

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-0704-MWD-E **TCEQ ID:** RN102342227 **CASE NO.:** 33342

**RESPONDENT NAME:** Aqua Development, Inc. dba Aqua Texas, Inc.

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input 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 type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Timberloch Estates WWTP, approximately 7,150 feet northwest of the point where Rose Hill Road crosses Spring Creek and approximately 12,500 feet north-northeast of the intersection of Farm-to-Market Road 2920 and Mueschke Road, Montgomery County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on September 24, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Catherine Albrecht, Enforcement Division, Enforcement Team 1, R-12, (713) 767-3672; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Mr. Robert Laughman, President, Aqua Texas, Inc., Aqua Development, Inc. dba Aqua Texas, Inc., 1421 Wells Branch Parkway, Suite 105, Pflugerville, Texas 78660  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 14, 2007</p> <p><b>Date of NOE Relating to this Case:</b> April 5, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine records review. Two violations were documented.</p> <p><b>WATER</b></p> <p>1) Failure to comply with permit limits [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14007001, Interim Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to submit parameter data for pH daily minimum and daily maximum values and flow daily average and daily maximum values on the May 2006 DMR [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 14007001, Monitoring and Reporting Requirement No. 1].</p>	<p><b>Total Assessed:</b> \$4,712</p> <p><b>Total Deferred:</b> \$942  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,770</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:</p> <p>a. On May 18, 2006, completed the clarifier repairs to ensure that the Facility provided adequate treatment of the wastewater;</p> <p>b. During May 2006, achieved compliance with permit effluent limits; and</p> <p>c. On April 7, 2007, submitted the missing flow and pH data for the May 2006 DMR.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

DATES	Assigned	16-Apr-2007	Screening	27-Apr-2007	EPA Due	
	PCW	25-May-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Aqua Development, Inc. dba Aqua Texas, Inc.		
Reg. Ent. Ref. No.	RN102342227		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	33342	No. of Violations	2	
Docket No.	2007-0704-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Catherine Albrecht	
Multi-Media		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)** Subtotal 1

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**  Enhancement Subtotals 2, 3, & 7

Notes: The Respondent has one NOV for same or similar violations, one NOV for other violations, and 12 self-reported effluent violations.

**Culpability**   Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**  Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="checkbox"/>
N/A	(mark with x)	

Notes: The Respondent achieved compliance with the permitted effluent limits during May 2006 and with the submission of the missing flow and pH data for the May 2006 DMR on April 7, 2007.

**Total EB Amounts**  Subtotal 6   
**Approx. Cost of Compliance**  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: Recommend reduction in the penalty to prevent the double-enhancement of the penalty amount for same violations in NOV that were self-reported.

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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**

Screening Date 27-Apr-2007

Docket No. 2007-0704-MWD-E

PCW

Respondent Aqua Development, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33342

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102342227

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

### 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)	13	65%
	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 judgments 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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 67%

>> 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 has one NOV for same or similar violations, one NOV for other violations, and 12 self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 67%

Screening Date 27-Apr-2007

Docket No. 2007-0704-MWD-E

PCW

Respondent Aqua Development, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33342

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102342227

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14007001, Interim Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit limits. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes A simplified model was used to evaluate the effects of contaminants on human health and the environment. Failure to comply with permit limits resulted in the exposure of an insignificant amount of contaminants which did not exceed levels protective of human health and the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 154

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,090

Violation Final Penalty Total \$4,560

This violation Final Assessed Penalty (adjusted for limits) \$4,560

## Economic Benefit Worksheet

**Respondent** Aqua Development, Inc. dba Aqua Texas, Inc.  
**Case ID No.** 33342  
**Reg. Ent. Reference No.** RN102342227  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

### Delayed Costs

Equipment	\$27,365	1-Sep-2005	18-May-2006	0.7	\$65	\$1,295	\$1,359
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$21,674	1-Sep-2005	5-May-2006	0.7	\$730	n/a	\$730
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Reported costs of the clarifier repairs is \$27,365 and the wastewater off-site disposal costs during the time of clarifier repairs is \$21,674. Date required is the first violation month. Final date is date corrective actions were completed.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$49,039	TOTAL	\$2,090
----------------------------	----------	-------	---------

Screening Date 27-Apr-2007

Docket No. 2007-0704-MWD-E

PCW

Respondent Aqua Development, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33342

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102342227

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 14007001, Monitoring and Reporting Requirement No. 1

Violation Description Failed to submit parameter data for pH daily minimum and daily maximum values and flow daily average and daily maximum values on the May 2006 DMR.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Less than 30% of the rule was not met by not ensuring that the flow and pH data were submitted for May 2006.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

294 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended based on the record review date of March 14, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$152

This violation Final Assessed Penalty (adjusted for limits) \$152

## Economic Benefit Worksheet

**Respondent** Aqua Development, Inc. dba Aqua Texas, Inc.  
**Case ID No.** 33342  
**Reg. Ent. Reference No.** RN102342227  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$25	20-Jun-2006	7-Apr-2007	0.8	\$1	n/a	\$1
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of submitting the missing May 2006 DMR data based on \$25 per report. Date required is the date the data was due. Final date is the date of compliance.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$25	TOTAL	\$1
----------------------------	------	-------	-----

Respondent: Aqua Development, Inc. dba Aqua Texas, Inc.  
ID Number: RN102342227 (Timberloch Estates)  
Docket Number: 2007-0704-MWD-E  
Enf. Coordinator: Catherine Albrecht

Corresponds to Violation Number: 1

OUTFALL 001 INTERIM EFFLUENT PARAMETERS

Month/Year	NH3-N Dly Avg Limit of 3.0 (in mg/L)	NH3-N Single Grab Limit of 15.0 (in mg/L)	TSS Dly Avg Limit of 15.0 (in mg/L)
Sep-05	3.5	c	c
Oct-05	3.06	c	c
Dec-05	4.43	c	16.2
Jan-06	3.81	32.2	15.4
Mar-06	c	c	19.6

Abbreviations: Ammonia-Nitrogen ("NH3-N"); Total Suspended Solids ("TSS"); Daily Average ("Dly Avg"); milligrams per liter ("mg/L"); and compliant ("c")

...the ... of ...



30 10/20/2004 (366478)  
31 11/22/2004 (389762)  
32 12/20/2004 (389763)  
33 03/22/2005 (389760)  
34 04/19/2005 (427273)  
35 05/20/2005 (427274)  
36 06/23/2005 (427275)  
37 07/22/2005 (447378)  
38 08/23/2005 (447379)  
39 09/23/2005 (447380)  
40 10/24/2005 (492054)  
41 11/29/2005 (492055)  
42 12/20/2005 (492056)  
43 01/23/2006 (492057)  
44 02/22/2006 (492052)  
45 03/20/2006 (492053)  
46 04/24/2006 (506058)  
47 05/16/2006 (506059)  
48 06/14/2006 (506060)  
49 07/12/2006 (506061)  
50 08/15/2006 (528297)  
51 09/06/2006 (488496)  
52 09/20/2006 (528298)  
53 10/18/2006 (528299)  
54 10/23/2006 (516307)  
55 04/09/2007 (553885)

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

Date: 08/25/2003 (150604)

Self Report? NO

Classification: Minor

Rqmt Prov: OP Other Requirements, No. 7, Page 26

Description: Failure to maintain the required dual-feed chlorination system.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to ensure the flow meter is accurately measuring the flow rate and failure to annually calibrate the secondary flow measuring device.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 309, SubChapter A 309.3(g)(2)

30 TAC Chapter 317 317.6(b)(3)(B)

Description: Failure to construct the chlorine contact chamber to prevent short circuiting.

Date: 11/30/2003 (326392)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)(G)

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2004 (326382)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)(G)

Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2004 (326384)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)(G)

Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2004 (389763)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)(G)

Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2005 (389760)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)(G)

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2005 (427273)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)(G)

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2005 (447378)

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2005 (492054)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2005 (492055)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2005 (492057)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2006 (492052)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2006 (506058)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 09/05/2006 (488496)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT Effluent Limitations & Monitoring Req #1  
Description: Failure to maintain compliance with the permitted effluent limits for ammonia-nitrogen and total suspended solids (TSS).

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  
AQUA DEVELOPMENT, INC. DBA  
AQUA TEXAS, INC.  
RN102342227**

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

## **AGREED ORDER DOCKET NO. 2007-0704-MWD-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 Aqua Development, Inc. dba Aqua Texas, Inc. ("ADI") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and ADI appear before the Commission and together stipulate that:

1. ADI owns and operates a wastewater treatment plant located approximately 7,150 feet northwest of the point where Rose Hill Road crosses Spring Creek and approximately 12,500 feet north-northeast of the intersection of Farm-to-Market Road 2920 and Mueschke Road in Montgomery County, Texas (the "Facility").
2. ADI has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and ADI agree that the Commission has jurisdiction to enter this Agreed Order, and that ADI is subject to the Commission's jurisdiction.
4. ADI received notice of the violations alleged in Section II ("Allegations") on or about April 10, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by ADI of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Four Thousand Seven Hundred Twelve Dollars (\$4,712) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). ADI has paid Three Thousand Seven Hundred Seventy Dollars (\$3,770) of the administrative penalty and Nine Hundred Forty-Two Dollars (\$942) is deferred contingent upon ADI'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 ADI fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require ADI to pay all or part of the deferred penalty.
7. 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.
8. The Executive Director of the TCEQ and ADI have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that ADI implemented the following corrective measures at the Facility:
  - a. On May 18, 2006, completed the clarifier repairs to ensure that the Facility provided adequate treatment of the wastewater;
  - b. During May 2006, achieved compliance with permit effluent limits; and
  - c. On April 7, 2007, submitted the missing flow and pH data for the May 2006 DMR.
10. 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 ADI has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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 Facility, ADI is alleged to have:

1. Failed to comply with permit limits, as listed below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14007001, Interim Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 14, 2007.



Month/Year	NH3-N Dly Avg Limit of 3.0 (in mg/L)	NH3-N Single Grab Limit of 15.0 (in mg/L)	TSS Dly Avg Limit of 15.0 (in mg/L)
Sep-05	3.5	c	c
Oct-05	3.06	c	c
Dec-05	4.43	c	16.2
Jan-06	3.81	32.2	15.4
Mar-06	c	c	19.6

Abbreviations: Ammonia-Nitrogen ("NH3-N"); Total Suspended Solids ("TSS"); Daily Average ("Dly Avg"); milligrams per Liter ("mg/L"); and compliant ("c")

2. Failed to submit parameter data for pH daily minimum and daily maximum values and flow daily average and daily maximum values on the May 2006 DMR, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 14007001, Monitoring and Reporting Requirement No. 1, as documented during a record review conducted on March 14, 2007.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that ADI pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and ADI'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: Aqua Development, Inc. dba Aqua Texas, Inc., Docket No. 2007-0704-MWD-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. The provisions of this Agreed Order shall apply to and be binding upon ADI. ADI is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.



3. This Agreed Order, issued by the Commission, shall not be admissible against ADI 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.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to ADI, or three days after the date on which the Commission mails notice of the Order to ADI, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Srdin  
\_\_\_\_\_  
For the Executive Director

9/7/07  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to 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 for 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/or failure 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, additional 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; and
- TCEQ seeking other relief as authorized by law.

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

10 Robert L. Laughman  
\_\_\_\_\_  
Signature

July 19, 2007  
\_\_\_\_\_  
Date

Robert L. Laughman  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Aqua Development, Inc. dba Aqua Texas, Inc.

President  
\_\_\_\_\_  
Title

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

1000 P. 1000  
Lambert

1000 P. 1000  
Lambert