

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-0313-PWS-E TCEQ ID RN101440691 CASE NO. 37242
RESPONDENT NAME: M R K INVESTMENT CORP.

ORDER TYPE:		
<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	
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(S) OCCURRED: 9505 Mines Road, Laredo, Webb County

TYPE OF OPERATION: Public water system

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 15, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Epifanio Villareal, Water Enforcement Section, MC R-14, (361) 825-3425

TCEQ Regional Contact: Ms. Rose Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 753-4052

Respondent: Mr. Keith Assmusen, President, M R K Investment Corp., P.O. Box 1861, Laredo, Texas 78044

Respondent's Attorney: Mr. Donato D. Ramos, Jr., The Law Office of Donato D. Ramos, P.L.L.C., Texas Community Bank Building, 6721 McPherson, Suite 350, Laredo, Texas 78041

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint</p> <p><input type="checkbox"/> Routine</p> <p><input type="checkbox"/> Enforcement Follow-up</p> <p><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: January 3, 2009</p> <p>Date of NOE Relating to this Case: February 5, 2009</p> <p>Background Facts: The EDPRP was filed on May 5, 2009. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on January 12, 2010.</p> <p>Current Compliance Status: No outstanding Technical Requirements.</p> <p>PWS: Failed to collect routine distribution coliform samples for the months of February 2007 through July 2007, September 2007, November 2007 through February 2008, April 2008 through September 2008, November 2008, and December 2008; and failed to provide public notification of the failure to collect routine samples in the months of April 2007 through July 2007, September 2007, November 2007 through February 2008, April 2008 through September 2008, and November 2008 [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>Total Assessed: \$10,736</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$306/\$10,430</p> <p>The Respondent paid \$306 of the administrative penalty. The remaining amount of \$10,430 shall be payable in 35 monthly payments of \$298 each.</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>Findings Order Justification: More than three enforcement actions (NOVs) in a 5-year period for the same violation.</p>	<p>Corrective Actions Taken: The Executive Director recognizes that the Respondent submitted all required distribution coliform samples as confirmed by the TCEQ Public Drinking Water Section.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	9-Feb-2009			
	PCW	4-Mar-2009	Screening	4-Mar-2009	EPA Due 29-Feb-2008

RESPONDENT/FACILITY INFORMATION					
Respondent	M R K Investment Corp.				
Reg. Ent. Ref. No.	RN101440691				
Facility/Site Region	16-Laredo	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	37242	No. of Violations	1		
Docket No.	2009-0313-PWS-E	Order Type	Findings		
Media Program(s)	Public Water Supply	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Christopher Keffer		
		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	\$4,750
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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	105.0% Enhancement	Subtotals 2, 3, & 7	\$4,987
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Notes: Enhancement is due to 17 NOVs with the same or similar violations as those in the current enforcement action and one agreed order containing a denial of liability.

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 \$999
 Approx. Cost of Compliance \$875
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,737
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OTHER FACTORS AS JUSTICE MAY REQUIRE	10.3%	Adjustment	\$999
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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	\$10,736
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,736
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$10,736
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Screening Date 4-Mar-2009

Docket No. 2009-0313-PWS-E

PCW

Respondent M R K Investment Corp.

Policy Revision 2 (September 2002)

Case ID No. 37242

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101440691

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

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>)	17	85%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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) 105%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement is due to 17 NOVs with the same or similar violations as those in the current enforcement action and one agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 105%

Screening Date 4-Mar-2009 **Docket No.** 2009-0313-PWS-E **PCW**
Respondent M R K Investment Corp. *Policy Revision 2 (September 2002)*
Case ID No. 37242 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101440691
Media [Statute] Public Water Supply
Enf. Coordinator Christopher Keffer

Violation Number

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 February through July 2007, September 2007, November 2007 through February 2008, April 2008 through September 2008, November 2008 and December 2008 and failed to provide public notification of the failure to collect routine samples in April 2007 through July 2007, September 2007, November 2007 through February 2008 and April 2008 through September 2008 and November 2008.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes 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

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Nineteen monthly events are recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent M R K Investment Corp.
Case ID No. 37242
Reg. Ent. Reference No. RN101440691
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]	\$875	1-Feb-2007	1-Jan-2009	2.84	\$124	\$875	\$999
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated costs to collect and submit 19 monthly water samples for analysis (\$25/month) and provide public notification for 16 months (\$25/month). The date required is the first month the Respondent failed to sample. The final date is the month the Respondent began sampling.

Approx. Cost of Compliance

\$875

TOTAL

\$999

13 02/04/2009 (725761)
 14 02/04/2009 (725763)
 15 02/04/2009 (725767)
 16 02/04/2009 (725770)
 17 02/04/2009 (725773)
 18 02/04/2009 (725780)
 19 02/05/2009 (726109)

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

- 1 Date: 03/29/2007 (724435) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 02/2007 - Failure to collect any routine monitoring sample(s).
- 2 Date: 04/25/2007 (725266) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 03/2007 - Failure to collect any routine monitoring sample(s).
- 3 Date: 05/25/2007 (725275) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR ROUTINE MONITORING VIOLATION 04/2007 - 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 04/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 4 Date: 06/25/2007 (725282) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 05/2007 - 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 05/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 5 Date: 07/30/2007 (725459) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 06/2007-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 06/2007-Failure to post public notice for not collecting any routine monitoring sample(s).
- 6 Date: 09/10/2007 (725556) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 07/2007 - 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 07/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 7 Date: 12/20/2007 (725573) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 09/2007 - 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 09/2007 - Failure to post public notice for not

- collecting any routine monitoring sample(s).
- 8 Date: 02/14/2008 (725575) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 11/2007 - 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 11/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 9 Date: 02/21/2008 (725752) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 12/2007 - 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 12/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 10 Date: 03/11/2008 (725754) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 01/2008 - 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 01/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 11 Date: 04/16/2008 (725757) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 02/2008 - 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 02/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 12 Date: 05/22/2008 (725759) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 04/2008 - 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 04/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 13 Date: 06/27/2008 (725761) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 05/2008 - 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 05/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 14 Date: 07/31/2008 (725763) CN603276411
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 06/2008 - 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 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

- 15 Date: 09/03/2008 (725767) CN603276411
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).
- 16 Date: 10/10/2008 (725770) CN603276411
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).
- 17 Date: 11/19/2008 (725773) CN603276411
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).

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
M R K INVESTMENT CORP.;
RN101440691**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-0313-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 M R K Investment Corp. (“MRK”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and MRK, represented by Donato D. Ramos, Jr. of The Law Office of Donato D. Ramos, P.L.L.C., presented this agreement to the Commission.

MRK 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, MRK 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 MRK.

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

FINDINGS OF FACT

1. MRK owns and operates a public water system located at 9505 Mines Road, Laredo, Webb County, Texas (the “Facility”).
2. The Facility provides water for human consumption, has 19 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).

3. During a record review conducted on January 3, 2009, a TCEQ Central Office investigator documented that MRK failed to collect routine distribution coliform samples for the months of February 2007 through July 2007, September 2007, November 2007 through February 2008, April 2008 through September 2008, November 2008, and December 2008; and failed to provide public notification of the failure to collect routine samples in the months of April 2007 through July 2007, September 2007, November 2007 through February 2008, and April 2008 through September 2008, and November 2008.
4. MRK received notice of the violations on or about February 10, 2009.
5. The Executive Director recognizes that MRK has submitted all required distribution coliform samples as confirmed by the TCEQ Public Drinking Water Section in response to this enforcement action.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, MRK 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, MRK failed to collect routine distribution coliform samples for the months of February 2007 through July 2007, September 2007, November 2007 through February 2008, April 2008 through September 2008, November 2008, and December 2008; and failed to provide public notification of the failure to collect routine samples in the months of April 2007 through July 2007, September 2007, November 2007 through February 2008, and April 2008 through September 2008, and November 2008, 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 MRK for violations of the Texas Health & 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.
4. An administrative penalty in the amount of ten thousand seven hundred thirty-six dollars (\$10,736.00) 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. MRK paid three hundred six dollars (\$306.00) of the administrative penalty. The remaining amount of ten thousand four hundred thirty dollars (\$10,430.00) of the administrative penalty shall be payable in 35 monthly payments of two hundred ninety-eight dollars (\$298.00) each. The first monthly

payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be remitted not later than 30 days following the due date of the previous payment. If MRK 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 MRK to meet the payment schedule of this Agreed Order constitutes the failure by MRK to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

1. MRK is assessed an administrative penalty in the amount of ten thousand seven hundred thirty-six dollars (\$10,736.00) as set forth in Conclusion of Law No. 4, above. The payment of this administrative penalty and MRK'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 made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: M R K Investment Corp.; Docket No. 2009-0313-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. The provisions of this Agreed Order shall apply to and be binding upon MRK. MRK 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.
3. 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 MRK if the Executive Director determines that MRK has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

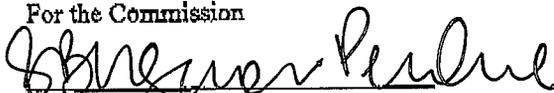
5. This Agreed Order, issued by the Commission, shall not be admissible against MRK in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. 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 this Agreed Order to MRK, or three days after the date on which the Commission mails notice of this Agreed Order to MRK, whichever is earlier.

MRK Investment Corp.
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/14/2010

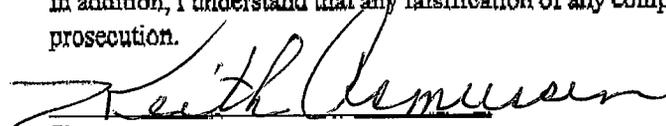
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of MRK Investment Corp. I represent that I am authorized to agree to the attached Agreed Order on behalf of MRK Investment Corp., 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 also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount, may result in:

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

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



Signature

1/12/10

Date

Keith Asmussen

Name (printed or typed)

President

Title

Authorized Representative
MRK Investment Corp.