

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0071-MWD-E **TCEQ ID:** RN102341559 **CASE NO.:** 32247

RESPONDENT NAME: Aqua Utilities, Inc. dba Aqua Tex, 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: Timberwilde WWTP, three-eighths of a mile east of Kuykendahl Road and one mile north of the intersection of Hufsmith Road and Kuykendahl Road, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: No complaints were received. 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 June 11, 2007. 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) 761-3048; Mr. David Van Sost, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Robert L. Laughman, President, Aqua Utilities, Inc. dba Aqua Tex, Inc., 1421 Wells Branch Parkway, Suite 105, Pflugerville, Texas 78660 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 of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 4, 2006</p> <p>Date of NOE Relating to this Case: December 19, 2006 (NOE)</p> <p>Background Facts: This was a routine records review. One violation was documented.</p> <p>WATER</p> <p>Failed to comply with permit effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0012519001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p>	<p>Total Assessed: \$7,020</p> <p>Total Deferred: \$1,404 <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: \$5,616</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 120 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0012519001.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	4-Jan-2007	Screening	10-Jan-2007	EPA Due	
	PCW	10-Mar-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Aqua Utilities, Inc. dba Aqua Texas, Inc.		
Reg. Ent. Ref. No.	RN102341559		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	32247	No. of Violations	1	
Docket No.	2007-0071-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister	
Multi-Media		EC's Team	EnforcementTeam 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 144% Enhancement Subtotals 2, 3, & 7

Notes: The Respondent self-reported 24 months of effluent quality violations, and was issued a 1660 agreed order, plus two Notices of Violations ("NOVs") for violations not considered to be same or similar.

Culpability No 0% Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet Good Faith criteria.

Total EB Amounts 0% Enhancement* 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

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

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 10-Jan-2007

Docket No. 2007-0071-MWD-E

PCW

Respondent Aqua Utilities, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32247

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102341559

Media [Statute] Water Quality

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)	24	120%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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%

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) 144%

>> 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 self-reported 24 months of effluent quality violations, and was issued a 1660 agreed order, plus two Notices of Violations ("NOVs") for violations not considered to be same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 144%

Screening Date 10-Jan-2007

Docket No. 2007-0071-MWD-E

PCW

Respondent Aqua Utilities, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32247

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102341559

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0012519001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data conducted on December 4, 2006. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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 3

212 Number of violation days

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 \$192

Violation Final Penalty Total \$7,020

This violation Final Assessed Penalty (adjusted for limits) \$7,020

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc. dba Aqua Texas, Inc.
Case ID No. 32247
Reg. Ent. Reference No. RN102341559
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	31-Dec-2005	30-Nov-2007	1.9	\$192	n/a	\$192

Notes for DELAYED costs

Estimated cost for implementing necessary rehabilitation work to the facility. Date Required is the initial month of noncompliance. Final Date is the anticipated date of compliance.

Avoided Costs

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

Disposal				0.0	\$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	212 \$192
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Effluent Limit Violation Table

Respondent
ID Number(s)
Docket Number
Enf. Coordinator

Aqua Utilities, Inc. dba Aqua Texas, Inc.

TPDES Permit No. WQ0012519001

2007-0071-MWD-E

Heather Brister

Corresponds to Violation Number:

1

<i>EFFLUENT PARAMETER</i>				
<i>Permit Limit</i>				
	Total Suspended Solids Single Grab Concentration 60 Milligrams per Liter	Total Suspended Solids Daily Average Concentration 15 Milligrams per Liter	Carbonaceous Biochemical Oxygen Demand Single Grab 35 Milligrams per Liter	Dissolved Oxygen Minimum 4.0 Milligrams per Liter
<i>Month/Year</i>				
Dec-05	c	17	c	c
Jan-06	c	20.5	c	c
Feb-06	c	17.8	c	c
Mar-06	c	17.6	c	c
Apr-06	89	23	35.7	c
May-06	c	c	c	3.32
Jul-06	c	19.6	c	c

Compliance History

Customer/Respondent/Owner-Operator:	CN602787509	Aqua Utilities, Inc. dba Aqua Texas, Inc.	Classification	Average	Rating: 1.01
Regulated Entity:	RN102341559	TIMBERWILDE WWTP	Classification	Average	Site Rating: 1.91
ID Number(s):	WASTEWATER	PERMIT			WQ0012519001
	WASTEWATER	PERMIT			TPDES0089915
	WASTEWATER LICENSING	LICENSE			WQ0012519001
Location:	3/8 mile east of Kuykendahl Road and one mile north of the intersection of Hufsmith Road and Kuykendahl Road, Harris County, Texas				
TCEQ Region:	REGION 12 - HOUSTON				
Date Compliance History Prepared	January 19, 2007				
Agency Decision Requiring Compliance History:	Enforcement				
Compliance Period:	January 19, 2002 to January 19, 2007				
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History					
Name:	Heather Brister	Phone:	512-239-1203		

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 of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | Aqua Utilities, Inc. |
| 4. If Yes, who was/were the prior owner(s)? | AquaSource Utilites Inc
Aqua Development, Inc.
Aqua Texas, Inc. |
| 5. When did the change(s) in ownership occur? | 08/19/2004
11/19/2004 |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | | |
|-----------------|--|----------------------------|
| Effective Date: | 10/25/2004 | ADMINORDER 2004-0353-MWD-E |
| Classification: | Moderate | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: | Effluent Limits PERMIT | |
| Description: | Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data. | |
- 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 | 04/19/2005 | (425063) |
| 2 | 05/23/2005 | (425064) |
| 3 | 06/24/2005 | (425065) |
| 4 | 12/19/2006 | (533009) |
| 5 | 02/25/2002 | (212166) |
| 6 | 03/18/2004 | (318163) |
| 7 | 02/24/2003 | (212167) |
| 8 | 03/25/2003 | (318164) |
| 9 | 03/25/2002 | (212169) |
| 10 | 04/13/2004 | (318165) |

11	04/30/2004	(361726)
12	02/03/2004	(261554)
13	05/28/2004	(361727)
14	05/23/2003	(318166)
15	04/22/2002	(212171)
16	09/07/2004	(361728)
17	04/24/2003	(212172)
18	07/22/2005	(445693)
19	06/23/2003	(318167)
20	09/23/2004	(361729)
21	08/23/2005	(445694)
22	05/22/2002	(212174)
23	10/20/2004	(361730)
24	06/21/2005	(378255)
25	09/23/2005	(445695)
26	07/18/2003	(318168)
27	11/22/2004	(361731)
28	08/29/2003	(318169)
29	06/24/2002	(212176)
30	10/03/2003	(318170)
31	10/20/2003	(318171)
32	12/01/2003	(318172)
33	07/25/2002	(212179)
34	01/20/2004	(318173)
35	02/20/2004	(318174)
36	08/22/2002	(212182)
37	04/24/2006	(504059)
38	09/25/2002	(212184)
39	05/23/2006	(504060)
40	06/16/2006	(504061)
41	10/21/2002	(212187)
42	08/01/2006	(480799)
43	07/12/2006	(504062)
44	11/21/2002	(212190)
45	12/30/2002	(212193)
46	01/24/2002	(212195)
47	01/21/2003	(212196)
48	08/15/2006	(526426)
49	09/20/2006	(526427)
50	10/18/2006	(526428)
51	10/18/2005	(432370)
52	02/22/2006	(477472)
53	03/20/2006	(477473)
54	10/24/2005	(477474)
55	11/29/2005	(477475)
56	12/20/2005	(477476)
57	01/23/2006	(477477)
58	03/22/2005	(387307)
59	09/18/2003	(262986)
60	12/20/2004	(387308)
61	01/20/2005	(387309)
62	07/21/2003	(105665)

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

Date: **03/31/2005** (425063)
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: **04/30/2005** (425064)
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: **05/31/2005** (425065)
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** (445693)
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: **07/31/2005** (445694)
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: **01/31/2002** (212166)
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** (318163)
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: **07/18/2003** (105665)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.7(e)
Description: Failure to provide an all weather road.

Date: **02/28/2003** (318164)
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: **02/28/2002** (212169)
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** (318165)
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: **04/30/2003** (318166)
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: **07/31/2004** (361728)
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: **05/31/2003** (318167)
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: **07/31/2003** (318169)
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: **10/31/2003** (318172)
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: **12/31/2003** (318174)
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** (504059)
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: **04/30/2006** (504060)
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: **05/31/2006** (504061)
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: **07/31/2006** (526426)
 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: **06/17/2005** (378255)
 Self Report? NO Classification: Minor
 Rqmt Prov: PERMIT IA
 Description: Failure to maintain an appropriate quantity and quality of solids inventory in the treatment plant.

Date: **01/31/2006** (477472)
 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: **02/28/2006** (477473)
 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** (477477)
 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: **12/31/2004** (387309)
 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

- 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 UTILITIES, INC. DBA AQUA
TEXAS, INC.
RN102341559

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

AGREED ORDER
DOCKET NO. 2007-0071-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 Utilities, Inc. dba Aqua Texas, Inc. ("Aqua Utilities") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Aqua Utilities appear before the Commission and together stipulate that:

1. Aqua Utilities owns and operates a wastewater treatment facility located three-eighths of a mile east of Kuykendahl Road and one mile north of the intersection of Hufsmith Road and Kuykendahl Road, Harris County, Texas (the "Facility").
2. Aqua Utilities has discharged waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Aqua Utilities agree that the Commission has jurisdiction to enter this Agreed Order, and that Aqua Utilities is subject to the Commission's jurisdiction.
4. Aqua Utilities received notice of the violations alleged in Section II ("Allegations") on or about December 24, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Aqua Utilities of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Twenty Dollars (\$7,020) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Aqua

Utilities has paid Five Thousand Six Hundred Sixteen Dollars (\$5,616) of the administrative penalty and One Thousand Four Hundred Four Dollars (\$1,404) is deferred contingent upon Aqua Utilities' 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 Utilities fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Aqua Utilities 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 Utilities 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 Utilities 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 Utilities is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0012519001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on December 4, 2006, and as shown in the following table:

<i>EFFLUENT PARAMETER</i>				
<i>Permit Limit</i>				
	Total Suspended Solids Single Grab Concentration 60 Milligrams per Liter	Total Suspended Solids Daily Average Concentration 15 Milligrams per Liter	Carbonaceous Biochemical Oxygen Demand Single Grab 35 Milligrams per Liter	Dissolved Oxygen Minimum 4.0 Milligrams per Liter
<i>Month/Year</i>				
Dec-05	c	17	c	c
Jan-06	c	20.5	c	c
Feb-06	c	17.8	c	c
Mar-06	c	17.6	c	c
Apr-06	89	23	35.7	c
May-06	c	c	c	3.32
Jul-06	c	19.6	c	c

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Aqua Utilities pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Aqua Utilities' 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 Utilities, Inc. dba Aqua Texas, Inc., Docket No. 2007-0071-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 the City shall, within 120 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0012519001. The certification shall include detailed supporting documentation including photographs, 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 Quality Section, Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
4630 50th Street, Suite 600
Lubbock, Texas 79414-3520

3. The provisions of this Agreed Order shall apply to and be binding upon Aqua Utilities. Aqua Utilities 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 Utilities 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 Utilities' failure to comply is not a violation of this Agreed Order. Aqua Utilities shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Aqua Utilities shall notify the Executive Director within seven days after Aqua Utilities 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 Utilities shall be made in writing to the Executive Director. Extensions are not effective until Aqua Utilities 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 Utilities 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 Utilities, or three days after the date on which the Commission mails notice of the Order to Aqua Utilities, 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 Erdler
For the Executive Director

11/13/2007
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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me;
- and
- TCEQ seeking other relief as authorized by law.

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

RLB
Robert L. Laughman
Signature

July 19, 2007
Date

Robert L. Laughman
Name (Printed or typed)
Authorized Representative of
Aqua Utilities, 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.

Handwritten notes at the top of the page, including a date and possibly a name.

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Handwritten signature or name on the right side of the page.

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