

Executive Summary – Enforcement Matter – Case No. 40291  
AMK PROPERTIES L L C  
RN102404399  
Docket No. 2010-1405-PWS-E

**Order Type:**  
Default Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation/s.

**Media:**  
PWS

**Small Business:**  
Yes

**Location(s) Where Violation(s) Occurred:**  
28295 Interstate Highway 10 West, Boerne, Bexar County

**Type of Operation:**  
public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions:	2011-2253-PSW-E (Old Tymer Enterprises, Inc.)
Past-Due Penalties:	None
Past-Due Fees:	Account No. 90150363 - \$329.10
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** January 20, 2012

**Comments Received:** None

***Penalty Information***

<b>Total Penalty Assessed:</b>	\$7,370
<b>Total Paid to General Revenue:</b>	\$0
<b>Total Due to General Revenue:</b>	\$7,370

**Compliance History Classifications:**

Person/CN – Average  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**AMK PROPERTIES L L C  
RN102404399  
Docket No. 2010-1405-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** July 1, 2010  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** August 4, 2010

***Violation Information***

1. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to pay public health service fees, include late fees, for TCEQ Financial Administration Account No. 90150363 for Fiscal Year 2010 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. Within 30 days:
  - a. Implement procedures to ensure that all necessary public notifications are provided to the customers of the Facility in a timely manner;
  - b. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and
  - c. Submit payment for all outstanding fees, interest, and penalties.
2. Within 195 days, submit written certification and detailed supporting documentation to demonstrate compliance.

***Litigation Information***

**Date Petition(s) Filed:** November 22, 2010 (re-filed for service January 4, 2011);  
February 15, 2011 (EDFARP)  
**Date(s) Green Card(s) Signed:** January 7, 2011 (EDPRP)  
February 16, 2011 (EDFARP)  
**Date(s) Answer(s) Filed:** N/A

***Contact Information***

**TCEQ Attorneys:** Stephanie J. Frazee, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
**TCEQ Enforcement Coordinator:** Stephen Thompson, Water Enforcement Section, (512) 239-2558  
**TCEQ Regional Contact:** Lynn Bumguardner, San Antonio Regional Office, (210) 490-3096  
**Respondent:** Amina Maliek, Director, AMK Properties L L C, 809 Almadin, San Antonio, Texas 78258  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	9-Aug-2010	<b>Screening</b>	25-Aug-2010	<b>EPA Due</b>	31-Aug-2010
	<b>PCW</b>	8-Dec-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	AMK Properties L L C		
<b>Reg. Ent. Ref. No.</b>	RN102404399		
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40291	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1405-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Stephen Thompson
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit 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>	\$2,500
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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>	182.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$4,550
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Notes: Enhancement for 26 same/similar NOVs, one dissimilar NOV, one agreed enforcement order without a denial of liability and one default order.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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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>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$323
Approx. Cost of Compliance	\$395

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$7,050
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	4.5%	<b>Adjustment</b>	\$320
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

<b>Final Penalty Amount</b>	\$7,370
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,370
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$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.

<b>PAYABLE PENALTY</b>	\$7,370
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**Screening Date** 25-Aug-2010

**Docket No.** 2010-1405-PWS-E

**PCW**

**Respondent** AMK Properties L L C

*Policy Revision 2 (September 2002)*

**Case ID No.** 40291

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN102404399

**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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	26	130%
	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	2	50%
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)** 182%

#### >> 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 26 same/similar NOVs, one dissimilar NOV, one agreed enforcement order without a denial of liability and one default order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 182%

**Screening Date** 25-Aug-2010  
**Respondent** AMK Properties L L C  
**Case ID No.** 40291  
**Reg. Ent. Reference No.** RN102404399  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Stephen Thompson

**Docket No.** 2010-1405-PWS-E

**PCW**

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

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 290.109(c)(2)(A) and 290.122(c)(2)(B) and Tex. Health & Safety Code § 341.033(d)

**Violation Description** Failed to collect routine distribution water samples for coliform analysis for the months of August 2009 through May 2010 and failed to provide a public notification of the failure to sample for the months of August 2009 through April 2010.

**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** Failure to properly sample may expose the public to a significant amount of undetected contaminants that would exceed levels protective of human health.

**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**

Ten monthly events are recommended.

**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"/>	<input type="text" value="(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** AMK Properties L L C  
**Case ID No.** 40291  
**Req. Ent. Reference No.** RN102404399  
**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)	\$100	1-Jul-2010	1-Mar-2011	0.67	\$3	n/a	\$3

Notes for DELAYED costs

The delayed costs include the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner. The date required is the date of the record review. The final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$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]	\$250	31-Aug-2009	31-May-2010	1.67	\$21	\$250	\$271
Other (as needed)	\$45	30-Nov-2009	31-Jul-2010	1.58	\$4	\$45	\$49

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a total of ten routine samples (\$25 per sample) and provide public notice for the failure to collect the samples (\$5 per notice), calculated for the months in which no samples were collected and during the period that a public notice was required.

Approx. Cost of Compliance

\$395

**TOTAL**

\$323

**Screening Date** 25-Aug-2010  
**Respondent** AMK Properties L L C  
**Case ID No.** 40291  
**Reg. Ent. Reference No.** RN102404399  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Stephen Thompson

**Docket No.** 2010-1405-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" value="0%"/>
	Potential	<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"/>
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"/>	(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** AMK Properties L L C  
**Case ID No.** 40291  
**Req. Ent. Reference No.** RN102404399  
**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

N/A

### 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

\$0

**TOTAL**

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603488701 AMK Properties L L C Classification: AVERAGE Rating: 12.75  
Regulated Entity: RN102404399 THE OLDE TYMER Classification: Site Rating:  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 36491  
REGISTRATION  
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0150363  
Location: 28295 INTERSTATE 10 W, BOERNE, BEXAR COUNTY, TX  
TCEQ Region: REGION 13 - SAN ANTONIO  
Date Compliance History Prepared: August 17, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 17, 2005 to August 17, 2010  
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? Yes
3. If Yes, who is the current owner/operator? AMK PROPERTIES L L C
4. If Yes, who was/were the prior owner(s)/operator(s)? AMK ENTERPRISES, LLC
5. When did the change(s) in owner or operator occur? 10/28/2009

## 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: 06/29/2007**

**ADMINORDER 2006-0381-PWS-E**

Classification: Moderate

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

Description: Failure to collect any routine monitoring samples in 04/2005.

Classification: Moderate

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

Description: Failure to collect any routine monitoring samples in 07/2005.

Classification: Moderate

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

Description: Failure to post a PN for not collecting any routine monitoring samples in 07/2005.

Classification: Moderate

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

Description: Failure to collect any routine monitoring samples in 08/2005.

Classification: Moderate

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

Description: Failure to post a PN for not collecting any routine monitoring samples in 08/2005.

Classification: Moderate

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

Description: Failure to collect any routine monitoring samples in 09/2005.

Classification: Moderate

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

Description: Failure to post a PN for not collecting any routine monitoring samples in 09/2005.

Classification: Moderate

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

Description: Failure to collect any routine monitoring samples in 10/2005.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
 Description: Failure to post a PN for not collecting any routine monitoring samples in 10/2005.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THC Chapter 341, SubChapter A 341.033(d)  
 Description: Failure to collect any routine monitoring samples in 11/2005.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
 Description: Failure to post a PN for not collecting any routine monitoring samples in 11/2005.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THC Chapter 341, SubChapter A 341.033(d)  
 Description: Failure to collect any routine monitoring samples in 12/2005.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
 Description: Failure to post a PN for not collecting any routine monitoring samples in 12/2005.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THC Chapter 341, SubChapter A 341.033(d)  
 Description: Failure to collect any routine monitoring samples in 01/2006.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
 Description: Failure to post a PN for not collecting any routine monitoring samples in 01/2006.

**Effective Date: 07/29/2009**

**ADMINORDER 2008-1783-PWS-E**

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
 Description: TCR Repeat Monitoring Violation 10/2007 - Failure to collect any repeats following a coliform found result.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: TCR Increase Monitoring Violation 11/2007 - Failure to collect all 5 distribution samples following a coliform found month.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: TCR Increase Monitoring Violation 12/2007 - Failure to collect all 5 distribution samples following a coliform found month.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 5A THSC Chapter 341, SubChapter A 341.031(a)  
 Description: TCR MCL Violation 05/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 5A THSC Chapter 341, SubChapter A 341.031(a)  
 Description: TCR MCL Violation 06/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)  
 Description: TCR PN MCL Violation 06/2008 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 5A THSC Chapter 341, SubChapter A 341.031(a)  
 Description: TCR MCL Violation 10/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
 Description: TCR Repeat Monitoring Violation 10/2008 - Failure to collect all repeats following a coliform found result.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: TCR Increase Monitoring Violation 06/2008 - Failure to collect all 5 distribution samples following a coliform found month.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 Description: TCR PN Increase Monitoring Violation 06/2008 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.

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	08/25/2005	(459532)	16	11/07/2008	(707550)
2	10/03/2005	(459786)	17	11/04/2009	(776781)
3	10/31/2005	(459797)	18	05/18/2010	(802780)
4	12/01/2005	(459804)	19	07/29/2010	(843502)
5	12/21/2005	(459809)	20	08/04/2010	(844177)
6	01/25/2006	(459814)	21	08/04/2010	(844193)
7	02/23/2006	(459848)	22	08/04/2010	(844199)
8	03/29/2006	(460878)	23	08/04/2010	(844207)
9	05/30/2007	(561499)	24	08/04/2010	(844208)
10	11/06/2008	(707433)	25	08/04/2010	(844210)
11	11/06/2008	(707452)	26	08/04/2010	(844219)
12	11/06/2008	(707456)	27	08/04/2010	(844225)
13	11/06/2008	(707462)	28	08/04/2010	(844226)
14	11/06/2008	(707468)	29	08/06/2010	(844386)
15	11/06/2008	(707479)			

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

- 1 Date: 08/25/2005 (459532) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THC Chapter 341, SubChapter A 341.033(d)  
Description: Failure to collect any routine monitoring samples in 07/2005.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 07/2005.
- 2 Date: 10/03/2005 (459786) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THC Chapter 341, SubChapter A 341.033(d)  
Description: Failure to collect any routine monitoring samples in 08/2005.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 08/2005.
- 3 Date: 10/31/2005 (459797) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THC Chapter 341, SubChapter A 341.033(d)  
Description: Failure to collect any routine monitoring samples in 09/2005.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 09/2005.
- 4 Date: 12/01/2005 (459804) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THC Chapter 341, SubChapter A 341.033(d)  
Description: Failure to collect any routine monitoring samples in 10/2005.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 10/2005.
- 5 Date: 12/21/2005 (459809) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THC Chapter 341, SubChapter A 341.033(d)  
Description: Failure to collect any routine monitoring samples in 11/2005.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
Description: Failure to post a PN for not collecting any routine monitoring samples in 11/2005.

- 6 Date: 01/25/2006 (459814) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THC Chapter 341, SubChapter A 341.033(d)  
 Description: Failure to collect any routine monitoring samples in 12/2005.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
 Description: Failure to post a PN for not collecting any routine monitoring samples in 12/2005.
- 7 Date: 02/23/2006 (459848) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THC Chapter 341, SubChapter A 341.033(d)  
 Description: Failure to collect any routine monitoring samples in 01/2006.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
 Description: Failure to post a PN for not collecting any routine monitoring samples in 01/2006.
- 8 Date: 05/30/2007 (561499) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)  
 Description: Failure to provide the water system with a well flow measuring device.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  
 Description: Failure to provide the well with a casing vent.
- 9 Date: 01/31/2008 (707433) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
 Description: TCR Repeat Monitoring Violation 10/2007 - Failure to collect any repeats following a coliform found result.
- 10 Date: 02/14/2008 (707452) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: TCR Increase Monitoring Violation 11/2007 - Failure to collect all 5 distribution samples following a coliform found month.
- 11 Date: 02/21/2008 (707456) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: TCR Increase Monitoring Violation 12/2007 - Failure to collect all 5 distribution samples following a coliform found month.
- 12 Date: 06/02/2008 (707462) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 5A THSC Chapter 341, SubChapter A 341.031(a)  
 Description: TCR MCL Violation 05/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.
- 13 Date: 06/09/2008 (707468) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 5A THSC Chapter 341, SubChapter A 341.031(a)  
 Description: TCR MCL Violation 06/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)  
 Description: TCR PN MCL Violation 06/2008 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.

- 14 Date: 10/20/2008 (707479) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
5A THSC Chapter 341, SubChapter A 341.031(a)  
Description: TCR MCL Violation 10/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.
- 15 Date: 11/06/2008 (707479) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
Description: TCR Repeat Monitoring Violation 10/2008 - Failure to collect all repeats following a coliform found result.
- 16 Date: 11/06/2008 (707468) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
Description: TCR Increase Monitoring Violation 06/2008 - Failure to collect all 5 distribution samples following a coliform found month.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: TCR PN Increase Monitoring Violation 06/2008 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.
- 17 Date: 10/02/2009 (843502) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: TCR Routine Monitoring Violation 08/2009 - 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 08/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 18 Date: 11/05/2009 (844177) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: TCR Routine Monitoring Violation 09/2009 - 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 09/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 19 Date: 12/08/2009 (844193) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: TCR Routine Monitoring Violation 10/2009 - 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 10/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 20 Date: 01/13/2010 (844199) CN603030156  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: TCR Routine Monitoring Violation 11/2009 - 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 11/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

- 21 Date: 01/26/2010 (844207) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 Description: TCR Routine Monitoring Violation 12/2009 - 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 12/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 22 Date: 03/16/2010 (844208) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 Description: TCR Routine Monitoring Violation 01/2010 - 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 01/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 23 Date: 03/29/2010 (844210) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 Description: TCR Routine Monitoring Violation 02/2010 - 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 02/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 24 Date: 05/03/2010 (844219) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 Description: TCR Routine Monitoring Violation 03/2010 - 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 03/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 25 Date: 05/17/2010 (802780) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
 Description: TCR Repeat Monitoring Violation 10/2007 - Failure to collect any repeats following a coliform found result.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: TCR Increase Monitoring Violation 11/2007 - Failure to collect all 5 distribution samples following a coliform found month.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: TCR Increase Monitoring Violation 12/2007 - Failure to collect all 5 distribution samples following a coliform found month.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 5A THSC Chapter 341, SubChapter A 341.031(a)  
 Description: TCR MCL Violation 05/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 5A THSC Chapter 341, SubChapter A 341.031(a)  
 Description: TCR MCL Violation 06/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)  
 Description: TCR PN MCL Violation 06/2008 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 5A THSC Chapter 341, SubChapter A 341.031(a)  
 Description: TCR MCL Violation 10/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
 Description: TCR Repeat Monitoring Violation 10/2008 - Failure to collect all repeats following a coliform found result.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: TCR Increase Monitoring Violation 06/2008 - Failure to collect all 5 distribution samples following a coliform found month.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 Description: TCR PN Increase Monitoring Violation 06/2008 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.

26 Date: 06/10/2010 (844225) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 Description: TCR Routine Monitoring Violation 04/2010 - 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 04/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

27 Date: 07/06/2010 (844226) CN603030156  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 Description: TCR Routine Monitoring Violation 05/2010 - Failure to collect 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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AMK PROPERTIES L L C;  
RN102404399**

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§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2010-1405-PWS-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 5, 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 ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns a public water system located at 28295 Interstate Highway 10 West in Boerne, Bexar County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately three 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).
2. During a record review conducted on July 1, 2010, a TCEQ Central Office investigator documented that Respondent:
  - a. Failed to collect routine distribution water samples for coliform analysis for the months of August 2009 through May 2010 and failed to provide public notification of the failure to sample for the months of August 2009 through April 2010; and
  - b. Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 90150363 for Fiscal Year 2010.
3. Respondent received notice of the violations on or about August 9, 2010.
4. 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 and Old Tymer Enterprises, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on November 22, 2010. Service was unsuccessful.

5. The Executive Director re-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 and Old Tymer Enterprises, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on January 4, 2011.
6. By letter dated January 4, 2011, sent to Respondent's last known address 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 January 7, 2011, as evidenced by the signature on the card.
7. The Executive Director filed the "Executive Director's First Amended 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 and Old Tymer Enterprises, Inc." (the "EDFARP") in the TCEQ Chief Clerk's office on February 15, 2011.<sup>1</sup>
8. By letter dated February 15, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on February 16, 2011, as evidenced by the signature on the card.
9. More than 20 days have elapsed since Respondent received notice of the EDPRP and the EDFARP. Respondent failed to file an answer and failed to request a hearing.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 90150363 for Fiscal Year 2010, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
4. As evidenced by Findings of Fact Nos. 5 through 8, the Executive Director timely served Respondent with proper notice of the EDPRP and EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).

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<sup>1</sup> Old Tymer Enterprises, Inc. filed an Answer on March 29, 2011, and has been severed from this docket number.

5. As evidenced by Finding of Fact No. 9, 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.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of seven thousand three hundred seventy dollars (\$7,370.00) 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.
8. 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 seven thousand three hundred seventy dollars (\$7,370.00) 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: AMK Properties L L C; Docket No. 2010-1405-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Respondent shall:
    - i. Implement procedures to ensure that all necessary public notifications are provided to the customers of the Facility in a timely manner, in accordance with 30 TEX. ADMIN. CODE § 290.122;

- ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and
- iii. Submit payment for all outstanding fees, interest, and penalties, for TCEQ Financial Administration Account No. 90150363. The payment shall be sent with the notation "AMK Properties L L C, Financial Administration Account No. 90150363" 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

- b. Within 195 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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 supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Elston Johnson, Public Drinking Water Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

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 STEPHANIE J. FRAZEE**

**STATE OF TEXAS**

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§  
§

**COUNTY OF TRAVIS**

"My name is Stephanie J. Frazee. 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 AMK Properties L L C and Old Tymer Enterprises, Inc." (the "EDPRP") was filed in the TCEQ Chief Clerk's office on November 22, 2010. Service was unsuccessful.

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 AMK Properties L L C and Old Tymer Enterprises, Inc." (the "EDPRP") was re-filed in the TCEQ Chief Clerk's office on January 4, 2011.

The EDPRP was mailed to AMK Properties L L C's ("Respondent") last known address on January 4, 2011, 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 January 7, 2011, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended 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 and Old Tymer Enterprises, Inc." (the "EDFARP") was filed in the TCEQ Chief Clerk's office on February 15, 2011.

The EDFARP was mailed to Respondent's last known address on February 15, 2011, 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 EDFARP on February 16, 2011, as evidenced by the signature on the card.

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

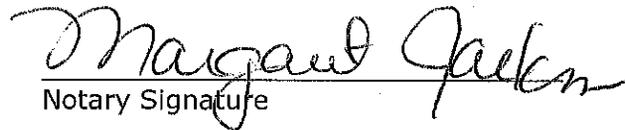


Stephanie J. Frazee, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

**Affidavit of Stephanie J. Frazee**  
**Page 2**

Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 19th day of December, A.D. 2011.

  
Notary Signature

