

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0823-MWD-E **TCEQ ID:** RN102343217 **CASE NO.:** 33556

RESPONDENT NAME: Aqua Development, Inc.

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 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>SITE WHERE VIOLATION(S) OCCURRED: Heron Lake Estates, located approximately 2.2 miles east of the intersection of Farm-to-Market Road 1960 and Windfern Road and approximately 1.8 miles south of the intersection of Farm-to-Market Road 1960 and Farm-to-Market Road 249, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 24, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Robert Laughman, President, Aqua Development, Inc., 2211 Louetta Road, Spring, Texas 77388 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 type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 1, 2007</p> <p>Date of NOE Relating to this Case: May 17, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. One violation was documented.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013433001, Interim Effluent Limitations and Monitoring Requirements Nos.1, 2, and 6 for Outfall 001B].</p>	<p>Total Assessed: \$5,960</p> <p>Total Deferred: \$1,192 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,768</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>Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013433001.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

DATES	Assigned	21-May-2007	Screening	24-May-2007	EPA Due	
	PCW	29-May-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Aqua Development, Inc.		
Reg. Ent. Ref. No.	RN102343217		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33556	No. of Violations	1
Docket No.	2007-0823-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,000
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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	64% Enhancement	Subtotals 2, 3, & 7	\$2,560
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Notes: A 64% enhancement is recommended for having 11 NOVs for self reported effluent data, one NOV for the same or similar violations, and 2 NOVs for non-similar violations within the last five years.

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

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	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.

0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$183
 Approx. Cost of Compliance: \$2,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,560
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-9%	Adjustment	-\$600
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: Recommended reduction in the penalty so that monthly self reported effluent violations do not overly-impact the penalty amount.

Final Penalty Amount	\$5,960
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,960
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DEFERRAL	20%	Reduction	Adjustment	-\$1,192
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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	\$4,768
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Screening Date 24-May-2007

Docket No. 2007-0823-MWD-E

PCW

Respondent Aqua Development, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33556

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102343217

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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)	12	60%
	Other written NOVs	2	4%
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%
<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) 64%

>> 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

A 64% enhancement is recommended for having 11 NOVs for self reported effluent data, one NOV for the same or similar violations, and 2 NOVs for non-similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 64%

Screening Date 24-May-2007

Docket No. 2007-0823-MWD-E

PCW

Respondent Aqua Development, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33556

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102343217

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0013433001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6 for Outfall 001B

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on May 1, 2007. See attached table.

Base Penalty \$10,000

>> 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

A simplified model was used to evaluate ammonia nitrogen ("NH3-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, dissolved oxygen, total suspended solids ("TSS"), total chlorine residual, and carbonaceous biochemical oxygen demand ("CBOD") values were also considered. As a result of these discharges human health or the environment has 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 4 Number of violation days 244

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$183

Violation Final Penalty Total \$5,960

This violation Final Assessed Penalty (adjusted for limits) \$5,960

Economic Benefit Worksheet

Respondent Aqua Development, Inc.
Case ID No. 33556
Reg. Ent. Reference No. RN102343217
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
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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				0.0	\$0	n/a	\$0
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)	\$2,000	30-Apr-2006	28-Feb-2008	1.8	\$183	n/a	\$183

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the expected compliance date.

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

\$2,000

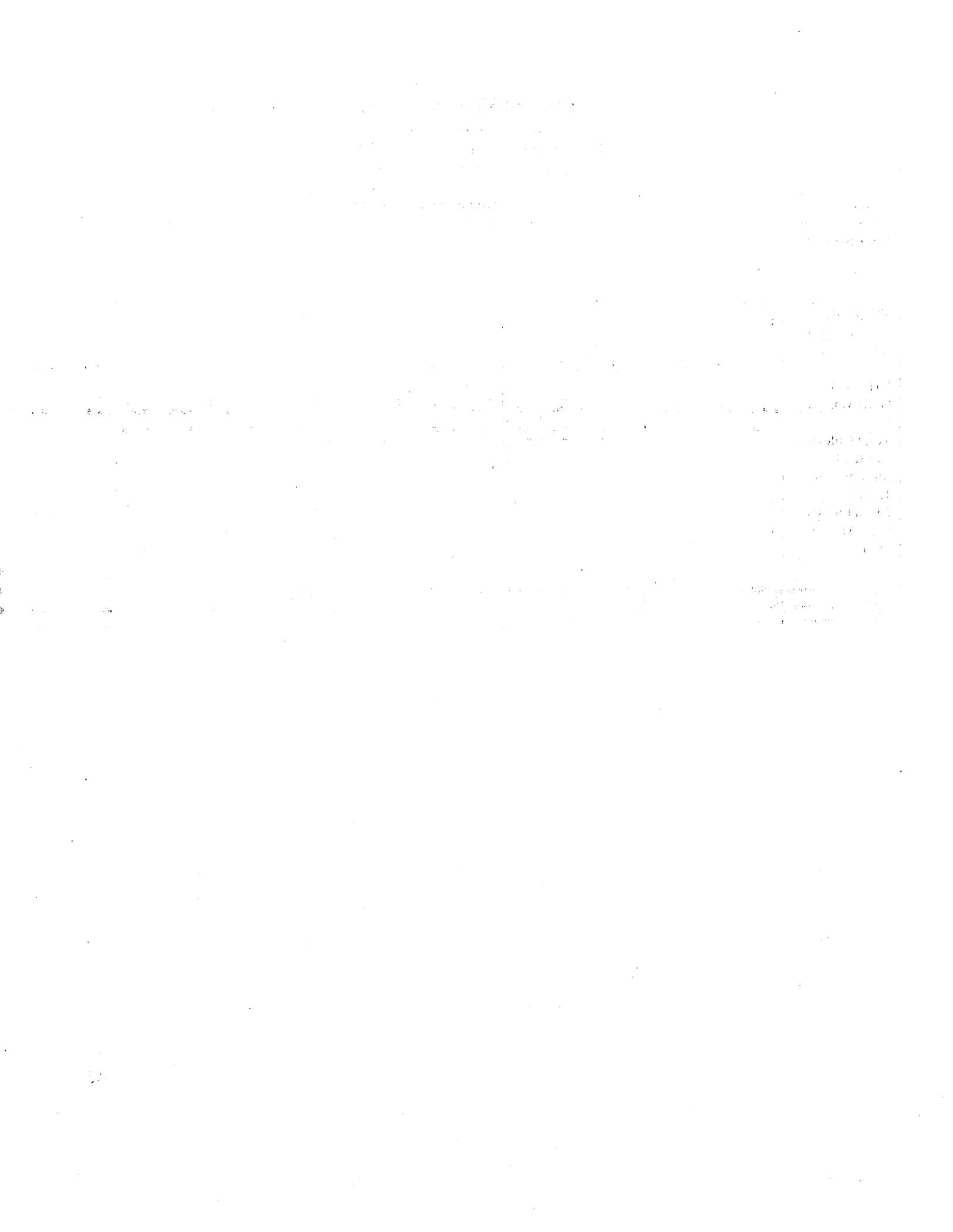
TOTAL

\$183

Effluent Violation Table
Aqua Development, Inc.
TPDES Permit No. WQ0013433001
Docket No. 2007-0823-MWD-E

Permitted Effluent Limits	Monitoring Period End Date							
	04/30/2006	06/30/2006	08/31/2006	09/30/2006	10/31/2006	11/30/2006	12/31/2006	01/31/2007
Dissolved Oxygen Monthly Min. 4.0 mg/l	3.14	C	C	C	C	C	C	C
TSS Daily Avg. 15 mg/l	C	C	C	C	22.8	16.4	17.7	18.4
NH3-N Daily Avg. 3 mg/l	C	3.68	C	5.76	C	C	C	C
NH3-N Single Grab Max. 15 mg/l	C	C	27.8	18.2	C	C	C	C
Total Chlorine Residual Monthly Min. 1.0 mg/l	C	C	0.30	C	C	C	C	C
CBOD Single Grab Max. 35 mg/l	C	C	38.0	C	C	C	C	C

TSS = Total Suspended Solids	CBOD = Carbonaceous Biochemical Oxygen Demand	Avg. = Average
NH3-N = Ammonia Nitrogen	Min. = Minimum	Max. = Maximum
mg/l = milligrams per liter	C = Compliant	



Compliance History

Customer/Respondent/Owner-Operator: CN600789705 Aqua Development, Inc. Classification: AVERAGE Rating: 2.01
Regulated Entity: RN102343217 HERON LAKE ESTATES Classification: AVERAGE Site Rating: 0.69
ID Number(s): WASTEWATER PERMIT WQ0013433001
WASTEWATER PERMIT TPDES0103705
WASTEWATER PERMIT TX0103705
Location: located approximately 2.2 miles east of Rating Date: 9/1/2006 Repeat Violator: NO
the intersection of Farm-to-Market
Road 1960 and Windfern Road and
approximately 1.8 miles south of the
intersection of Farm-to-Market Road
1960 and Farm-to-Market Road 249,
Harris County
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: May 21, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 21, 2002 to May 21, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Samuel Short Phone: (512) 239-5363

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

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.)

1	06/24/2002	(222516)
2	06/24/2002	(222518)
3	06/24/2002	(222521)
4	07/23/2002	(222523)
5	08/21/2002	(222525)
6	09/20/2002	(222528)
7	10/21/2002	(222530)
8	11/18/2002	(222509)
9	11/18/2002	(222512)
10	11/18/2002	(222515)
11	11/22/2002	(222532)
12	12/30/2002	(222534)
13	01/21/2003	(222536)
14	04/07/2003	(222514)
15	05/23/2003	(222519)
16	05/23/2003	(322387)
17	06/03/2003	(222511)
18	06/23/2003	(322388)
19	07/18/2003	(322389)
20	09/05/2003	(322390)
21	09/26/2003	(322391)
22	10/20/2003	(322392)
23	12/01/2003	(322393)
24	01/20/2004	(322394)
25	02/23/2004	(322395)
26	03/18/2004	(322386)
27	04/13/2004	(364140)
28	04/30/2004	(364141)

29 05/18/2004 (266602)
 30 05/28/2004 (364142)
 31 08/16/2004 (282744)
 32 09/07/2004 (364143)
 33 09/23/2004 (364144)
 34 10/20/2004 (364145)
 35 11/22/2004 (364146)
 36 12/20/2004 (388590)
 37 01/20/2005 (388591)
 38 02/21/2005 (505044)
 39 03/22/2005 (388589)
 40 04/19/2005 (426102)
 41 05/23/2005 (426103)
 42 06/23/2005 (426104)
 43 07/18/2005 (430026)
 44 07/22/2005 (446525)
 45 09/02/2005 (446526)
 46 09/19/2005 (446527)
 47 10/24/2005 (479238)
 48 11/29/2005 (479239)
 49 12/20/2005 (479240)
 50 01/23/2006 (479241)
 51 02/22/2006 (479236)
 52 03/20/2006 (479237)
 53 04/24/2006 (505045)
 54 06/16/2006 (505047)
 55 06/23/2006 (505046)
 56 07/05/2006 (466646)
 57 07/12/2006 (505048)
 58 07/18/2006 (467082)
 59 07/24/2006 (488061)
 60 08/23/2006 (527342)
 61 09/19/2006 (527343)
 62 10/18/2006 (527344)
 63 11/20/2006 (479786)
 64 02/13/2007 (538059)
 65 05/17/2007 (558781)

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

Date	06/30/2002	(222523)		
Self Report?	YES		Classificatio	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	02/28/2003	(222514)		
Self Report?	YES		Classificatio	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	12/31/2003	(322395)		
Self Report?	YES		Classificatio	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	05/18/2004	(266602)		
Self Report?	NO		Classificatio	Minor
Citation:	30 TAC Chapter 317 317.7(e)			
Description:	Failure to maintain a lockable gate on the facility's west fence.			
Date	07/18/2005	(430026)		
Self Report?	NO		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO		Classificatio	Moderate

Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date	04/30/2006 (505046)		
Self Report?	YES	Classificatio	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	06/30/2006 (505048)		
Self Report?	YES	Classificatio	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	08/31/2006 (527343)		
Self Report?	YES	Classificatio	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	09/30/2006 (527344)		
Self Report?	YES	Classificatio	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	11/16/2006 (479786)		
Self Report?	NO	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(g)(4)(B)[G]		
Description:	Failure to operate and maintain the plant.		
Self Report?	NO	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(19)		
Description:	Failure to submit the correct information in the permit application.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 317 317.6(a)		
Description:	Failure to maintain the fan in the chlorine equipment room in the operational mode.		
Self Report?	NO	Classificatio	Moderate
Rqmt Prov:	PERMIT Interim II EL&MR, pg. 2a, No. 1		
Description:	Failure to maintain compliance with permitted effluent limits for dissolved oxygen in April 2006, ammomia-nitrogen in June 2006 and August 2006, and carbonaceous biochemical oxygen demand, and chlorine residual in August 2006.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b)		
Description:	Failure to document proper sample preservation of extra ammonia-nitrogen samples collected by plant personnel. Samples were collected by Daniel Suello, operator, on March 23, 2006, March 24, 2006 and twice on March 31, 2006. The Chain of Custodys for these samples did not contain preservation information.		
Self Report?	NO	Classificatio	Minor
Rqmt Prov:	PERMIT Interim II EL&MR, pg. 2a, No. 2		
Description:	Failure to maintain compliance with the permitted effluent limits for chlorine residual.		
Date	10/31/2006		
Self Report?	YES	Classificatio	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	11/30/2006		
Self Report?	YES	Classificatio	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 12/31/2006

Self Report? YES

Classificatio 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 01/31/2007

Self Report? YES

Classificatio 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

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.
RN102343217**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0823-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. ("Aqua Development") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Aqua Development appear before the Commission and together stipulate that:

1. Aqua Development owns and operates a wastewater treatment plant located approximately 2.2 miles east of the intersection of Farm-to-Market Road 1960 and Windfern Road and approximately 1.8 miles south of the intersection of Farm-to-Market Road 1960 and Farm-to-Market Road 249 in Harris County, Texas (the "Facility").
2. Aqua Development has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Aqua Development agree that the Commission has jurisdiction to enter this Agreed Order, and that Aqua Development is subject to the Commission's jurisdiction.
4. Aqua Development received notice of the violations alleged in Section II ("Allegations") on or about May 22, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Aqua Development of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Nine Hundred Sixty Dollars (\$5,960) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Aqua Development has paid Four Thousand Seven Hundred Sixty-Eight Dollars (\$4,768) of the administrative penalty and One Thousand One Hundred Ninety-Two Dollars (\$1,192) is deferred contingent upon Aqua Development'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 Aqua Development fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Aqua Development 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 Aqua Development have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Aqua Development has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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, Aqua Development is alleged to have failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013433001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6 for Outfall 001B, as documented during a record review conducted on May 1, 2007, as indicated in the table below.

Effluent Violation Table								
Permitted Effluent Limits	Monitoring Period End Date							
	04/30/2006	06/30/2006	08/31/2006	09/30/2006	10/31/2006	11/30/2006	12/31/2006	01/31/2007
Dissolved Oxygen Monthly Min. 4.0 mg/l	3.14	C	C	C	C	C	C	C
TSS Daily Avg. 15 mg/l	C	C	C	C	22.8	16.4	17.7	18.4
NH3-N Daily Avg. 3 mg/l	C	3.68	C	5.76	C	C	C	C
NH3-N Single Grab Max. 15 mg/l	C	C	27.8	18.2	C	C	C	C
Total Chlorine Residual Monthly Min. 1.0 mg/l	C	C	0.30	C	C	C	C	C
CBOD Single Grab Max. 35 mg/l	C	C	38.0	C	C	C	C	C

TSS = Total Suspended Solids	CBOD = Carbonaceous Biochemical Oxygen Demand	Avg. = Average
NH3-N = Ammonia Nitrogen	Min. = Minimum	Max. = Maximum
mg/l = milligrams per liter	C = Compliant	

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Aqua Development pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Aqua Development'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., Docket No. 2007-0823-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. It is further ordered that Aqua Development shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013433001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Aqua Development. Aqua Development 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.
4. If Aqua Development 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, Aqua Development's failure to comply is not a violation of this Agreed Order. Aqua Development shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Aqua Development shall notify the Executive Director within seven days after Aqua Development 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 Aqua Development shall be made in writing to the Executive Director. Extensions are not effective until Aqua Development 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 Aqua Development 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 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Aqua Development, or three days after the date on which the Commission mails notice of the Order to Aqua Development, 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



For the Executive Director

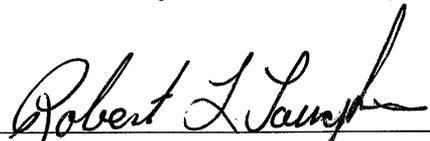
Date 9/7/07

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.

SB 

Signature

July 19, 2007

Date

Robert L. Loughman

Name (Printed or typed)
Authorized Representative of
Aqua Development, 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.

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