EXECUTIVE SUMMARY - ENFORCEMENT MATTERPage 1 of 2

DOCKET NO.: 2009-1844-MLM-E **TCEQ ID:** RN101434264 **CASE NO.:** 38702

RESPONDENT NAME: AMK ENTERPRISES, LLC

ORDER TYPE:		
X_1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING
FINDINGS DEFAULT ORDER	SHUTDOWN ORDER	_IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
AMENDED ORDER	EMERGENCY ORDER	
CASE TYPE:		
AIR	X_MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE
PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION
X WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
X MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
TYPE OF OPERATION: Retail strip mass SMALL BUSINESS: Yes OTHER SIGNIFICANT MATTERS: A waste onto adjacent property. There is no INTERESTED PARTIES: A complaint vagenda. COMMENTS RECEIVED: The Texas Reconstruction of the Contacts and Mailing List: TCEQ Attorney/SEP Coordinated TCEQ Enforcement Coordinated Ms. Laurie Eaves, Enforcement Respondent: Mr. Amina Maliek	X No complaint was received on April 23, 2009, allegin record of additional pending enforcement actions rewas received, but the complainant has not expressed the complainant period expired on May 31, 2010.	g a failing septic tank and illegal dumping of egarding this facility location. d a desire to protest this action or to speak at No comments were received. aforcement Team 1, MC R-09, (254) 761-3034;

RESPONDENT NAME: AMK ENTERPRISES, LLC

DOCKET NO.: 2009-1844-MLM-E

VIOLATION SUMMARY CHART: PENALTY CONSIDERATIONS VIOLATION INFORMATION CORRECTIVE ACTIONS TAKEN/REOUIRED **Ordering Provisions:** Total Assessed: \$2,550 Type of Investigation: X Complaint The Order will require the Respondent to: Routine Total Deferred: \$510 X Expedited Settlement Enforcement Follow-up a. Immediately upon the effective date of Records Review this Agreed Order, cease the unauthorized Financial Inability to Pay discharge of grease; Date(s) of Complaints Relating to this SEP Conditional Offset: \$0 Case: April 23, 2009 b. Within 15 days after the effective date of this Agreed Order, submit written Date of Investigation Relating to this Total Paid (Due) to General Revenue: \$540 certification of compliance with Ordering (remaining \$1,500 due in 12 monthly payments Case: April 23, 2009 Provision a: of \$125 each) Date of NOV/NOE Relating to this Case: c. Within 30 days after the effective date of October 9, 2009 (NOE) Site Compliance History Classification this Agreed Order, remove all grease from ___ High __X Average ___ Poor the affected area on the adjacent property Background Facts: This was a complaint and clean and disinfect the affected area investigation. Person Compliance History Classification around the clean-out: ___ High _X Average ___ Poor WATER d. Within 45 days after the effective date Major Source: Yes X No of this Agreed Order, submit written 1) Failure to prevent the unauthorized certification of compliance with Ordering discharge of waste into or adjacent to water Applicable Penalty Policy: September 2002 Provision c; in the state. Specifically, the investigator documented that raw sewage had e. Within 90 days after the effective date of overflowed from a septic tank clean-out this Agreed Order, repair and/or replace and effluent had discharged from portions the On-Site Sewage Facility ("OSSF") to of the drainfield [Tex. WATER CODE § eliminate discharges from the OSSF; 26.121(a)(1) and 30 Tex. ADMIN. CODE § 285.1(a)]. f. Within 105 days after the effective date of this Agreed Order, submit written WASTE certification of compliance with Ordering Provision e; and 2) Failure to prevent the unauthorized disposal of municipal solid waste into or g. The certification of compliance required adjacent to water in the state. Specifically, by Ordering Provisions b, d, and f shall the investigator documented that grease include detailed supporting documentation had discharged from the grease trap and including photographs, receipts, and/or the grease tanks onto the adjacent property other records to demonstrate compliance. [Tex. Water Code § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 330.15(a)].

Additional ID No(s).: 44861

Policy Revision 2 (Sepi		alty Ca	alculatio	n Work	sheet (P	-	evision October 30, 2008
ICEQ DATES Assigned PCW	12-Oct-2009 12-Feb-2010 S	creening	19-Oct-2009	EPA Due			
RESPONDENT/FACILITY Respondent Reg. Ent. Ref. No. Facility/Site Region	AMK ENTERPRIS	ES, LLC		Major	/Minor Source	Minor	
Media Program(s)	2009-1844-MLM-E On-Site Sewage I Municipal Solid W	Disposal aste	Maximum (Governme	of Violations. Order Type ent/Non-Profit f. Coordinator	л»	am 1
Admin. Perialty \$ 0					±		
TOTAL BASE RENAL	TV (Sum of vi		y Calcula		HON States and	Subtotal 1	\$500
ADJUSTMENTS (#/-)	(
Sublotals 2-7 are obtain Compliance Histo	ned by multiplying the T	otal Base Pena	illy (Subjotal 1) by 2.0%	the indicated pe Enhancement	rcentage. Subt	otels 2, 3, & 7.	\$10
Notes	The Respondent		e Notice of Vid ed to be same				
Culpability Notes	The Res	ondent doe	0:0% s not meet the	culpability c	nteria:	Subtotal 4	\$0
Good Faith Effor	tto Comply Total	Adjustmen	ls 🥦			Subtotal 5	\$0
Economic Benefi Approx.	Total EB Amounts Cost of Compliance	\$5,352 \$64,000		Enhancement at the Total EB		Subjetal 6	\$0
SUMOFISUBTOTAL	\$1 <i>1</i> 7	, visitation		1966anl/7107		inal Subtotal	\$510
OTHER FACTORS A			RE	0.0%		Adjustment	\$0
Reduces or enhances the Final S Notes	ublotal by the indicated	percentage.					
	les a segif i file i la li i la		en de la companya de		Final Pe	nalty Amount [\$510
STATUTORY LIMIT	ADJUSTMENT			ALSO STATE	Einal Asse	essed Penalty	\$510
DEFERRAL Reduces the Final Assessed Per	alty by the indicted pen	centage. (Ente	r number only; e.c	20.0% 20 for 20% red		Adjustment	-\$102
Notes	De	eferral offere	ed for expedite	d settlement.			

PAYABLE PENALTY

\$408

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

Respondent AMK ENTERPRISES, LLC

Case ID No. 38702 Reg. Ent. Reference No. RN101434264

Media [Statute] On-Site Sewage Disposal

الاستعاب	nen sukarranda.	Compliance History Worksheet		
	Component		Enter Number Here	Adjust.
		Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	.0	0%
ļ	.f	Other written NOVs	salanai, 19. 19. 19.	2%
ļ	:	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	W. 1111	0%
	Orders `	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	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	3 (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%
į		Any criminal convictions of this state or the federal government (number of counts)	0	0%
		Chronic excessive emissions events (number of events)	1.0	0%
İ	and the second	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)		0%
			se Enter Yes or No	······································
	1	Environmental management systems in place for one year or more	- FINOSE SOS	0%
	Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No No	0%
	Gana	Participation in a voluntary pollution reduction program	No 188	0%
	4 4	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	ANO,	0%
•		Adjustment P	ercentage (Su	btotal 2)
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	No	Adjustment P	ercentage (Su	btotal 3)
omp	.,	Person Classification (Subtotal 7)		Andrew Trans Public
	Average Po	erformer Adjustment P	ercentage (Su	btotal 7)
omp	liance History	Summary		
	Compliance History Notes	The Respondent received one Notice of Violation for violations that are not considered to similar.	be same or	
	i	Total Adjustment Percentage	(Subtotale 2	, 3, & 7)

Screening Date 1		Docket No. 2009-1844-MLM-E		POW
	MK ENTERPRISES, LLC			evision 2 (September 2002)
Case ID No. 3 Reg. Ent. Reference No. 8			PCW	Revision October 30, 2008
	n-Site Sewage Disposal			1
Enf. Coordinator H				
Violation Number	1		1	
Rule Cite(s)	Tex. Water Code	§ 26,121(a)(1) and 30 Tex, Admin. Code § 28	5.1(a)	errory for ideal for
Violation Description tr	state, as documented duri ne investigator documente and effluent	uthorized discharge of waste into or adjacent to ng an investigation conducted on April 23, 200 d'that raw sewage had overflowed from a septic had discharged from portions of the drainfield.	9. Specifically,	The security of the security o
			Base Penalty	\$2,500
>>Environmental/Property/and	ikiuman kealih Matr	X		- Andrews
	Harm			H-14-6-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-
Release Actual	Major Moderate	Minor x		and the second s
Potential		Percent 1	0%]	and the state of t
				444
>>Programmatic Matrix Falsification	Major Moderate	Minor		- united the state of the state
	The second of the second of the second	Percent Percent	0%	
	han de gere out and beach a	[1] [1] [1] [1] [1] [1] [1] [1] [1] [1]	430 4148 ESEC	de Caracian est de la caracian est
Matrix Human health a	nd the environment have b	een exposed to insignificant amounts of polluta of the violation.	nts as a result	
		Adjustment	\$2,250	
			42,200	
			[\$250
Violation Events				-
Number of Viol	ation Events 2	179 Number of violatio	n days	TO PERSONAL PROPERTY OF THE PERSONAL PROPERTY
mark only one with an x	delly weekly manualy monualy common and the second	Violatio	n Base Penalty	\$500
Two quarter	ly events are recommende scree	d from the investigation date (April 23, 2009) to ning (October 19, 2009).	the date of	
Good Faith Efforts to Comply	0.0%	Reduction		\$0
COURSE AND HOUSE OF THE PARTY O	Before NOV	NOV to EDPRP/Settlement Offer		
E	Extraordinary			ALCOCKA
	Ordinary X	((mark with x)		E e l'Action PRES.
	i i	ndent does not meet the good faith criteria for t violation.	his	- Augintus Augustus -
		Vio	اسطا ation Subtotal	\$500
Economic Benefit (EB) for this	violation - The man	Statutory Lim	tilest	
Estimated	EB Amount	\$5,352 Violation Fina	i Penalty Total	\$510
		This violation Final Assessed Penalty (adju		\$510
		mis violation rima Assesseu Penaty (20)0	aren ioi illilius)	Ψ√ΙΟ

Respondent Case ID No.	38/02						
Reg. Ent. Reference No.	RN101434264						400000000000000000000000000000000000000
CONTROL OF THE REAL PROPERTY AND A SECOND CONTROL OF THE PROPERTY AND A SECOND CONTRO	On-Site Sewage	e Disposal				Percent Interest	(A)Years of
Violation No.	1	Marine of the control of the Artifact	i kan sangania - a a na a a a a a a a a a a a a a a a	u a november (Mai Laument)	Singapan dan Seriasan dan Se		Depreciation
						5.0	المريث والمالية المالية المستحدة المستحدثة المستحدثة
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Item Description	No commasion \$				情况的后旋		A SECURITY OF THE SECURITY OF T
		4		ensemble blechnist	engere un resident et empre en	entrandrours	en bestitet iner eine im kaktiver
Delayed Costs		的例如		dinamentalia	HINE HIERITA		i sa watu
Equipment	\$60,000	4234Apr-20094		1.22	\$243	\$4,866	\$5,109
Buildings	grands that is the t	Philips Property C	Lindaguar en en des	40:00°4°2°	7 - 2	# \$ 0	\$0
Other (as needed)	register types, garage	grapi. Sich volle in tri blich Siegher Armadrichte Levid		30:00	\$0:		\$0 \$0
Engineering/construction Land	\$26000 AS-	3-485-176-6-200-0-300-0-0		D:00	\$0		\$0
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	84,114			0.00	:\$0		\$0
Remediation/Disposal Permit Costs	Augusta	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		0,00	;\$0 \$0		\$ D
Remediation/Disposal Permit Costs Other (as needed)	\$4:000 Estimated cost	23-Apr-2009	pose of the raw se	0.00 0.00 1.22* wage clean	\$0 \$0 \$248	he affected areas,	\$0 \$243 and to replace o
Remediation/Disposal Permit Costs	Estimated cost t	23-Apr-2009	11-Jul-2010 spose of the raw se ate required is the	0.00 0.00 1.22* wage clean	\$0 \$0 \$248	he affected areas,	\$0 \$243 and to replace o
Remediation/Disposal Permit Costs Other (as needed)	Estimated cost to repair the old	23-Apr-2009 to remove and dis septic system. D	11-Jul-2010 spose of the raw se ate required is the	0.00 0.00 wage clean date of the hoompliance:	\$0 \$0 \$248 and disinfect to nvestigation - F	he affected areas, inal date is the ant one-time avoided:	\$0 \$243 and to replace o icipated date of
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Połicy Revision 2 (Septe	-	alculation	Worksheet (P	CW) PCW Revision O	otober 30, 2008
		19-Oct-2009	EPA Due		
RESPONDENT/FACILITY/II Respondent A Reg. Ent. Ref. No. F	MK ENTERPRISES, LLC				
Facility/Site Region 1	3-San Antonio		Major/Minor Source	Minor	i,
Media Program(s)	009-1844-MLM-E		No. of Violations Order Type Government/Non-Profit Enf. Coordinator	Heather Brister	
Admin. Penalty \$ Li	mit Minimum \$0	Maximum	\$10,000 EC's Team	Enforcement Team 1	
		ty Calculat	ion Section		
 (OT/ALTBASE PENAL)		-		Subtotal 1	\$2,000
ASDIGENERATE PLANT					
Subtotals 2-7 are obtaine	d by multiplying the Total Sase Pe	nalty (Subtotal 1) by th	ne indicated percentage.	Male 2 3 /8-7	\$40
	The Respondent received o	ne Notice of Viole	ation for violations that are		
Notes	not consid	ered to be same (or similar.	3	
- Culpability		0.0%	Emancement	Subtotal 4	\$0
Notes	The Respondent de	oes∠not meet lne.	culpability criteria		
Good Faith Effort	to Comply Total Adjustme	onts .	Taring Summers of the	Subtotal 5	\$0
	Total EB Amounts \$243 ost of Compliance \$4,000		nhancements at the Total EB \$ Amount	Subjetal 6	. \$0
SUMFOFFSUBTFOTALS	147			Final/Subtotal/	\$2,040
OTHER FACTORS AS	UISTICE MAY REOL	iire da de la	0.0%	= Adjustment	\$0
Reduces or enhances the Final Su				3	· -
Notes					\$2.040
		ooth Promote in the month of the		enalty Amount	\$2,040
STATUTORY LIMIT A	DUUSTMENT		Final Ass	essed Penalty	\$2,040
DEFERRAL Reduces the Final Assessed Pena	lty by the indicted percentage. (Ex	nter number only; e.g.	20.0% Reduction.	Adjustment	-\$408
Notes	Deferral offe	ered for expedited	settlement.		

\$1,632

Screening Date 19-Oct-2009

Docket No. 2009-1844-MLM-E

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

Respondent AMK ENTERPRISES, LLC
Case ID No. 38702
Reg. Ent. Reference No. RN101434264

Media [Statute] Municipal Solid Waste Ent Coordinator Heather Brister

Compliance History Worksheet

Compliance History Component	Site Enhancement (Subtotal 2).	Enter Number Here	Adjust.	şiri"
	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%	
	Other written NOVs	Contract of a state of	2%	
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0.25	0%	
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denia of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	/ 0	0%	
vilee the	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)		0%	
Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final cour judgments or consent decrees without a denial of liability, of this state or the federa government	0	0%	
Convictions	Any criminal convictions of this state or the federal government (number of counts)	Prising Officer	0%	
	Chronic excessive emissions events (number of events)	2	0%	
	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)		0%	
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)		0%	
	Plea	ise Enter Yes or No		
	Environmental management systems in place for one year or more	: 3®No € √3	0%	
) ⊘Other ::	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	l No -	0%	
	Adjustment F	Percentage (Su	btotal 2)	2%
Repeat Violator (Su	biotal(3)			1997. 1997.
No	Adjustment F	Percentage (Su	btotal 3)	0%
Compliance History	Person Classification (Subtotal 7)	Markette (m. 1954)	animis de varia	
Average Re	erformer - Adjustment F	Percentage (Su	btotal 7)	0%
Compliance History	Summary Control of the Control of th			
Compliance History Notes	The Respondent received one Notice of Violation for violations that are not considered to similar.	be same or		
	····			

	reening Date 19-Oct-2009 Docket No. 2009-1844-MLM-E	PGW
The state of the s	Respondent AMK ENTERPRISES, LLC	Policy Revision 2 (September 2002)
- TOTAL EL CONTROL PROPERTY AND A	Case ID No. 38702	PCW Revision October 30, 2008
	eference No. RN101434264	
	dia Statute Municipal Solid Waste	entrel en
The state of the s	Coordinator: Heather Brister blatton Number 1	
		in the second se
	Rule Cite(s) Tex. Water Gode § 26.121(a)(1) and 30 Tex. Admin. Code § 330.15(a)) Inches
	Failed to prevent the unauthorized disposal of municipal solid waste into or adjac	
	unitarily the etate perdocumented in an investigation conducted on and 23	
Violati	Specifically, the investigator documented that grease had discharged from the g	rease trap
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Compliance History Report

Customer/Respondent/Owner-Operator:

CN603030156 RN101434264 AMK ENTERPRISES, LLC LAKEHILLS ICE HOUSE

Classification: AVERAGE

Classification: AVERAGE BY DEFAULT

Regulated Entity:

REGISTRATION

REGISTRATION

44861

Rating: 12.75

Site Rating: 3.01

ID Number(s):

PETROLEUM STORAGE

TANK REGISTRATION

0100099

PUBLIC WATER SYSTEM/SUPPLY

Location:

9488 FM 1283, LAKEHILLS, BANDERA COUNTY, TEXAS

TCEQ Region:

REGION 13 - SAN ANTONIO

Date Compliance History Prepared:

November 05, 2009

Agency Decision Requiring Compliance History:

Enforcement

Compliance Period:

November 05, 2004 to November 05, 2009

Phone:

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name:

C.

Heather Brister

254-761-3034

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?

(776654)

Yes

3. If Yes, who is the current owner/operator? 4. if Yes, who was/were the prior owner(s)/operator(s)? OWN AMK Enterprises, LLC Dos Smaquets, Inc. OWNOPR.

5. When did the change(s) in owner or operator occur?

07/01/2007

Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site:

Chronic excessive emissions events.

Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. Α.

N/A

Any criminal convictions of the state of Texas and the federal government. B.

N/A

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

N/A N/A

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

Date: 10/09/2009

CN603030156 Classification: Major

Self Report? NO Citation:

30 TAC Chapter 290, SubChapter D 290.39(e)

Description:

Fallure to obtain approval prior to placing the water system into service.

Self Report?

NO

Classification:

Minor

Citation:

30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)

Description:

Failure to provide a raw water sample tap at the well.

Self Report?

NO

Classification:

Minor

Citation:

30 TAC Chapter 290, SubChapter D 290.43(c)(4)

Description:

Fallure to provide a water level indicator on the ground storage tank.

Self Report?

NO

Classification:

Major

Citation:

30 TAC Chapter 290, SubChapter D 290.43(e)

Failure to provide an intruder resistant fence around the ground storage tank.

Self Report?

ИО

Classification:

Moderate

Citation:

Description:

30 TAC Chapter 290, SubChapter F 290.110(d)(1)

Description:

Failure to utilize an approved method for determining disinfectant residual.

Self Report?

NO

Classification:

Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(i)

Description:

Fallure to provide copies of monthly bacteriological sample results.

Self Report? Citation:

NO 30 TAC Chapter 290, SubChapter D 290.46(f)(3) Classification:

Moderate

30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)

Description:

Failure to maintain monthly operations records.

Self Report?

Citation:

NO

30 TAC Chapter 290, SubChapter D 290.46(m)(1)

Description:

Failure to perform annual storage tank inspections.

Self Report?

NO

Classification:

Classification:

Moderate

Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)

Description:

Failure to submit well completion data.

Self Report?

NO

Classification:

Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description:

Failure to obtain sanitary control easements for the well.

Classification:

Moderate

Self Report? Citation:

NO

30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description:

Failure to maintain a free chlorine residual of at least 0.2 mg/l.

Self Report?

NO

Major

Citation:

30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)

Description:

Failure to have the well setback at least 150 feet from a septic drain field.

Self Report?

NO

Classification:

Classification:

Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description:

Failure to provide a suitable roof hatch on the ground storage tank.

Self Report?

NO

Classification:

Moderate

Citation: Description: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(B)(v) Failure to provide adequate pressure tank capacity.

Self Report?

NO

Classification:

Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description:

Failure to provide adequate security for the well housing.

F. Environmental audits. N/A

G. Type of environmental management systems (EMSs). N/A

Voluntary on-site compliance assessment dates. Н.

N/A

١. Participation in a voluntary pollution reduction program. N/A N/A

J. Early compliance.

Sites Outside of Texas N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
AMK ENTERPRISES, LLC	8	
RN101434264	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-1844-MLM-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding AMK ENTERPRISES, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 366 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent owns and operates a retail strip mall at 9488 Farm-to-Market Road 1283 in Lakehills, Bandera County, Texas (the "Site").
- 2. The Respondent has discharged waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
- 3. The TCEQ has general authority concerning the location, design, construction, installation, and proper functioning of an on-site sewage facility ("OSSF") pursuant to TEX. HEALTH & SAFETY CODE ch. 366.
- 4. The Facility involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
- 5. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 6. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 14, 2009.

- 7. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 8. An administrative penalty in the amount of Two Thousand Five Hundred Fifty Dollars (\$2,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Forty Dollars (\$540) of the administrative penalty and Five Hundred Ten Dollars (\$510) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of One Thousand Five Hundred Dollars (\$1,500) of the administrative penalty shall be payable in 12 monthly payments of One Hundred Twenty-Five Dollars (\$125) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

- 9. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 10. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 11. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 12. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 13. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

- 1. Failed to prevent the unauthorized discharge of waste into or adjacent to water in the state, in violation of Tex. WATER CODE § 26.121(a)(1) and 30 Tex. ADMIN. CODE § 285.1(a), as documented during an investigation conducted on April 23, 2009. Specifically, the investigator documented that raw sewage had overflowed from a septic-tank clean-out and effluent had discharged from portions of the drainfield.
- 2. Failed to prevent the unauthorized disposal of municipal solid waste into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 330.15(a), as documented during an investigation conducted on April 23, 2009. Specifically, the investigator documented that grease had discharged from the grease trap and the grease tanks onto the adjacent property.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 8 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: AMK ENTERPRISES, LLC, Docket No. 2009-1844-MLM-E" to:

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

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease the unauthorized discharge of grease;
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, as described below in Ordering Provision No. 2.g;
 - c. Within 30 days after the effective date of this Agreed Order, remove all grease from the affected area on the adjacent property and clean and disinfect the affected area around the clean-out;

- d. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.c, as described below in Ordering Provision No. 2.g;
- e. Within 90 days after the effective date of this Agreed Order, repair and/or replace the OSSF to eliminate discharges from the OSSF;
- f. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.e, as described below in Ordering Provision No 2.g; and
- g. The certification of compliance required by Ordering Provision Nos. 2.b, 2.d, and 2.f shall be notarized by a State of Texas Notary Public and include the following certification language and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance:

"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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager San Antonio Regional Office Texas Commission on Environmental Quality 14250 Judson Road San Antonio, Texas 78233-4480

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
- 8. Under 30 Tex. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

MAR-26-2010 09:36A FROM:

TN: 1.6789222

AMK ENTERPRISES, LLC DOCKET NO. 2009-1844-MLM-E Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the	Comm	ission		
No.	FQu	52AL	ا معا	
Før the	Execut	ive Director		

I, the undersigned, have read and understand the attached Agreed Order. I am authorized attached Agreed Order on behalf of the entity indicated below my signature, and I do agi and conditions specified therein. I further acknowledge that the TCEQ, in accepting p penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if anyl in this order a timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive re penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actic
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecut

Date
President

Name (Printed or typed)

Authorized Representative of

AMK ENTERPRISES, LLC

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration I Section at the address in Section IV, Paragraph 1 of this Agreed Order.