collect and submit routine monthly bacteriological samples and failed to notify the public of these noncompliances during the months of March 2005 thru December 2005.			
<b>Base Penalty</b>	\$1,000			

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

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

>> **Programmatic Matrix**

		Major	Moderate	Minor	
Falsification		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text"/>

Matrix Notes: The failure to sample and notify the public could result in undetected contaminants distributed to the public resulting in illness.

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

Number of Violation Events

mark only one use a small x	daily	<input type="checkbox"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

**Violation Base Penalty**

Ten monthly events are recommended for the months of March thru December 2005 when bacteriological samples were not taken.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$1,841"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$3,175"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$3,175"/>	

### Economic Benefit Worksheet

Respondent: SAK Diamond Petroleum, LLC  
 Case ID No. 26915  
 Reg. Ent. Reference No. RN101446698  
 Media [Statute] Public Water Supply  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

**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				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

**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	\$1,000	01-Mar-2005	01-Dec-2006	1.8	\$88	\$1,753	\$1,841
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

The avoided cost includes the estimated cost to ensure that bacteriological samples are taken, calculated from time of noncompliance to the estimated date of compliance.

Approx. Cost of Compliance \$1,000

**TOTAL** \$1,841

# Compliance History

Customer/Respondent/Owner-Operator: CN602844524 SAK Diamond Petroleum, LLC Classification: High Rating: 0.00  
Regulated Entity: RN101446698 CANTON TRAVEL PLAZA Classification: High Site Rating: 0.00  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 80292  
REGISTRATION  
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2340059  
Location: 9800 Interstate 20, Canton Rating Date: 9/1/05 Repeat Violator: NO  
TCEQ Region: REGION 05 - TYLER  
Date Compliance History Prepared: September 28, 2005  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 29, 2000 to August 29, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Joseph Daley Phone: 239-3308

## 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. Comments:

### 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 03/08/2005 (343792)
- 2 11/01/2004 (395846)
- 3 05/31/2005 (395860)
- 4 05/02/2005 (395855)
- 5 08/26/2003 (130596)
- 6 07/29/2004 (395070)
- 7 08/27/2004 (395843)
- 8 07/20/2005 (398741)
- 9 04/01/2005 (395849)
- 10 05/24/2004 (271932)
- 11 03/03/2005 (395848)

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

Date: 03/03/2005 (395848)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: FAILURE TO COLLECT ANY ROUTINE MONITORING SAMPLES IN 01/2005.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 01/2005.

Date: 08/27/2004 (395843)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: FAILURE TO COLLECT ANY ROUTINE MONITORING SAMPLES IN 07/2004.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 07/2004.

Date: 05/02/2005 (395855)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: FAILURE TO COLLECT ANY ROUTINE MONITORING SAMPLES IN 03/2005.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 Date: 04/01/2005 (395849)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 03/2005.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 02/2005.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(I)  
 Date: 05/26/2004 (271932)  
 Description: FAILURE TO COLLECT ANY ROUTINE MONITORING SAMPLES IN 02/2005.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)  
 Description: Failure to provide a suitable sampling cock for well prior to any treatment.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
 Description: Failure to provide an intruder resistant fence for the well.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(3)(C)(ii)  
 Description: Failure to provide a free chlorine measuring device.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(h)(1)  
 Description: Failure to obtain written approval of engineered plans before starting construction on a public water system.  
 Date: 05/31/2005 (395860)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 04/2005.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(I)  
 Date: 11/01/2004 (395846)  
 Description: FAILURE TO COLLECT ANY ROUTINE MONITORING SAMPLES IN 04/2005.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 09/2004.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(I)  
 Date: 07/29/2004 (395070)  
 Description: FAILURE TO COLLECT ANY ROUTINE MONITORING SAMPLES IN 09/2004.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(I)  
 Description: FAILURE TO COLLECT ANY ROUTINE MONITORING SAMPLES IN 06/2004.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 06/2004.

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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SAK DIAMOND PETROLEUM,  
LLC, RN101446698**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2005-1657-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding SAK Diamond Petroleum, LLC ("SAK") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and 30 TEX. ADMIN. CODE ch. 290. The Executive Director of the TCEQ, represented by the Litigation Division, and SAK, presented this agreement to the Commission.

SAK understands that it 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, SAK 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 SAK.

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

### **FINDINGS OF FACT**

1. SAK owns and operates a non-community public water supply located at 9800 Interstate 20, Canton, Van Zandt County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.
2. During a records review conducted on April 29, 2005 and August 30, 2005, a TCEQ Central Office investigator documented that SAK failed to collect and submit routine monthly

bacteriological samples and failed to notify the public of the omissions during the months of March 2005 through December 2005.

3. SAK received notices of the violations on or about April 1, 2005, April 29, 2005, May 2, 2005, May 31, 2005 and October 5, 2005.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, SAK is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, SAK has failed to collect and submit routine monthly bacteriological samples and failed to notify the public of the omissions during the months of March 2005 through December 2005, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against SAK for violations of TEX. HEALTH & SAFETY CODE, TCEQ rules, and orders adopted under the Code.
4. An administrative penalty in the amount of three thousand one hundred seventy-five dollars (\$3,175.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). SAK has paid one hundred seventy-five dollars (\$175.00) of the administrative penalty. The remaining amount of three thousand dollars (\$3,000.00) of the administrative penalty shall be payable in thirty monthly payments of one hundred dollars (\$100.00) each. The next 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 SAK fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, 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 failure of SAK to meet the payment schedule of this Agreed Order constitutes the failure by SAK to timely and satisfactorily comply with all of the terms of this Agreed Order.

## ORDERING PROVISIONS

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

1. SAK is assessed an administrative penalty in the amount of three thousand one hundred seventy-five dollars (\$3,175.00) as set forth in Conclusion of Law No. 4 for violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ. The payment of this administrative penalty and SAK's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be sent with the notation "Re: SAK Diamond Petroleum, LLC; Docket No. 2005-1657-PWS-E" to:

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

2. SAK shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, begin collecting monthly samples which are representative of the Facility's water system, in accordance with the Facility's written Monitoring Plan, as required by 30 TEX. ADMIN. CODE § 290.109.
  - b. Within 15 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons

directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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."

The certification shall be submitted to:

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

with a copy to:

Noel Luper  
Water Section Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701

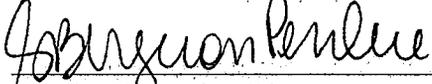
3. The provisions of this Agreed Order shall apply to and be binding upon SAK. SAK is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by SAK shall be made in writing to the Executive Director. Extensions are not effective until SAK receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to SAK if the Executive Director determines that SAK has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all terms and conditions set forth in this Agreed Order, whichever is later.

7. This Agreed Order, issued by the Commission, shall not be admissible against SAK 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 the TEX. WATER CODE or the TEX. HEALTH & SAFETY CODE.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to SAK, or three days after the date on which the Commission mails notice of the Order to SAK, whichever is earlier.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/16/07

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of SAK Diamond Petroleum, LLC. I represent that I am authorized to agree to the attached Agreed Order on behalf of SAK Diamond Petroleum, LLC, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

I, the undersigned, have read and understand the attached Agreed Order. 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 also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

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

In addition, any falsification of any compliance documents may result in criminal prosecution.



S.A. KHIMANI

Name (printed or typed)

Authorized Representative

SAK Diamond Petroleum, LLC

JAN 22<sup>nd</sup> 07

Date

MEMBER

Title