

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 51159  
MJG Ventures Properties, LLC d/b/a King Food Mart  
RN103143608  
Docket No. 2015-1287-PST-E

**Order Type:**

Default Order

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

7111 Martin Luther King Boulevard, Houston, Harris County

**Type of Operation:**

convenience store with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions: 2015-1287-PST-E (AIZ CORP.; AO pending ED agenda)  
Past-Due Penalties: None  
Past-Due Fees: None  
Other: None  
Interested Third-Parties: None

**Texas Register Publication Date:** July 15, 2016

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$4,500

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$4,500

**Compliance History Classifications:**

Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** July 13, 2015  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** August 13, 2015

**Violation Information**

Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**  
N/A

**Technical Requirements:**  
None - Respondent no longer owns the Facility.

**Litigation Information**

**Date Petition(s) Filed:** January 29, 2016  
**Date Green Card(s) Signed:** February 1, 2016  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Jake Marx, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Tiffany Maurer, Enforcement Division, (512) 239-2696

**TCEQ Regional Contact:** Jason Ybarra, Houston Regional Office, (713) 767-3500

**Respondent Contact:** Majed Ganim, Managing Member, MJG Ventures Properties, LLC, 10615 Meadow Lake Lane, Houston, Texas 77042

**Respondent's Attorney:** Dahlia Ganim, Law Office of Dahlia Ganim, 3334 Richmond, Suite 215, Houston, Texas 77098



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

|              |                 |             |                  |             |
|--------------|-----------------|-------------|------------------|-------------|
| <b>DATES</b> | <b>Assigned</b> | 17-Aug-2015 |                  |             |
|              | <b>PCW</b>      | 30-Nov-2015 | <b>Screening</b> | 24-Aug-2015 |
|              |                 |             | <b>EPA Due</b>   |             |

|  |   |
|--|---|
| <b>RESPONDENT/FACILITY INFORMATION</b> |   |
| <b>Respondent</b>                      | MJG Ventures Properties, LLC dba King Food Mart |
| <b>Reg. Ent. Ref. No.</b>              | RN103143608                                     |
| <b>Facility/Site Region</b>            | 12-Houston                                      |
| <b>Major/Minor Source</b>              | Minor   |

|  |                        |                              |                    |
|--|------------------------|------------------------------|--------------------|
| <b>CASE INFORMATION</b>                |                        |                              |                    |
| <b>Enf./Case ID No.</b>                | 51159                  | <b>No. of Violations</b>     | 1                  |
| <b>Docket No.</b>                      | 2015-1287-PST-E        | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Petroleum Storage Tank | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                        | <b>Enf. Coordinator</b>      | Tiffany Maurer     |
|  |                        | <b>EC's Team</b>             | Enforcement Team 6 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0                    | <b>Maximum</b>               | \$25,000           |

## Penalty Calculation Section

|   |                   |         |
|---|-------------------|---------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | \$3,750 |
|---|-------------------|---------|

### 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>                            | 20.0% Enhancement   | <b>Subtotals 2, 3, &amp; 7</b>    | \$750 |
| <b>Notes</b>   | Enhancement for one order containing a denial of liability. |                                   |       |
| <b>Culpability</b>                                   | No 0.0% Enhancement   | <b>Subtotal 4</b>                 | \$0   |
| <b>Notes</b>   | The Respondent does not meet the culpability criteria.      |                                   |       |
| <b>Good Faith Effort to Comply Total Adjustments</b> |   | <b>Subtotal 5</b>                 | \$0   |
| <b>Economic Benefit</b>                              | 0.0% Enhancement*   | <b>Subtotal 6</b>                 | \$0   |
| Total EB Amounts                                     | \$46  | *Capped at the Total EB \$ Amount |       |
| Estimated Cost of Compliance                         | \$1,500   |                                   |       |

|                             |                       |         |
|-----------------------------|-----------------------|---------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$4,500 |
|-----------------------------|-----------------------|---------|

|   |      |                   |     |
|---|------|-------------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

|              |  |                             |         |
|--------------|--|-----------------------------|---------|
| <b>Notes</b> |  | <b>Final Penalty Amount</b> | \$4,500 |
|--------------|--|-----------------------------|---------|

|                                   |                               |         |
|-----------------------------------|-------------------------------|---------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$4,500 |
|-----------------------------------|-------------------------------|---------|

|                 |                |                   |     |
|-----------------|----------------|-------------------|-----|
| <b>DEFERRAL</b> | 0.0% Reduction | <b>Adjustment</b> | \$0 |
|-----------------|----------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

|              |  |  |
|--------------|--|--|
| <b>Notes</b> | Deferral not offered for non-expedited settlement. |  |
|--------------|--|--|

|                        |         |
|------------------------|---------|
| <b>PAYABLE PENALTY</b> | \$4,500 |
|------------------------|---------|

Screening Date 24-Aug-2015

Docket No. 2015-1287-PST-E

PCW

Respondent MJG Ventures Properties, LLC dba King Food Mart

Policy Revision 4 (April 2014)

Case ID No. 51159

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103143608

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Tiffany Maurer

### 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> )  | 0                 | 0%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 1                 | 20%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments 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)** 20%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 20%

Screening Date 24-Aug-2015

Docket No. 2015-1287-PST-E

PCW

Respondent MJG Ventures Properties, LLC dba King Food Mart

Policy Revision 4 (April 2014)

Case ID No. 51159

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103143608

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Tiffany Maurer

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | X     |          |       |

Percent 15.0%

>> Programmatic Matrix

| Falsification | Harm  |          |       |
|---------------|-------|----------|-------|
|               | Major | Moderate | Minor |
|               |       |          |       |

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

42 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | X |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$3,750

One quarterly event is recommended from the July 13, 2015 investigation date to the August 24, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

|               | Before NOE/NOV | NOE/NOV to EDRP/Settlement Offer |
|---------------|----------------|----------------------------------|
| Extraordinary |                |                                  |
| Ordinary      |                |                                  |
| N/A           | X              | (mark with x)                    |

Notes

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$46

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

# Economic Benefit Worksheet

**Respondent** MJG Ventures Properties, LLC dba King Food Mart  
**Case ID No.** 51159  
**Reg. Ent. Reference No.** RN103143608  
**Media Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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)        | \$1,500 | 13-Jul-2015 | 24-Feb-2016 | 0.62 | \$46 | n/a | \$46 |

Notes for DELAYED costs

Estimated cost to implement a release detection method for all USTs at the Facility. The date required is the investigation date, and 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]    |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$46

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN604672337, RN103143608, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

**Customer, Respondent, or Owner/Operator:** CN604672337, MJG Ventures Properties, LLC      **Classification:** SATISFACTORY      **Rating:** 9.00

**Regulated Entity:** RN103143608, King Food Mart      **Classification:** SATISFACTORY      **Rating:** 9.00

**Complexity Points:** 4      **Repeat Violator:** NO

**CH Group:** 01 - Gas Stations with convenience Stores and other Gas Stations

**Location:** 7111 MARTIN LUTHER KING BLVD HOUSTON, TX 77033-2058, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):** **PETROLEUM STORAGE TANK STAGE II** REGISTRATION 55760  
**PETROLEUM STORAGE TANK** REGISTRATION 55760

**Compliance History Period:** September 01, 2010 to August 31, 2015      **Rating Year:** 2015      **Rating Date:** 09/01/2015

**Date Compliance History Report Prepared:** January 12, 2016

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 12, 2011 to January 12, 2016

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Tiffany Maurer

**Phone:** (512) 239-2696

## Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

- 1 **Effective Date:** 08/22/2013      **ADMINORDER** 2013-0706-PST-E      **(1660 Order-Agreed Order With Denial)**  
Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)  
Description: Field Citation-Failure to provide proper release detection for USTs.

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

Item 1      May 09, 2011      (915516)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

### **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  
MJG VENTURES  
PROPERTIES, LLC DBA  
KING FOOD MART;  
RN103143608**

**§  
§  
§  
§  
§  
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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER**

**DOCKET NO. 2015-1287-PST-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is MJG Ventures Properties, LLC d/b/a King Food Mart ("Respondent").

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

**FINDINGS OF FACT**

1. Respondent owned, as defined in 30 TEX. ADMIN. CODE § 334.2(73), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 7111 Martin Luther King Boulevard in Houston, Harris County, Texas (Facility ID No. 55760) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on July 13, 2015, an investigator documented that Respondent failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).
3. 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 AIZ CORPORATION and MJG Ventures Properties, LLC d/b/a King Food Mart"<sup>1</sup> (the "EDPRP") in the TCEQ Chief Clerk's office on January 29, 2016.
4. By letter dated January 29, 2016, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the

<sup>1</sup> AIZ CORPORATION signed an Agreed Order on June 23<sup>rd</sup>, 2016.

return receipt "green card," Respondent received notice of the EDPRP on February 1, 2016, as evidenced by the signature on the card.

5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.
6. The Executive Director recognizes that Respondent no longer owns the Facility.

### **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. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).
3. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 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.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of four thousand five hundred dollars (\$4,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of four thousand five hundred dollars (\$4,500.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only 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 violations which are not raised here.

2. The 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 TCEQ and shall be sent with the notation "Re: MJG Ventures Properties, LLC d/b/a King Food Mart; Docket No. 2015-1287-PST-E" to:

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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
9. 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.
10. The Chief Clerk shall provide a copy of this fully executed 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**

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

**AFFIDAVIT OF JAKE MARX**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

§

§

"My name is Jake Marx. 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 AIZ CORPORATION<sup>2</sup> and MJG Ventures Properties, LLC d/b/a King Food Mart" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on January 29, 2016.

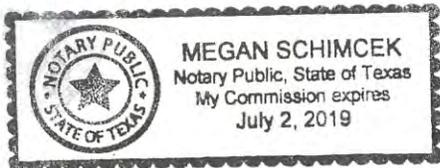
The EDPRP was mailed to Respondent's last known address on January 29, 2016, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on February 1, 2016, as evidenced by the signature on the card.

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

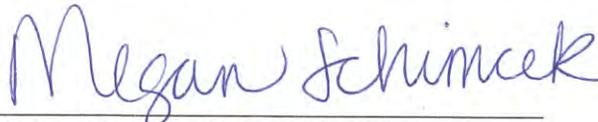
  
\_\_\_\_\_  
Jake Marx, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jake Marx, 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.

Subscribed and sworn to before me on this 21<sup>st</sup> day of July, A.D. 2016.



Notary Without Bond

  
\_\_\_\_\_  
Notary Public, State of Texas

<sup>2</sup> AIZ CORPORATION signed an Agreed Order on June 23<sup>rd</sup>, 2016.