

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-1123-PWS-E TCEQ ID RN105216725 CASE NO. 37973
RESPONDENT NAME: AMK PROPERTIES L L C

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 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 OCCURRED: 977 North Interstate 35, Moore, Frio County

TYPE OF OPERATION: 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 location.

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

COMMENTS RECEIVED: The *Texas Register* comment period expired March 1, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Rudy Calderon, Litigation Division, MC 175, (512) 239-0205
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Stephen Thompson, Enforcement Section, MC 169, (512) 239-2558

TCEQ Regional Contact: Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050

Respondent: Ms. Amina Maliek, Registered Agent, AMK Properties LLC, 809 Almadin, San Antonio, Texas 78258

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

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 1, 2009</p> <p>Date of NOE Relating to this Case: June 11, 2009</p> <p>Background Facts: The EDPRP was filed on November 16, 2009 and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PWS: Failed to collect routine distribution coliform samples for the months of July 2008 through March 2009 and failed to provide notification of the failure to collect routine samples for the months of July 2008 through March 2009 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p>	<p>Initial Calculated Penalty: \$3,599</p> <p>Total Assessed: \$3,599</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$3,599</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 Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor <input checked="" type="checkbox"/> N/A</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor <input checked="" type="checkbox"/> N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 10 days begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. The provision will be satisfied upon six consecutive months of compliance monitoring and reporting. 2. Within 180 days submit written certification to demonstrate compliance with Ordering Provision No. 1.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	15-Jun-2009			
	PCW	16-Nov-2009	Screening	16-Jul-2009	EPA Due 1-Aug-2009

RESPONDENT/FACILITY INFORMATION					
Respondent	AMK Properties L L C				
Reg. Ent. Ref. No.	RN105216725				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	37973	No. of Violations	1		
Docket No.	2009-1123-PWS-E	Order Type	Findings		
Media Program(s)	Public Water Supply	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Stephen Thompson		
		EC's Team	Enforcement Team 2		
Admin. Penalty \$ Limit	Minimum	\$50	Maximum	\$1,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	47.0% Enhancement	Subtotals 2, 3, & 7	\$1,058
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Notes: Enhancement is due to nine NOV's with the same or similar violations as those contained in the current enforcement action and one dissimilar NOV.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$291
 Approx. Cost of Compliance \$270
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,308
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OTHER FACTORS AS JUSTICE MAY REQUIRE	8.8%	Adjustment	\$291
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount	\$3,599
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,599
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$3,599
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Screening Date 16-Jul-2009

Docket No. 2009-1123-PWS-E

PCW

Respondent AMK Properties L L C

Policy Revision 2 (September 2002)

Case ID No. 37973

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105216725

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

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>)	9	45%
	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 submitted</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) 47%

>> 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

Enhancement is due to nine NOVs with the same or similar violations as those contained in the current enforcement action and one dissimilar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 47%

Screening Date	16-Jul-2009	Docket No.	2009-1123-PWS-E	PCW	
Respondent	AMK Properties L L C	Policy Revision 2 (September 2002)			
Case ID No.	37973	PCW Revision October 30, 2008			
Reg. Ent. Reference No.	RN105216725				
Media [Statute]	Public Water Supply				
Enf. Coordinator	Stephen Thompson				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and Tex. Health & Safety Code § 341.033(d)				
Violation Description	Failed to collect routine distribution coliform samples for the months of July 2008 through March 2009 and failed to provide public notification of the failure to collect routine samples for the months of July 2008 through March 2009.				
Base Penalty				\$1,000	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				
	Potential	x			
				Percent 25%	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
				Percent 0%	
Matrix Notes	Failure to collect routine monitoring samples may allow undetected contaminants that exceed levels protective of human health to be distributed to the public resulting in illness.				
Adjustment				\$750	
				\$250	
Violation Events					
Number of Violation Events		9	Number of violation days		
		273			
mark only one with an x	daily				
	weekly				
	monthly	x			
	quarterly				
	semiannual				
	annual				
	single event				
				Violation Base Penalty \$2,250	
Nine monthly events are recommended.					
Good Faith Efforts to Comply					
		0.0%	Reduction	\$0	
		Before NOV	NOV to ED/PRP/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				\$2,250	
Economic Benefit (EB) for this violation					
Estimated EB Amount		\$291	Statutory Limit Test		
			Violation Final Penalty Total	\$3,599	
This violation Final Assessed Penalty (adjusted for limits)				\$3,599	

Economic Benefit Worksheet

Respondent AMK Properties L L C

Case ID No. 37973

Reg. Ent. Reference No. RN105216725

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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$270	31-Jul-2008	31-Mar-2009	1.58	\$21	\$270	\$291
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated costs to collect and submit monthly water samples for analysis and provide public notification. The date required is the first month the Respondent failed to sample. The final date is the last month the Respondent failed to sample.

Approx. Cost of Compliance \$270

TOTAL \$291

Compliance History Report

Customer/Respondent/Owner-Operator: CN603488701 AMK Properties L L C Classification: Rating:
Regulated Entity: RN105216725 AMIGOS TRAVEL CENTER Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0820017
Location: 9977 N INTERSTATE 35, MOORE, TX, 78057

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: February 08, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 15, 2004 to July 15, 2009

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

Name: Stephen Thompson Phone: (512) 239-2558

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
- 6.

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	05/23/2008	(641134)
2	09/11/2008	(702190)
3	06/08/2009	(748420)
4	06/09/2009	(748567)
5	06/09/2009	(748590)
6	06/09/2009	(748596)
7	06/09/2009	(748601)
8	06/09/2009	(748605)
9	06/09/2009	(748607)
10	06/09/2009	(748609)
11	06/09/2009	(748611)
12	06/11/2009	(748698)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 05/16/2008 (641134)

Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)

CN603488701

Classification: Minor

Description: Failure to place flow measuring device in a position to properly determine the amount and rate of water usage.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(3)

Description: Failure to utilize an accepted method for determining disinfectant residuals.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)

Description: Failure to provide water and chemical usage records.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)
30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to provide the ground storage tank with an overflow.

Date: 09/03/2008 (748420) CN603488701

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 07/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 10/10/2008 (748567) CN603488701

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 11/19/2008 (748590) CN603488701

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/09/2008 (748596) CN603488701

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 10/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/13/2009 (748601) CN603488701

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/09/2009 (748605) CN603488701
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 12/2008 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 12/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 04/07/2009 (748607) CN603488701
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 01/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 01/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 05/06/2009 (748609) CN603488701
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 02/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 02/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 05/26/2009 (748611) CN603488701
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 03/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 03/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

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
AMK PROPERTIES L L C;
RN105216725

§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2009-1123-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 AMK Properties L L C ("AMK").

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

FINDINGS OF FACT

1. AMK owns and operates a public water supply at 977 North Interstate 35 in Moore, Frio County, Texas (the "Facility").
2. The Facility has one service connection and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. During a record review conducted on April 1, 2009, a TCEQ Central Office investigator documented that AMK failed to collect routine distribution coliform samples for the months of July 2008 through March 2009 and failed to provide notification of the failure to collect routine samples for the months of July 2008 through March 2009.
4. AMK received notice of the violation on or about June 16, 2009.
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 AMK Properties L L C" (the "EDPRP") in the TCEQ Chief Clerk's office on November 16, 2009.

6. By letter dated November 16, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served AMK with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that AMK received notice of the EDPRP.
7. More than 20 days have elapsed since AMK received notice of the EDPRP, provided by the Executive Director. AMK 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, AMK 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, AMK failed to collect routine distribution coliform samples for the months of July 2008 through March 2009 and failed to provide notification of the failure to collect routine samples for the months of July 2008 through March 2009, 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. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served AMK with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 7, AMK failed to file a timely answer 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 AMK and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051 and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against AMK for violations of the Texas Water Code and 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 three thousand five hundred ninety-nine dollars (\$3,599.00) 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.

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. AMK is assessed an administrative penalty in the amount three thousand five hundred ninety-nine dollars (\$3,599.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and AMK'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: AMK Properties L L C; Docket No. 2009-1123-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. AMK shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Order, AMK shall begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, as required by 30 TEX. ADMIN. CODE § 290.109.

The provision will be satisfied upon six consecutive months of compliance monitoring and reporting.
 - b. Within 180 days after the effective date of this Order, AMK shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and 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.”

AMK shall submit the written certification 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

with a copy to:

Tom Haberle, Water Section Manager
Texas Commission on Environmental Quality
San Antonio Regional Office
14250 Judson Rd.
San Antonio, Texas 78233-4480

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon AMK. AMK is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. 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 AMK shall be made in writing to the Executive Director. Extensions are not effective until AMK receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. 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 AMK if the Executive Director determines that AMK has not complied with one or more of the terms or conditions in this Order.
7. 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.
8. 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

