

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO. 2010-1165-PWS-E    RN101761039    CASE NO. 40049**  
**RESPONDENT NAME: KAS INVESTMENTS, LTD.**

ORDER TYPE:		
<input type="checkbox"/> 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(S) OCCURRED:** 6422 Stephen F. Austin Road, Jones Creek, Brazoria County

**TYPE OF OPERATION:** convenience store with a public water system

**SMALL BUSINESS:**     Yes     No     N/A

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired December 20, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Phillip M. Goodwin, P.G., Litigation Division, MC 175, (512) 239-0675  
 Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Andrea Linson-Mgbeoduru, Water Enforcement Section, MC 169, (512) 239-1482

**TCEQ Regional Contact:** Stephen Smith, Houston Regional Office, MC R-12, (713) 767-3581

**Respondent:** Shaukat Gulamani, Manager, G.H.G., G.P., L.L.C., (General Partner of KAS INVESTMENTS, LTD.), 6422 Stephen F. Austin Rd., Jones Creek, TX 77541-8308

**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>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaint(s):</b> N/A</p> <p><b>Date of Investigation:</b> May 26, 2010</p> <p><b>Date of NOE:</b> July 8, 2010</p> <p><b>Background Facts:</b> The EDPRP was filed on September 28, 2010, and mailed to Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on September 30, 2010. Respondent failed to file an answer and failed to request a hearing.</p> <p><b>Current Compliance Status:</b> Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p><b>PWS:</b></p> <ol style="list-style-type: none"> <li>Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and (b)].</li> <li>Failed to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days [30 TEX. ADMIN. CODE § 290.110(c)(4)(A)].</li> <li>Failed to enclose the well with an intruder-resistant fence with a lockable gate or a locked and ventilated well house [30 TEX. ADMIN. CODE §§ 290.41(c)(3)(O) and 290.43(e)].</li> </ol>	<p><b>Total Assessed:</b> \$2,825</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$2,825</p> <p>This is a Default Order. 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><b>Compliance History Classifications:</b>  <i>Person/CN</i> – Average  <i>Site/RN</i> – Average</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>Ordering Provisions:</b> Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, begin monitoring the disinfectant residual at representative locations in the distribution system at least once every seven days.</li> <li>Within 15 days, submit written certification demonstrating compliance with Ordering Provision No. 1.</li> <li>Within 60 days:             <ol style="list-style-type: none"> <li>Develop and submit a complete and up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements; and</li> <li>Enclose the well with an intruder-resistant fence with a lockable gate or a lockable and ventilated well house.</li> </ol> </li> <li>Within 75 days, submit written certification demonstrating compliance with Ordering Provision Nos. 3.a. and 3.b.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	13-Jul-2010	<b>Screening</b>	19-Jul-2010	<b>EPA Due</b>	
	<b>PCW</b>	20-Jul-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>						
<b>Respondent</b>	KAS INVESTMENTS, LTD.					
<b>Reg. Ent. Ref. No.</b>	RN101761039					
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor			

<b>CASE INFORMATION</b>						
<b>Enf./Case ID No.</b>	40049	<b>No. of Violations</b>	3			
<b>Docket No.</b>	2010-1165-PWS-E	<b>Order Type</b>	1660			
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No			
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Andrea Linson-Mgbeodu			
		<b>EC's Team</b>	Enforcement Team 2			
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$50	<b>Maximum</b>	\$1,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,100</b>
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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.

<b>Compliance History</b>	<b>83.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$913</b>
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Notes: Enhancement for 2 prior Notices of Violation ("NOVs") with violations that are the same/similar as those in the current enforcement action, 14 dissimilar NOVs, one prior agreed order containing a denial of liability and one default order.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$1,011  
 Approx. Cost of Compliance: \$2,460  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$2,013</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>40.3%</b>	<b>Adjustment</b>	<b>\$812</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for the recovery of avoided costs associated with violation no. 2.

<b>Final Penalty Amount</b>	<b>\$2,825</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$2,825</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$2,825</b>
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**Screening Date** 19-Jul-2010

**Docket No.** 2010-1165-PWS-E

**PCW**

**Respondent** KAS INVESTMENTS, LTD.

*Policy Revision 2 (September 2002)*

**Case ID No.** 40049

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101761039

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Andrea Linson-Mgbeoduru

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	14	28%
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	1	25%
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)** 83%

#### >> Repeat Violator (Subtotal 3)

N/A

**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 for 2 prior Notices of Violation ("NOVs") with violations that are the same/similar as those in the current enforcement action, 14 dissimilar NOVs, one prior agreed order containing a denial of liability and one default order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 83%

**Screening Date** 19-Jul-2010  
**Respondent** KAS INVESTMENTS, LTD.  
**Case ID No.** 40049  
**Reg. Ent. Reference No.** RN101761039  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Andrea Linson-Mgbeoduru

**Docket No.** 2010-1165-PWS-E

**PCW**

*Policy Revision 2 (September 2002)*  
*PCW Revision October 30, 2008*

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**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"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

**Matrix Notes**

**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"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Estimated EB Amount**

**Statutory Limit Test**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** KAS INVESTMENTS, LTD.  
**Case ID No.** 40049  
**Req. Ent. Reference No.** RN101761039  
**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)	\$180	23-Jul-2009	31-Mar-2011	1.69	\$1	\$20	\$21
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

The delayed costs include the amount necessary to develop and maintain an accurate and up-to-date chemical and microbiological monitoring plan, calculated from the investigation date initially documenting the violation to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$180

**TOTAL**

\$21

**Screening Date** 19-Jul-2010  
**Respondent** KAS INVESTMENTS, LTD.  
**Case ID No.** 40049  
**Reg. Ent. Reference No.** RN101761039  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Andrea Linson-Mgbeoduru

**Docket No.** 2010-1165-PWS-E

**PCW**

*Policy Revision 2 (September 2002)*

*PCW Revision October 30, 2008*

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**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"/>	<input type="text" value="25%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<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**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

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**

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
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**

**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** KAS INVESTMENTS, LTD.  
**Case ID No.** 40049  
**Req. Ent. Reference No.** RN101761039  
**Media** Public Water Supply  
**Violation No.** 2

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	\$780	23-Jul-2009	20-Jul-2010	0.99	\$39	\$774	\$812
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to perform weekly monitoring of the disinfectant residual at representative locations within the distribution system (\$15 per week), calculated from the investigation date initially documenting the violation to the screening date.

Approx. Cost of Compliance \$780

**TOTAL** \$812

**Screening Date** 19-Jul-2010  
**Respondent** KAS INVESTMENTS, LTD.  
**Case ID No.** 40049  
**Reg. Ent. Reference No.** RN101761039  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Andrea Linson-Mgbeoduru

**Docket No.** 2010-1165-PWS-E

**PCW**

*Policy Revision 2 (September 2002)*

*PCW Revision October 30, 2008*

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

**>> Programmatic Matrix**

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

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

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**

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
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**

**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** KAS INVESTMENTS, LTD.  
**Case ID No.** 40049  
**Req. Ent. Reference No.** RN101761039  
**Media** Public Water Supply  
**Violation No.** 3

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)	\$1,500	23-Jul-2009	31-Mar-2011	1.69	\$8	\$169	\$177
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

The delayed cost includes the estimated amount necessary to provide a lockable wellhouse or an intruder-resistant fence around the well, calculated from the investigation date initially documenting the violation to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$177

## Compliance History Report

Customer/Respondent/Owner-Operator: CN602591166 KAS INVESTMENTS, LTD. Classification: AVERAGE Rating: 19.60  
Regulated Entity: RN101761039 CONVENIENCE PLUS Classification: AVERAGE Site Rating: 19.60  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 50247  
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0200366

Location: 6422 STEPHEN F. AUSTIN ROAD, JONES CREEK, BRAZORIA COUNTY, TEXAS  
TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 21, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: September 21, 2005 to September 21, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Andrea Linson-Mqbeoduru Phone: 512-239-1482

### 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. Rating Date: 9/1/2010 Repeat Violator: NO

### Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

#### Effective Date: 10/23/2008

#### ADMINORDER 2004-0380-PST-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d)  
30 TAC Chapter 334, SubChapter C 334.49(c)(4)

Description: Failure to have the cathodic protection system tested by a qualified corrosion specialist at a frequency of at least once every three years.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)  
30 TAC Chapter 334, SubChapter C 334.50(d)(4)(A)(i)

Description: Failure to monitor the USTs for releases at a frequency of at least once every month not to exceed 35 days between each monitoring. Specifically, failure to conduct inventory control in combination with automatic tank gauging.

#### Effective Date: 07/31/2010

#### ADMINORDER 2009-0529-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 05/2007 - Failure to collect any routine monitoring sample(s).

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).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 06/2007 - Failure to collect any routine monitoring sample(s).

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).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 07/2007 - Failure to collect any routine monitoring sample(s).

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).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 08/2007 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR PN Routine Monitoring Violation 08/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 09/2007 - Failure to collect any routine monitoring sample(s).  
 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).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 10/2007 - Failure to collect any routine monitoring sample(s).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 Description: TCR PN Routine Monitoring Violation 10/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 03/2008 - Failure to collect any routine monitoring sample(s).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 Description: TCR PN Routine Monitoring Violation 03/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 04/2008 - Failure to collect any routine monitoring sample(s).  
 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).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 05/2008 - Failure to collect any routine monitoring sample(s).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).  
 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).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).  
 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).

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	03/6/2008	(618710)	10	03/03/2009	(737213)
2	03/02/2009	(736629)	11	03/03/2009	(737218)
3	03/03/2009	(737183)	12	03/03/2009	(737222)
4	03/03/2009	(737185)	13	03/06/2009	(737545)
5	03/03/2009	(737190)	14	04/08/2009	(681741)
6	03/03/2009	(737193)	15	09/15/2009	(759996)
7	03/03/2009	(737200)	16	11/24/2009	(781417)
8	03/03/2009	(737205)	17	03/01/2010	(793633)
9	03/03/2009	(737209)	18	06/15/2010	(802028)
			19	07/07/2010	(824835)

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

1 Date: 06/25/2007 (736629)CN602591166  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 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).  
 2 Date: 07/30/2007 (737183)CN602591166  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 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).  
 3 Date: 09/10/2007 (737185)CN602591166  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 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).  
 4 Date: 11/01/2007 (737190)CN602591166  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 08/2007 - 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 08/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).  
 5 Date: 12/20/2007 (737193)CN602591166  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 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).  
 6 Date: 01/31/2008 (737200)CN602591166  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 10/2007 - 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 10/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).  
 7 Date: 03/06/2008 (618710)CN602591166  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)  
 Description: 30 TAC '115.242(1)(C) All Stage II vapor recovery systems must be onboard refueling vapor recovery (ORVR) compatible, as defined in '115.249 of this title in accordance with the schedules in '115.249 of this title.  
 8 Date: 04/29/2008 (737205)CN602591166  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 03/2008 - 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 03/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).  
 9 Date: 05/22/2008 (737209)CN602591166  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 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).  
 10 Date: 06/27/2008 (737213)CN602591166  
 Self Report? NO Classification: Moderate

- 11 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR Routine Monitoring Violation 05/2008 - Failure to collect any routine monitoring sample(s).  
Date: 11/19/2008 (737218)CN602591166  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
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).  
12 Date: 12/09/2008 (737222)CN602591166  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
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).  
13 Date: 08/19/2009 (759996)CN602591166  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
Description: Failure by the regulated entity to develop and maintain an up to date system monitoring plan.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)  
Description: Failure to perform at least once every seven days chlorine residual tests on  
water collected from various locations within the distribution system.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
30 TAC Chapter 290, SubChapter D 290.43(e)  
Description: Failure to protect the well unit and pressure tank with an intruder resistant fence  
with locked gates, or a locked, ventilated well house to exclude possible  
contamination or damage to the facilities by trespassers.  
14 Date: 11/24/2009 (781417)CN602591166  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)  
Description: Failure to record daily inspections.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)  
Description: Failure to operate in accordance with CARB Order- The 104.1 Flow Rate  
Determination and the 201.5 A/L Ratio Test failed on dispensers #3, #5, #6 (super  
premium product) failed.  
15 Date: 03/03/2010 (793633)CN602591166  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
Description: Failure by the regulated entity to develop and maintain an up to date system monitoring plan.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)  
Description: Failure to perform at least once every seven days chlorine residual tests on  
water collected from various locations within the distribution system.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
30 TAC Chapter 290, SubChapter D 290.43(e)  
Description: Failure to protect the well unit and pressure tank with an intruder resistant fence  
with locked gates, or a locked, ventilated well house to exclude possible  
contamination or damage to the facilities by trespassers.  
16 Date: 06/15/2010 (802028)CN602591166  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)  
Description: Failure to record daily inspections.

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  
KAS INVESTMENTS, LTD.;  
RN101761039**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2010-1165-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 KAS INVESTMENTS, LTD. ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a convenience store with a public water system located at 6422 Stephen F. Austin Road in Jones Creek, Brazoria County, Texas (the "Facility").
2. The Facility provides water for human consumption, 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 system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. During a record review conducted on May 26, 2010, a TCEQ Houston Regional Office investigator documented that Respondent:
  - a. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements. Specifically, the Facility did not have a monitoring plan;
  - b. Failed to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days; and
  - c. Failed to enclose the well with an intruder-resistant fence with a lockable gate or a locked and ventilated well house. Specifically, the well house was in need of repair and had no door or lock.
4. Respondent received notice of the violations on or about July 13, 2010.

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 KAS INVESTMENTS, LTD." (the "EDPRP") in the TCEQ Chief Clerk's office on September 28, 2010.
6. By letter dated September 28, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on September 30, 2010, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP provided by the Executive Director. Respondent 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 Findings of Fact Nos. 1 and 2, Respondent 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.a., Respondent failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b).
3. As evidenced by Finding of Fact No. 3.b., Respondent failed to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4)(A).
4. As evidenced by Finding of Fact No. 3.c., Respondent failed to enclose the well with an intruder-resistant fence with a lockable gate or a locked and ventilated well house, in violation of 30 TEX. ADMIN. CODE §§ 290.41(c)(3)(O) and 290.43(e).
5. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 7, Respondent 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 Respondent and assess the penalty recommended by the Executive Director.
7. 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 Respondent for violations of the Texas Water Code and 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.

8. An administrative penalty in the amount of two thousand eight hundred twenty-five dollars (\$2,825.00) 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.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of two thousand eight hundred twenty-five dollars (\$2,825.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order . All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: KAS INVESTMENTS, LTD.; Docket No. 2010-1165-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

3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Respondent shall begin monitoring the disinfectant residual at representative locations in the distribution system at least once every seven days, as required by 30 TEX. ADMIN. CODE § 291.110.
  - b. Within 15 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 3.d. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.
  - c. Within 60 days after the effective date of this Order, Respondent shall:
    - i. Develop and submit a complete and up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in accordance with 30 TEX. ADMIN. CODE § 290.121; and

- ii. Enclose the well with an intruder-resistant fence with a lockable gate or a lockable and ventilated well house, in accordance with 30 TEX. ADMIN. CODE §§ 290.41 and 290.43.
  
- d. Within 75 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 3.c.i. and 3.c.ii. 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.”

Respondent 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

and:

Stephen Smith, Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
2452 Polk Ave., Ste. H  
Houston, Texas 77023-1452

- 4. All relief not expressly granted in this Order is denied.
  
- 5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
  
- 6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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 Respondent if the Executive Director determines that Respondent 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.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF PHILLIP M. GOODWIN**

STATE OF TEXAS

§  
§  
§

COUNTY OF TRAVIS

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of KAS INVESTMENTS, LTD." (the "EDPRP") was filed with the Office of the Chief Clerk on September 28, 2010.

The EDPRP was mailed to KAS INVESTMENTS, LTD. ("Respondent") at its last known address on September 28, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on September 30, 2010, as evidenced by the signature on the card.

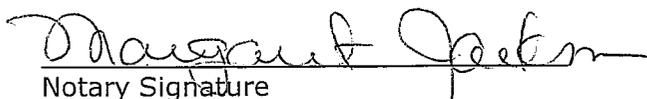
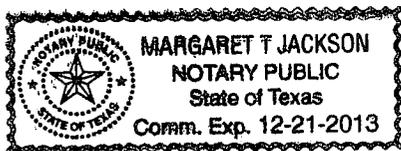
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."



Phillip M. Goodwin, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Phillip M. Goodwin, 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 1st day of November, A.D., 2010.

  
Notary Signature