

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0475-PWS-E TCEQ ID: RN102952033 CASE NO.: 33073
RESPONDENT NAME: ALAN KARL DBA COLES CROSSING

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input 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
<p>SITE WHERE VIOLATION(S) OCCURRED: 4621 Texana, near Mont Belvieu, Chambers County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 7, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Patrick Jackson, Litigation Division, MC 175, (512) 239-6501 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717 TCEQ Regional Contact: Mr. Stephen Smith, Houston Regional Office, MC R-12, (713) 767-3581 Respondent: Mr. Alan Karl dba Coles Crossing, P.O. Box 650, Mont Belvieu, Texas 77580 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: N/A</p> <p>Dates of Investigation Relating to this Case: February 7, 2007</p> <p>Date of NOV/ NOE Relating to this Case: July 22, 2005, November 29, 2005, January 12, 2006, April 19, 2006, July 20, 2006, November 10, 2006, January 30, 2007 (NOVs), and February 9, 2007 (NOE)</p> <p>Background Facts:</p> <p>The EDPRP was filed on September 10, 2007. According to the return receipt "green card", the Respondent received notice of the EDPRP on or about September 18, 2007, as evidenced by the signature on the card. The Respondent did not file an answer.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PWS</p> <p>Failed to comply with the Maximum Contaminant Level of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average during the second, third, and fourth quarters of 2005 and the first, second, third, and fourth quarters of 2006, when it reported TTHM levels of 0.166 mg/L, 0.191 mg/L, 0.203 mg/L, 0.198 mg/L, 0.166 mg/L, 0.172 mg/L, and 0.168 mg/L respectively [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$800</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$800</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Technical Requirements</p> <p>The Respondent shall:</p> <ol style="list-style-type: none"> 1) Within 365 days, return to compliance with the running annual average Maximum Contaminant Level for TTHM, as required. 2) Within 380 days, submit written certification and include a copy of the water analysis to demonstrate compliance with the Ordering Provision above.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

DATES	Assigned	19-Mar-2007	Screening	27-Mar-2007	EPA Due	22-Dec-2007
	PCW	27-Mar-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Alan Karl dba Coles Crossing		
Reg. Ent. Ref. No.	RN102952033		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33073	No. of Violations	1
Docket No.	2007-0475-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Tel Croston
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$	Limit Minimum	\$50	Maximum
			\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 35% Enhancement Subtotals 2, 3, & 7 \$175

Notes: The respondent was issued seven Notices Of Violation ("NOV") for the same violation in the past five years.

Culpability Yes 25% Enhancement Subtotal 4 \$125

Notes: The respondent was issued an Alert Letter dated October 18, 2004.

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

Total EB Amounts \$667 0% Enhancement* Subtotal 6 \$0
 Approx. Cost of Compliance \$5,000 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$800

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$800

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$800

DEFERRAL 0% Reduction Adjustment \$0

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.

PAYABLE PENALTY \$800

Screening Date 27-Mar-2007

Docket No. 2007-0475-PWS-E

PCW

Respondent Alan Karl dba Coles Crossing

Policy Revision 2 (September 2002)

Case ID No. 33073

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102952033

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

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)	7	35%
	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 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) 35%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The respondent was issued seven Notices Of Violation ("NOV") for the same violation in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 35%

Screening Date 27-Mar-2007

Docket No. 2007-0475-PWS-E

PCW

Respondent Alan Karl dba Coles Crossing

Policy Revision 2 (September 2002)

Case ID No. 33073

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102952033

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health and Safety Code § 341.0315(c)

Violation Description Failed to comply with the Maximum Contaminant Level of 0.080 milligrams per liter ("mg/L") for total trihalomethanes, based on a running annual average during the second, third and fourth quarters of 2005 and the first, second, third and fourth quarters of 2006, when it reported TTHM levels of 0.166 mg/L, 0.191 mg/L, 0.203 mg/L, 0.198 mg/L, 0.166 mg/L, 0.172 mg/L, and 0.168 mg/L respectively.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Customers of the water supply have been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health.

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 type="text"/>
	semiannual	<input type="text"/>
	annual	X
single event	<input type="text"/>	

Violation Base Penalty

Two annual events are recommended.

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: Alan Karl dba Coles Crossing

Case ID No.: 33073

Reg. Ent. Reference No.: RN102952033

Media: 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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	1-May-2005	31-Dec-2007	2.7	\$667	n/a	\$667

Notes for DELAYED costs

Estimated cost to implement an alternative method of disinfection. Beginning date is the date of the first quarter of noncompliance. Final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$5,000	TOTAL	\$667
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Compliance History

Customer/Respondent/Owner-Operator:	CN601499684 KARL, ALAN	Classification:	Rating:
Regulated Entity:	RN102952033 COLES CROSSING	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0360114
Location:	CHAMBERS COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	March 28, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 28, 2002 to March 28, 2007		

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

Name: Tel Croston Phone: 239-5717

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

- | | | | |
|-----|---|------------|----------|
| N/A | 1 | 07/22/2005 | (539863) |
| | 2 | 11/29/2005 | (540895) |
| | 3 | 01/12/2006 | (540907) |
| | 4 | 04/19/2006 | (540929) |
| | 5 | 07/20/2006 | (540937) |
| | 6 | 11/10/2006 | (540948) |
| | 7 | 01/30/2007 | (540975) |
| | 8 | 03/12/2007 | (543299) |

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

- | | | | | |
|--|---|------------------|---|--------------------------|
| | 1 | Date: 07/22/2005 | (539863) | |
| | | Self Report? | NO | Classification: Moderate |
| | | Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(4) | |
| | | Description: | Violated the maximum contaminant level for trihalomethanes during the second quarter of 2005. | |
| | 2 | Date: 11/29/2005 | (540895) | |
| | | Self Report? | NO | Classification: Moderate |
| | | Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(4) | |
| | | Description: | Violated the maximum contaminant level for trihalomethanes during the third quarter of 2005. | |
| | 3 | Date: 01/12/2006 | (540907) | |
| | | Self Report? | NO | Classification: Moderate |
| | | Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(4) | |
| | | Description: | Violated the maximum contaminant level for trihalomethanes during the fourth quarter | |

4/ Date: 04/19/2006 (540929)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2006.

5 Date 07/20/2006 (540937)
Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2006.

6 Date 11/10/2006 (540948)
Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2006.

7 Date 01/30/2007 (540975)
Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2006.

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 ALAN KARL DBA
COLES CROSSING,
RN102952033

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-0475-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341, 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 Alan Karl dba Coles Crossing ("Mr. Karl").

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

FINDINGS OF FACT

1. Mr. Karl owns and operates a public water system located at 4621 Texana, near Mont Belvieu, Chambers County, Texas (the "Facility").
2. The Facility has approximately 80 service connections; serves at least 25 people per day for at least 60 days per year; and provides water for human consumption. As such, the Facility is a public water system as defined in 30 TEX. ADMIN CODE § 290.38(47).
3. During an inspection conducted on February 7, 2007, a TCEQ Public Water Supply Division investigator documented that Mr. Karl failed to comply with the Maximum Contaminant Level of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average during the second, third, and fourth quarters of 2005 and the first, second, third, and fourth quarters of 2006, when it reported TTHM levels of 0.166 mg/L, 0.191 mg/L, 0.203 mg/L, 0.198 mg/L, 0.166 mg/L, 0.172 mg/L, and 0.168 mg/L respectively.

4. Mr. Karl received notice of the violations on or about July 22, 2005, November 29, 2005, January 12, 2006, April 19, 2006, July 20, 2006, November 10, 2006, January 30, 2007, and February 14, 2007.
5. 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 Alan Karl dba Coles Crossing" (the "EDPRP") in the TCEQ Chief Clerk's office on September 10, 2007.
6. By letter dated September 10, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Karl with notice of the EDPRP. According to the return receipt "green card", Mr. Karl received notice of the EDPRP on or about September 18, 2007, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Karl received notice of the EDPRP, provided by the Executive Director. Mr. Karl failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Karl 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. 3, Mr. Karl failed to comply with the Maximum Contaminant Level of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average during the second, third, and fourth quarters of 2005 and the first, second, third, and fourth quarters of 2006, when it reported TTHM levels of 0.166 mg/L; 0.191 mg/L, 0.203 mg/L, 0.198 mg/L, 0.166 mg/L, 0.172 mg/L, and 0.168 mg/L respectively, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4); and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Karl with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Mr. Karl has failed to file a timely answer to the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE §

70.106, the Commission may enter a Default Order against Mr. Karl and assess the penalty recommended by the Executive Director.

5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. Karl for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of eight hundred dollars (\$800.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b).
7. 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. Mr. Karl is assessed an administrative penalty in the amount of eight hundred dollars (\$800.00) for violations of TEX. HEALTH & SAFETY CODE ch. 341 and rules of the TCEQ. The payment of this administrative penalty and Mr. Karl'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. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Alan Karl dba Coles Crossing; Docket No. 2007-0475-PWS-E" to:

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

2. Mr. Karl shall undertake the following technical requirements:

- a. Within 365 days after the effective date of this Order, Mr. Karl shall return to compliance with the running annual average Maximum Contaminant Level for TTHM, as required by 30 TEX. ADMIN. CODE § 290.113.
- b. Within 380 days after the effective date of this Order, Mr. Karl shall submit written certification as described below, and include a copy of the water analysis to demonstrate compliance with Ordering Provision 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 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.”

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:

Alicia Diehl, Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
Post Office Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Karl. Mr. Karl 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. 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 Mr. Karl shall be made in writing to the Executive Director. Extensions are not effective until Mr. Karl 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 refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Karl if the Executive Director determines that Mr. Karl has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PATRICK N. JACKSON

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Patrick N. Jackson. 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, I 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 Alan Karl dba Coles Crossing” (the “EDPRP”) with the Office of the Chief Clerk on September 10, 2007.

I sent the EDPRP to Mr. Karl at his last known address on September 10, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Mr. Karl received notice of the EDPRP on or about September 18, 2007, as evidenced by the signature on the card.

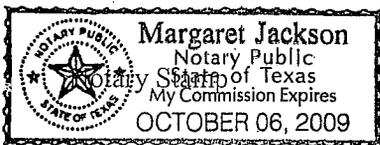
More than 20 days have elapsed since Mr. Karl received notice of the EDPRP. Mr. Karl failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Patrick N. Jackson
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Patrick N. Jackson, 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.

Given under my hand and seal of office this 13 day of November, 2007.



Notary Signature