

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0801-MLM-E TCEQ ID NO.: RN102679347 ENF CASE NO.: 29890

RESPONDENT NAME: AQUA TEXAS, INC. DBA COUNTRY VIEW ESTATES

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" 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

SITE WHERE VIOLATION(S) OCCURRED: 2.6 miles west of the intersection of Highway 16 and Park Road 37, Medina County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on October 7, 2007. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney: Ms. Dinniah M. Chahin, Litigation Division, MC 175, (512) 239-0617
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Ms. Yuliya Dunaway, Water Enforcement Section, MC R-13, (210) 490-3096
TCEQ Regional Contact: Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050
Respondent: Mr. Robert Laughman, President, Aqua Texas, Inc. dba Country View Estates, 2211 Louetto Drive, Spring, Texas 77388
Respondent's Attorney: Mr. David P. Smith, Attorney, Barrett & Smith, PLLC, 505 W. 14th Street, Austin, Texas 78701

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: May 17, 2006</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: May 30, 2006 (NOE)</p> <p>Background Facts: A settlement agreement was reached with the Respondent, and a signed Agreed Order was received on June 19, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MLM</p> <p>1) Failed to obtain a permit from the Commission prior to any discharge of wastewater [30 TEX. ADMIN. CODE § 305.42(a) and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failed to provide an intruder-resistant fence to protect the booster station [30 TEX. ADMIN. CODE § 290.42(m)].</p>	<p>Total Assessed: \$2,202</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,202</p> <p>The Respondent has paid the administrative penalty in full.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor <input checked="" type="checkbox"/> N/A</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor <input type="checkbox"/> N/A</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action Taken:</p> <p>The Executive Director recognizes that the Respondent has provided an intruder-resistant fence to protect the booster station. Specifically, the Respondent has angled the three strands of barbed-wire on top of the fence outward at a 45 degree angle.</p> <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1) Within 30 days, submit an administratively complete permit application.</p> <p>2) Within 365 days, submit written certification that either authorization to discharge wastewater has been obtained or that all discharge of wastewater has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with the above Ordering Provision.</p>



Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

DATES	Assigned	06-May-2006	Screening	21-Jun-2006	EPA Due	
	PCW	20-Sep-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Aqua Texas, Inc. dba Country View Estates
Reg. Ent. Ref. No.	RN102679347
Facility/Site Region	13-San Antonio
Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	29890	No. of Violations	1
Docket No.	2006-0801-MLM-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Yuliya Dunaway
Multi-Media	WQ	EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 2% Enhancement **Subtotals 2, 3, & 7** \$2

Notes: The respondent has one previous NOV for the dissimilar violations as those in the current enforcement action.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes: The respondent does not meet the culpability criteria.

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

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

Notes: The respondent does not meet the good faith criteria.

Economic Benefit 0% Enhancement* **Subtotal 6** \$0

Total EB Amounts	\$1	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$100	

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$102

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** \$0

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

Notes:

Final Penalty Amount \$102

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$102

DEFERRAL **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral offered with non-expedited process.

PAYABLE PENALTY \$102

Screening Date MLM\AGENDA\2006-0801-mlm-PWS-revised\Aqua Texas.gpw
 21-Jun-2006 **Docket No.** 2006-0801-MLM-E **PCW**
Respondent Aqua Texas, Inc. dba Country View Estates *Policy Revision 2 (September 2002)*
Case ID No. 29890 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102679347
Media [Statute] Public Water Supply
Enf. Coordinator Yuliya Dunaway

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	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 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 2%

>> **Repeat Violator (Subtotal 3)**

N/A

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 previous NOV for the dissimilar violations as those in the current enforcement action.

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

Screening Date

MLMAGENDA\2006-0801-mlm-PWS-revised Aqua Texas.qpw
21-Jun-2006

Docket No. 2006-0801-MLM-E

PCW

Respondent Aqua Texas, Inc. dba Country View Estates

Policy Revision 2 (September 2002)

Case ID No. 29890

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102679347

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number

1

Primary Rule Cite(s)

30 Tex. Admin. Code § 290.42(m)

Secondary Rule Cite(s)

Violation Description

Failure to provide an intruder-resistant fence to protect the booster station. Specifically, the three strands of barbed-wire on the top of the fence were not angled outward at a 45 degree angle.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 10%
	Potential			X	

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	
						Percent

Matrix Notes

Human health could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment -\$900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$102

This violation Final Assessed Penalty (adjusted for limits) \$102

Economic Benefit Worksheet

Respondent: Aqua Texas, Inc. dba Country View Estates
 Case ID No. 29890
 Reg. Ent. Reference No. RN102679347
 Media [Statute]: Public Water Supply
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$100	17-May-2006	27-Jun-2006	0.1	\$0	\$1	\$1
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the amount to repair the booster station fence line, calculated from the date of the investigation to the estimated 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: There are no avoided costs associated with this violation.

Approx. Cost of Compliance TOTAL

MLM\AGENDA\2006-0801-mlm-WQ-revised-Aqua Texas.doc
Penalty Calculation Worksheet (PCW)



Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

DATES	Assigned 05-Jun-2006	Screening 21-Jun-2006	EPA Due
	PCW 20-Sep-2006		

RESPONDENT/FACILITY INFORMATION	
Respondent	Aqua Texas, Inc. dba Country View Estates
Reg. Ent. Ref. No.	RN102679347
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	29890	No. of Violations	1
Docket No.	2006-0801-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Yuliya Dunaway
Multi-Media	PWS	EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$100
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Notes The respondent has one previous NOV for the same or similar violations as those in the current enforcement action.

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 a small x)

Notes The respondent does not meet the good faith criteria.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$17	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	\$300	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,100
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$2,100
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,100
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral offered for non-expedited process.

PAYABLE PENALTY	\$2,100
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Screening Date 21-Jun-2006
Respondent Aqua Texas, Inc. dba Country View Estates
Case ID No. 29890
Reg. Ent. Reference No. RN102679347
Media [Statute] Water Quality
Enf. Coordinator Yuliya Dunaway

MLM\AGENDA\2006-0801-mlm-WQ-revised-AquaTexas.dpw
Docket No. 2006-0801-MLM-E

PCW
 Policy Revision 2 (September 2002)
 PCW Revision May 19, 2005

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	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 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 5%

>> **Repeat Violator (Subtotal 3)**

N/A **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 previous NOV for the same or similar violations as those in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 21-Jun-2006
Respondent Aqua Texas, Inc. dba Country View Estates
Case ID No. 29890
Reg. Ent. Reference No. RN102679347
Media [Statute] Water Quality
Enf. Coordinator Yuliya Dunaway

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Docket No. 2006-0801-MLM-E

PCW
 Policy Revision 2 (September 2002)
 PCW Revision May 19, 2005

Violation Number 1
Primary Rule Cite(s) 30 Tex. Admin. Code § 305.42(a)
Secondary Rule Cite(s) Tex. Water Code § 26.121(a)
Violation Description Failure to obtain a permit from the Commission prior to any discharge of wastewater.

Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	X			Percent 10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 2

mark only one use a small x

daily	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Two monthly events are recommended from the date of the investigation, May 17, 2006, to the date of screening, June 21, 2006.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$17

Violation Final Penalty Total \$2,100

This violation Final Assessed Penalty (adjusted for limits) \$2,100

Economic Benefit Worksheet

Respondent: Aqua Texas, Inc. dba Country View Estates
 Case ID No. 29890
 Reg. Ent. Reference No. RN102679347
 Media [Statute] 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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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	\$300	17-May-2006	15-Jul-2007	1.2	\$17	n/a	\$17
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the amount to obtain a wastewater discharge permit, calculated from the date of the investigation to the estimated 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 **\$300** **TOTAL** **\$17**

Compliance History

Customer/Respondent/Owner-Operator:	CN601570773 Aqua Texas, Inc.	Classification: AVERAGE	Rating: 1.21
Regulated Entity:	RN102679347 COUNTRY VIEW ESTATES	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1630026
	WATER LICENSING	LICENSE	1630026
Location:	2.6 MI WEST OF THE INTERSECTION OF HWY 16 AND PARK ROAD 37, MEDINA COUNTY		
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	June 05, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 05, 2001 to June 05, 2006		

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

Name: Yuliya Dunaway Phone: (210)403-4077

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? | 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 08/20/2003 (150001)
 - 2 05/30/2006 (461918)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	08/20/2003 (150001)	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(1)	
Description:	Failure to submit plans for RO unit	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)[G]	
Description:	Failure to maintain raw water storage tank	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(h)	
Description:	Failure to obtain authorization for the discharge of backwash water from the R.O. unit.	
- 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 TEXAS, INC. DBA
COUNTRY VIEW ESTATES,
RN102679347

§
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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-0801-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Texas, Inc. dba Country View Estates ("Aqua Texas") under the authority of TEX. WATER CODE chs. 7 and 26; TEX. HEALTH & SAFETY CODE ch. 341; and 30 TEX. ADMIN. CODE chs. 290 and 305. The Executive Director of the TCEQ, represented by the Litigation Division, and Aqua Texas, represented by David P. Smith of the law firm of Barrett & Smith, PLLC, appear before the Commission and together stipulate that:

1. Aqua Texas owns and operates a public water supply located 2.6 miles west of the intersection of Highway 16 and Park Road 37, Medina County, Texas (the "Facility") that has 91 service connections and serves at least 25 people per day for at least 60 days per year.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070 and TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 341, and TCEQ rules.
3. The Commission and Aqua Texas agree that the Commission has jurisdiction to enter this Agreed Order, and that Aqua Texas is subject to the Commission's jurisdiction.
4. Aqua Texas received notice of the violations alleged in Section II ("Allegations") on or about June 4, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Aqua Texas of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of two thousand two hundred two dollars (\$2,202.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Aqua Texas has paid two thousand two hundred two dollars (\$2,202.00) of the administrative 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 Texas 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 Aqua Texas has implemented a corrective measure in response to this enforcement action by providing an intruder-resistant fence to protect the booster station. Specifically, Aqua Texas has angled the three strands of barbed-wire on top of the fence outward at a 45 degree angle.
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 Aqua Texas 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

Aqua Texas, as owner and operator of the Facility, is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 305.42(a) and TEX. WATER CODE § 26.121(a) by failing to obtain a permit from the Commission prior to any discharge of wastewater as documented on May 17, 2006.

2. 30 TEX. ADMIN. CODE § 290.42(m) by failing to provide an intruder-resistant fence to protect the booster station. Specifically, the three strands of barbed-wire on top of the fence were not angled outward at a 45 degree angle as documented on May 17, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Aqua Texas pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and Aqua Texas' compliance with all the terms and conditions set forth in this Agreed Order resolve only those matters described here. 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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Aqua Texas, Inc. dba Country View Estates; Docket No. 2006-0801-MLM-E; Enforcement ID 29890" to:

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

2. Aqua Texas shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Aqua Texas shall submit an administratively complete permit application, in accordance with 30 TEX. ADMIN. CODE ch. 305 (relating to Consolidated Permits) to:

Water Quality Applications Team, Permits Administrative Review Section
Registration, Review and Reporting Division, MC 161
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 365 days after the effective date of this Agreed Order, Aqua Texas shall submit written certification that either authorization to discharge wastewater has been obtained or that all discharge of wastewater has ceased until such time that

appropriate authorization is obtained. 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

and

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

3. The provisions of this Agreed Order shall apply to and be binding upon Aqua Texas. Aqua Texas 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. 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 Texas shall be made in writing to the Executive Director. Extensions are not effective until Aqua Texas receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Aqua Texas 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.

6. 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Aqua Texas, or three days after the date on which the Commission mails notice of the Order to Aqua Texas, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Aqua Texas, Inc. dba Country View Estates
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]

9/14/07

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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.

RL
Robert L. Laughman
Signature

May 4, 2007
Date

Robert L. Laughman
Name (Printed or typed)
Authorized representative of
Aqua Texas, Inc. dba Country View Estates

President
Title