

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 60617
A & K ENTERPRISES, INC. dba Country Food Store
RN101183861
Docket No. 2021-0549-PWS-E**

Order Type:
Default Order

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
9815 State Highway 60 South, Lane City, Wharton County

Type of Operation:
public water system

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third Parties: None

Texas Register Publication Date: September 8, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$5,775

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$5,775

Compliance History Classifications:
Person/CN - UNSATISFACTORY
Site/RN - UNSATISFACTORY

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: February 12, 2021

Date(s) of NOV(s): See Compliance History - 5 related NOVs

Date(s) of NOE(s): April 2, 2021

Violation Information

1. Failed to maintain a disinfectant residual of at least 0.2 milligrams per liter (mg/L) free chlorine in the water entering the distribution system [TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(2)].
2. Failed to seal the wellhead by a gasket or sealing compound and provide a well casing vent for Well No. 1 that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, and elevated and located so as to minimize the drawing of contaminants into the well [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)].
3. Failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids [30 TEX. ADMIN. CODE § 290.46(m)(4)].
4. Failed to protect all well units with an intruder-resistant fence with a lockable gate or enclose the well in a locked and ventilated well house to exclude the possible contamination or damage to the facilities by trespassers [30 TEX. ADMIN. CODE § 290.41(c)(3)(O)].
5. Failed to pay the annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account No. 92410032 for Fiscal Year 2021 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Submitted all outstanding fees, interests, and penalties associated with TCEQ Financial Administration Account No. 92410032 as of December 8, 2021.

Technical Requirements:

1. Within 30 days determine the cause of noncompliance with the disinfectant residual requirements, make any necessary repairs or adjustments to the Facility and begin maintaining a disinfectant residual concentration.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirement No. 1.a.
3. Within 60 days begin maintaining all distribution system lines, storage and pressure maintenance facilities, water treatment units, and all related appurtenances in a watertight condition.
4. Within 75 days submit written certification to demonstrate compliance with Technical Requirement No. 3.
5. Within 90 days:
 - a. Repair the well casing vent at Well No. 1.
 - b. Provide an intruder-resistant fence with a lockable gate or a locked and ventilated well house to protect the Facility's well unit.
6. Within 105 days submit written certification to demonstrate compliance with Technical Requirement Nos. 5.a. and 5.b.

Litigation Information

Date Petition(s) Filed: July 28, 2022
Date(s) of Service: August 8, 2022
Date Answer(s) Filed: N/A

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 60617
A & K ENTERPRISES, INC. dba Country Food Store
RN101183861
Docket No. 2021-0549-PWS-E**

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Contact Information

TCEQ Attorneys: Benjamin Pence, Litigation Division, (512) 239-3400
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TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Nicholas Lohret-Froio, Enforcement Division, (512) 239-4495

TCEQ Regional Contact: Westin Massey, Houston Regional Office, (713) 767-3500

Respondent Contact: Khaveed Ali, President, A & K ENTERPRISES, INC, 5126 Beacon Pointe,
Sugarland, Texas 77479;
Khaveed Ali, President, A & K ENTERPRISES, INC, 9815 South Highway 60 S.,
Lane City, Texas 77453

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Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	5-Apr-2021	Screening	9-Apr-2021	EPA Due	
	PCW	30-Apr-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	A & K ENTERPRISES, INC. dba Country Food Store
Reg. Ent. Ref. No.	RN101183861
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60617	No. of Violations	5
Docket No.	2021-0549-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Aaron Vincent
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,500
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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.

Compliance History	65.0% Adjustment	Subtotals 2, 3, & 7	\$2,275
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Notes: Enhancement for five NOVs with dissimilar violations, one agreed order containing a denial of liability, one default order, and an Unsatisfactory Performer Classification.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$60
 Estimated Cost of Compliance: \$1,050
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,775
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$5,775
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,775
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DEFERRAL	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$5,775
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Screening Date 9-Apr-2021

Docket No. 2021-0549-PWS-E

PCW

Respondent A & K ENTERPRISES, INC. dba Country Food Store

Policy Revision 5 (January 28, 2021)

Case ID No. 60617

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101183861

Media Public Water Supply

Enf. Coordinator Aaron Vincent

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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	5	10%
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 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%
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) 55%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for five NOVs with dissimilar violations, one agreed order containing a denial of liability, one default order, and an Unsatisfactory Performer Classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 65%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 65%

Screening Date 9-Apr-2021

Docket No. 2021-0549-PWS-E

PCW

Respondent A & K ENTERPRISES, INC. dba Country Food Store

Policy Revision 5 (January 28, 2021)

Case ID No. 60617

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101183861

Media Public Water Supply

Enf. Coordinator Aaron Vincent

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(d)(2)(A) and 290.110(b)(2) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to maintain a disinfectant residual of at least 0.2 milligrams per liter ("mg/L") free chlorine in the water entering the distribution system. Specifically, on February 12, 2021, a free chlorine residual concentration of 0.0 mg/L was measured at the pressure tank sampling tap. Additionally, the chlorine tank was empty and no disinfection was being provided.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Failure to maintain proper levels of disinfection could expose persons served by the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 2 56 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,500

Two monthly events are recommended, calculated from the February 12, 2021 investigation date to the April 9, 2021 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$2,475

This violation Final Assessed Penalty (adjusted for limits) \$2,475

Economic Benefit Worksheet

Respondent A & K ENTERPRISES, INC. dba Country Food Store
Case ID No. 60617
Reg. Ent. Reference No. RN101183861
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	Costs Saved	EB Amount
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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	12-Feb-2021	5-Nov-2021	0.73	\$4	n/a	\$4

Notes for DELAYED costs

The delayed cost includes the estimated amount to determine the cause of noncompliance, make any necessary repairs or adjustments to the Facility, and begin maintaining a disinfectant residual concentration of at least 0.2 mg/L free chlorine in the water entering the distribution system, calculated from the investigation date to the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 9-Apr-2021 **Docket No.** 2021-0549-PWS-E **PCW**
Respondent A & K ENTERPRISES, INC. dba Country Food Store *Policy Revision 5 (January 28, 2021)*
Case ID No. 60617 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101183861
Media Public Water Supply
Enf. Coordinator Aaron Vincent

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="5.0%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<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="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

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 A & K ENTERPRISES, INC. dba Country Food Store
Case ID No. 60617
Reg. Ent. Reference No. RN101183861
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	Costs Saved	EB Amount
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Delayed Costs

Equipment	\$150	12-Feb-2021	4-Jan-2022	0.89	\$0	\$9	\$9
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

The delayed cost includes the estimated amount to repair the well casing vent at Well No. 1, calculated from the investigation date to the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$9

Screening Date 9-Apr-2021 **Docket No.** 2021-0549-PWS-E **PCW**
Respondent A & K ENTERPRISES, INC. dba Country Food Store *Policy Revision 5 (January 28, 2021)*
Case ID No. 60617 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101183861
Media Public Water Supply
Enf. Coordinator Aaron Vincent

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="5.0%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<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="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

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 A & K ENTERPRISES, INC. dba Country Food Store
Case ID No. 60617
Reg. Ent. Reference No. RN101183861
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	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$500	12-Feb-2021	5-Dec-2021	0.81	\$1	\$27	\$28
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 to begin maintaining all distribution system lines, storage and pressure maintenance facilities, water treatment units and all related appurtenances in a watertight condition, including but not limited to repairing the leak at the inlet pipe of the pressure tank, calculated from the investigation date to the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$28

Screening Date 9-Apr-2021 **Docket No.** 2021-0549-PWS-E **PCW**
Respondent A & K ENTERPRISES, INC. dba Country Food Store *Policy Revision 5 (January 28, 2021)*
Case ID No. 60617 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101183861
Media Public Water Supply
Enf. Coordinator Aaron Vincent

Violation Number

Rule Cite(s)

Violation Description
 Failed to protect all well units with an intruder-resistant fence with a lockable gate or enclose the well in a locked and ventilated well house to exclude the possible contamination or damage to the facilities by trespassers. Specifically, the door to the wellhouse for Well No. 1 was damaged and had broken off the wellhouse, leaving the wellhouse unlocked and openly accessible.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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 NOE/NOV	NOE/NOV to EDRP/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"/>

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 A & K ENTERPRISES, INC. dba Country Food Store
Case ID No. 60617
Reg. Ent. Reference No. RN101183861
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$300	12-Feb-2021	4-Jan-2022	0.89	\$1	\$18	\$19
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 to provide an intruder-resistant fence with a lockable gate or a locked and ventilated well house to protect the Facility's well unit, calculated from the investigation date to the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$300

TOTAL \$19

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Respondent A & K ENTERPRISES, INC. dba Country Food Store *Policy Revision 5 (January 28, 2021)*
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Reg. Ent. Reference No. RN101183861
Media Public Water Supply
Enf. Coordinator Aaron Vincent

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
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="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDRP/ Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<input type="text"/>

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 A & K ENTERPRISES, INC. dba Country Food Store
Case ID No. 60617
Reg. Ent. Reference No. RN101183861
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0



Compliance History Report

Compliance History Report for CN600631097, RN101183861, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN600631097, A & K, ENTERPRISES, INC. **Classification:** UNSATISFACTORY **Rating:** 230.00

Regulated Entity: RN101183861, COUNTRY FOOD STORE **Classification:** UNSATISFACTORY **Rating:** 230.00

Complexity Points: 3 **Repeat Violator:** NO

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

Location: 9815 State Highway 60 South in Lane City, Wharton County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
2410032

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 33595

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: June 07, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 20, 2016 to September 20, 2021

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

Name: Julianne Matthews

Phone: (817) 588-5861

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

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

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

1 Effective Date: 09/29/2016 ADMINORDER 2016-0301-PST-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

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

Description: Failed to ensure the UST corrosion protection system was operated and maintained in a manner that will ensure continuous corrosion protection

Classification: Moderate

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

Description: Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring)

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failed to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(2)
30 TAC Chapter 334, SubChapter C 334.42(i)

Description: Failure to inspect at least once every 60 days any overspill containers or catchment basins installed at any time, which are associated to the UST system to ensure their sides, bottoms, and any penetration points are maintained liquid tight.

Classification: Major

Citation: 30 TAC Chapter 334, SubChapter D 334.77(b)

Description: Failed to submit a report to the TCEQ summarizing the initial abatement steps taken within 20 days after a release of a regulated substance from a UST system

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702
30 TAC Chapter 290, SubChapter E 290.51(a)(6)

Description: Failed to pay outstanding water system fees for TCEQ Financial Account No. 90200288

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter D 334.78(c)

Description: Failed to submit a site assessment report within 45 days after a confirmed release of a regulated substance from a UST system

2 Effective Date: 10/27/2020 ADMINORDER 2019-1245-PST-E (Findings Order-Default)

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3467(a)
30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)

Description: Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST.

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Classification: Moderate

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

Description: Failed to monitor the USTs for releases at a frequency of at least once every 30 days.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)

Description: Failed to provide release detection for the pressurized piping associated with the UST system.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter N 334.605(a)

Description: Failed to ensure that the certified Class A and Class B operator is re-trained within three years of the operator's last training date.

Classification: Moderate

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

Description: Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other components are operating properly.

Classification: Moderate

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

Description: Failed to have the corrosion protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(4)(A)(vii)
30 TAC Chapter 334, SubChapter A 334.8(c)(5)(B)(ii)

Description: Failed to renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	December 08, 2020	(1692641)
Item 2	July 26, 2021	(1744883)

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.

- 1 Date: 09/29/2020 (1703735)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(d)
30 TAC Chapter 290, SubChapter F 290.109(d)(2)(F)
30 TAC Chapter 290, SubChapter F 290.109(g)(4)
30 TAC Chapter 290, SubChapter F 290.109(g)(5)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.853(a)(1)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.853(c)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.860(c)
Description: RTCR Routine MR Violation 08/2020 - Failure to collect and/or submit all routine monitoring sample(s) within the required timeline.
- 2 Date: 11/02/2020 (1703735)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(d)
30 TAC Chapter 290, SubChapter F 290.109(d)(2)(F)
30 TAC Chapter 290, SubChapter F 290.109(g)(4)
30 TAC Chapter 290, SubChapter F 290.109(g)(5)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.853(a)(1)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.853(c)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.860(c)
Description: RTCR Routine MR Violation 09/2020 - Failure to collect and/or submit all routine monitoring sample(s) within the required timeline.
- 3 Date: 11/30/2020 (1703735)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(d)
30 TAC Chapter 290, SubChapter F 290.109(d)(2)(F)
30 TAC Chapter 290, SubChapter F 290.109(g)(4)
30 TAC Chapter 290, SubChapter F 290.109(g)(5)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.853(a)(1)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.853(c)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.860(c)
Description: RTCR Routine MR Violation 10/2020 - Failure to collect and/or submit all routine monitoring sample(s) within the required timeline.
- 4 Date: 01/12/2021 (1703735)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(d)
30 TAC Chapter 290, SubChapter F 290.109(d)(2)(F)
30 TAC Chapter 290, SubChapter F 290.109(g)(4)
30 TAC Chapter 290, SubChapter F 290.109(g)(5)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.853(a)(1)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.853(c)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.860(c)
Description: RTCR Routine MR Violation 11/2020 - Failure to collect and/or submit all routine monitoring sample(s) within the required timeline.
- 5 Date: 01/27/2021 (1703735)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(d)
30 TAC Chapter 290, SubChapter F 290.109(d)(2)(F)
30 TAC Chapter 290, SubChapter F 290.109(g)(4)
30 TAC Chapter 290, SubChapter F 290.109(g)(5)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.853(a)(1)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.853(c)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.860(c)
Description: RTCR Routine MR Violation 12/2020 - Failure to collect and/or submit all routine monitoring sample(s) within the required timeline.

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
A & K ENTERPRISES, INC. DBA
COUNTRY FOOD STORE;
RN101183861

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2021-0549-PWS-E

On _____, 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, TEX. WATER CODE ch. 5, 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 A & K ENTERPRISES, INC. dba Country Food Store ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns a public water system ("PWS") located at 9815 State Highway 60 South in Lane City, Wharton County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately one service connection, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a PWS as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. During an investigation conducted on February 12, 2021, an investigator documented that Respondent:
 - a. Failed to maintain a disinfectant residual of at least 0.2 milligrams per liter ("mg/L") free chlorine in the water entering the distribution system. Specifically, on February 12, 2021, a free chlorine residual concentration of 0.0 mg/L was measured at the pressure tank sampling tap. Additionally, the chlorine tank was empty and no disinfection was being provided;
 - b. Failed to seal the wellhead by a gasket or sealing compound and provide a well casing vent for Well No. 1 that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, and elevated and located so as to minimize the drawing of contaminants into the well. Specifically, the Well No. 1 well casing vent broke off and was zip tied to the well, leaving a hole in the well casing;
 - c. Failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids. Specifically, the inlet pipe of the pressure tank was leaking and mold had accumulated around its connection to the pressure tank; and
 - d. Failed to protect all well units with an intruder-resistant fence with a lockable gate or enclose the well in a locked and ventilated well house to exclude the possible contamination or damage to the facilities by trespassers. Specifically, the door to the well house for Well No. 1 was damaged and had broken off the wellhouse, leaving the wellhouse unlocked and openly accessible.

3. During a record review conducted on April 9, 2021, TCEQ staff documented that Respondent failed to pay the annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account No. 92410032 for Fiscal Year 2021.
4. The Executive Director recognizes that Respondent submitted all outstanding fees, interests, and penalties associated with TCEQ Financial Administration Account No. 92410032 as of December 8, 2021.
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 A & K ENTERPRISES, INC. dba Country Food Store" (the "EDPRP") in the TCEQ Chief Clerk's office on July 28, 2022.
6. By letter dated July 28, 2022, sent to Respondent's last known addresses via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to a return receipt "green card," Respondent received notice of the EDPRP on August 8, 2022, as evidenced by the signature on the card.
7. 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.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ, pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to maintain a disinfectant residual of at least 0.2 mg/L free chlorine in the water entering the distribution system, in violation TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(2).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to seal the wellhead by a gasket or sealing compound and provide a well casing vent for Well No. 1 that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, and elevated and located so as to minimize the drawing of contaminants into the well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to protect all well units with an intruder-resistant fence with a lockable gate or enclose the well in a locked and ventilated well house to exclude the possible contamination or damage to the facilities by trespassers, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(O).
6. As evidenced by Finding of Fact No. 3, Respondent failed to pay the annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account No. 92410032 for Fiscal Year 2021, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
7. 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(b)(1).
8. 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.

9. 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 TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of five thousand seven hundred seventy-five dollars (\$5,775.00) 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(b).
11. 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 five thousand seven hundred seventy-five dollars (\$5,775.00) 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: A & K ENTERPRISES, INC. dba Country Food Store; Docket No. 2021-0549-PWS-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. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order determine the cause of noncompliance with the disinfectant residual requirements, make any necessary repairs or adjustments to the Facility, and begin maintaining a disinfectant residual concentration of at least 0.2 mg/L free chlorine in the water entering the distribution system, in accordance with 30 TEX. ADMIN. CODE §§ 290.46 and 290.110.
 - b. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.g., to demonstrate compliance with Ordering Provision No. 3.a.
 - c. Within 60 days after the effective date of this Order, begin maintaining all distribution system lines, storage and pressure maintenance facilities, water treatment units, and all related appurtenances in a watertight condition, including repairing the leak at the inlet pipe of the pressure tank, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - d. Within 75 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.g., to demonstrate compliance with Ordering Provision No. 3.c.

- e. Within 90 days after the effective date of this Order:
 - i. Repair the well casing vent at Well No. 1, in accordance with 30 TEX. ADMIN. CODE § 290.41; and
 - ii. Provide an intruder-resistant fence with a lockable gate or a locked and ventilated well house to protect the Facility's well unit, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- f. Within 105 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.g., to demonstrate compliance with Ordering Provision Nos. 3.e.i. and 3.e.ii.
- g. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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.”

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite 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. Extension requests shall be sent to the Enforcement Division at the address listed above.
- 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF BENJAMIN LAWRENCE PENCE

"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 A & K ENTERPRISES, INC. dba Country Food Store' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 28, 2022.

The EDPRP was mailed to Respondent's last known addresses on July 28, 2022, via certified mail, return receipts requested, postage prepaid. According to a return receipt "green card," Respondent received notice of the EDPRP on August 8, 2022, 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."

"My name is Benjamin Lawrence Pence, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,
on the 17th day of August, 2023

A handwritten signature in black ink that reads "Benjamin Pence".

Declarant