

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1844-MLM-E **TCEQ ID:** RN101434264 **CASE NO.:** 38702
RESPONDENT NAME: AMK ENTERPRISES, LLC

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Lakehills Ice House, 9488 Farm-to-Market Road 1283, Lakehills, Bandera County</p> <p>TYPE OF OPERATION: Retail strip mall</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on April 23, 2009, alleging a failing septic tank and illegal dumping of waste onto adjacent property. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 31, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Amina Maliek, President, AMK ENTERPRISES, LLC, 809 Almadin, San Antonio, Texas 78258 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

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

Additional ID No(s): 44861



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	12-Oct-2009			
	PCW	12-Feb-2010	Screening	19-Oct-2009	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	AMK ENTERPRISES, LLC
Reg. Ent. Ref. No.	RN101434264
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38702	No. of Violations	1
Docket No.	2009-1844-MLM-E	Order Type	1660
Media Program(s)	On-Site Sewage Disposal	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$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	2.0% Enhancement	Subtotals 2, 3, & 7	\$10
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Notes: The Respondent received one Notice of Violation for violations that are not considered to be same or similar.

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 \$5,352
 Approx. Cost of Compliance \$64,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$510
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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: [Empty box]

Final Penalty Amount	\$510
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$510
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DEFERRAL	20.0% Reduction	Adjustment	-\$102
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$408
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Screening Date 19-Oct-2009

Docket No. 2009-1844-MLM-E

PCW

Respondent: AMK ENTERPRISES, LLC

Policy Revision 2 (September 2002)

Case ID No. 38702

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101434264

Media [Statute]: On-Site Sewage Disposal

Ent. Coordinator: Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	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	0%
Please Enter Yes or No			
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) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received one Notice of Violation for violations that are not considered to be same or similar.

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

Screening Date 19-Oct-2009

Docket No. 2009-1844-MLM-E

PCW

Respondent AMK ENTERPRISES, LLC

Policy Revision 2 (September 2002)

Case ID No. 38702

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101434264

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Heather Brister

Violation Number

1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 285.1(a)

Violation Description

Failed to prevent the unauthorized discharge of waste into or adjacent to water in the state, 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.

Base Penalty \$2,500

Environmental Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health and the environment have been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 2

179 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$500

Two quarterly events are recommended from the investigation date (April 23, 2009) to the date of screening (October 19, 2009).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,352

Violation Final Penalty Total \$510

This violation Final Assessed Penalty (adjusted for limits) \$510

Economic Benefit Worksheet

Respondent: AMK ENTERPRISES, LLC
Case ID No.: 38702
Reg. Ent. Reference No.: RN101434264
Media: On-Site Sewage Disposal
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$60,000	28-Apr-2009	11-Jul-2010	4.22	\$243	\$4,866	\$5,109
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	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)	\$4,000	23-Apr-2009	11-Jul-2010	4.22	\$248		\$248

Notes for DELAYED costs: Estimated cost to remove and dispose of the raw sewage, clean and disinfect the affected areas, and to replace or repair the old septic system. Date required is the date of the investigation. Final date is the anticipated 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	\$64,000	TOTAL	\$6,352
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Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	12-Oct-2009	Screening	19-Oct-2009	EPA Due	
	PCW	12-Feb-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	AMK ENTERPRISES, LLC		
Reg. Ent. Ref. No.	RN101434264		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38702	No. of Violations	1
Docket No.	2009-1844-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	On-Site Sewage Disposal	Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$2,000
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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	2.0% Enhancement	<i>Subtotals 2, 3 & 7</i>	\$40
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Notes: The Respondent received one Notice of Violation for violations that are not considered to be same or similar.

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

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$0
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Economic Benefit	0.0% Enhancement	<i>Subtotal 6</i>	\$0
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Total EB Amounts \$243
Approx. Cost of Compliance \$4,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$2,040
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$2,040

STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$2,040
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$408
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only, e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY		\$1,632
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Screening Date 19-Oct-2009

Docket No. 2009-1844-MLM-E

PCW

Respondent: AMK ENTERPRISES, LLC

Policy Revision 2 (September 2002)

Case ID No. 38702

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101434264

Media [Statute] Municipal Solid Waste

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs		2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	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	0%

Please Enter Yes or No

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) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received one Notice of Violation for violations that are not considered to be same or similar.

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

Screening Date 19-Oct-2009

Docket No. 2009-1844-MLM-E

PCW

Respondent AMK ENTERPRISES, LLC

Policy Revision 2 (September 2002)

Case ID No. 36702

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101434264

Media (Statute) Municipal Solid Waste

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 330.15(a)

Violation Description

Failed to prevent the unauthorized disposal of municipal solid waste into or adjacent to the water in the state, as documented in 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.

Base Penalty \$10,000

Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Human health and the environment have been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

Number of violation days 179

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended from the date of the investigation (April 23, 2009) to the date of screening (October 19, 2009).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Est

Estimated EB Amount \$243

Violation Final Penalty Total \$2,040

This violation Final Assessed Penalty (adjusted for limits) \$2,040

Economic Benefit Worksheet

Respondent: AMK ENTERPRISES, LLC
Case ID No.: 38702
Reg. Ent. Reference No.: RN101434264
Media: Municipal Solid Waste
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	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	\$0	\$0
Record Keeping System				0:00	\$0	\$0	\$0
Training/Sampling				0:00	\$0	\$0	\$0
Remediation/Disposal				0:00	\$0	\$0	\$0
Permit Costs				0:00	\$0	\$0	\$0
Other (as needed)	\$4,000	23-Apr-2009	11-Jul-2010	1:22	\$243		\$243

Notes for DELAYED costs

Estimated cost to remove and dispose of the grease from and around the grease trap and the adjacent property and to clean and disinfect the affected areas. Date required is the date of the investigation. Final date is the anticipated 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

\$4,000

TOTAL

\$243

Compliance History Report

Customer/Respondent/Owner-Operator: CN603030156 AMK ENTERPRISES, LLC Classification: AVERAGE Rating: 12.75
 Regulated Entity: RN101434264 LAKEHILLS ICE HOUSE Classification: AVERAGE BY DEFAULT Site Rating: 3.01

ID Number(s): PETROLEUM STORAGE REGISTRATION 44861
 TANK REGISTRATION
 PUBLIC WATER REGISTRATION 0100099
 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
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Heather Brister Phone: 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? | Yes |
| 3. If Yes, who is the current owner/operator? | OWN AMK Enterprises, LLC |
| 4. If Yes, who was/were the prior owner(s)/operator(s) ? | OWNOPR Dos Smaquets, Inc. |
| 5. When did the change(s) in owner or operator occur? | 07/01/2007 |
| 6. Rating Date: 9/1/2009 Repeat Violator: NO | |

Components (Multimedia) for the Site :

- | | |
|--|-----|
| A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. | N/A |
| B. Any criminal convictions of the state of Texas and the federal government. | N/A |
| C. Chronic excessive emissions events. | N/A |
| D. The approval dates of investigations. (CCEDS Inv. Track. No.) | N/A |
| E. Written notices of violations (NOV). (CCEDS Inv. Track. No.) | |
-
- | | | | |
|--------------|--|-----------------|----------|
| Date: | 10/09/2009 (776854) | CN603030156 | |
| Self Report? | NO | Classification: | Major |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.39(e) | | |
| Description: | Failure 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: | Failure 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) | | |
| Description: | Failure to provide an intruder resistant fence around the ground storage tank. | | |
| | | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 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: | Failure to provide copies of monthly bacteriological sample results. | | |
| | | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(f)(3) | | |

Description:	30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to perform annual storage tank inspections.		
Self Report?	NO	Classification:	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.		
Self Report?	NO	Classification:	Moderate
Citation:	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	Classification:	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:	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:	30 TAC Chapter 290, SubChapter D 290.45(d)(2)(B)(v)		
Description:	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
- 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
AMK ENTERPRISES, LLC
RN101434264**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
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:

TO:1678922E

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. ...
For the Executive Director

10/11/2010
~~3/26/10~~ *gjo*

Date

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and to 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 relief, 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 actions;
- TCEQ seeking other relief as authorized by law.

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

Amina Malik

Signature

3/26/10

Date

AMINA MALIK

Name (Printed or typed)

Authorized Representative of
AMK ENTERPRISES, LLC

President

Title

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