

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0691-MWD-E **TCEQ ID:** RN102343233 **CASE NO.:** 33343

RESPONDENT NAME: Aqua Development, Inc. dba Aqua Texas, 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: Rose Meadows III WWTP, located approximately 2.5 miles east of the intersection of Farm-to-Market Road 360 and State Highway 36, Fort Bend County</p> <p>TYPE OF OPERATION: Wastewater treatment</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 October 29, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Catherine Albrecht, Enforcement Division, Enforcement Team 1, MC R-12, (713) 767-3672; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Robert Laughman, President, Aqua Texas, Inc., 1421 Wells Branch Parkway, Suite 105, Pflugerville, Texas 78660 Mr. Steve Blackhurst, Environmental Compliance Manager, Aqua Texas, 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(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 22, 2007</p> <p>Date of NOV/NOE Relating to this Case: April 5, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>Failed to comply with permit limits for Ammonia Nitrogen, Total Suspended Solids, and Total Chlorine Residual [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014175001, Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$12,650</p> <p>Total Deferred: \$2,530 <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: \$10,120</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order, complete all necessary rehabilitation and repairs to the collection system and treatment system to prevent the hydraulic overloading and/or backup of wastewater in the Facility and to maintain compliance with effluent limits of TPDES Permit No. WQ0014175001; and</p> <p>b. Within 120 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a. including compliance with effluent limits of TPDES Permit No. WQ0014175001. The certification shall include photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0014175001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

TCEQ

DATES	Assigned	16-Apr-2007	Screening	27-Apr-2007	EPA Due	
	PCW	9-Aug-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Aqua Development, Inc. dba Aqua Texas, Inc.		
Reg. Ent. Ref. No.	RN102343233		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33343	No. of Violations	2	
Docket No.	2007-0691-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Catherine Albrecht	
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 *Subtotals 2, 3, & 7*

Notes: The Respondent has three NOV's for same or similar violations, one Agreed Order with denial language, and 19 self-reported effluent violations.

Culpability *Subtotal 4*

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply *Subtotal 5*

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

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

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

SUM OF SUBTOTALS 1-7 *Final Subtotal*

OTHER FACTORS AS JUSTICE MAY REQUIRE *Adjustment*

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty*

DEFERRAL *Adjustment*

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 27-Apr-2007

Docket No. 2007-0691-MWD-E

PCW

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

Policy Revision 2 (September 2002)

Case ID No. 33343

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102343233

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Compliance History Worksheet

>> Compliance History *Sife* 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>	22	110%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgments 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 <i>(number of events)</i>	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 submitted)</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) 130%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has three NOVs for same or similar violations, one Agreed Order with denial language, and 19 self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 130%

Screening Date 27-Apr-2007

Docket No. 2007-0691-MWD-E

PCW

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

Policy Revision 2 (September 2002)

Case ID No. 33343

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102343233

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014175001, Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit limits during April 2006, September 2006, and November 2006. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 90

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 \$7,193

Violation Final Penalty Total \$6,900

This violation Final Assessed Penalty (adjusted for limits) \$6,900

Economic Benefit Worksheet

Respondent: Aqua Development, Inc. dba Aqua Texas, Inc.
Case ID No.: 33343
Reg. Ent. Reference No.: RN102343233
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	1-Apr-2006	1-Apr-2008	2.0	\$67	\$1,335	\$1,402
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

Estimated costs of completing rehabilitation work of the collection system and treatment plant to prevent the backup and overflow of wastewater in the plant and effluent compliances. Date required is the beginning of October 2006. Final date is projected 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	\$2,400	1-Apr-2006	1-Feb-2008	1.8	\$221	\$4,412	\$4,633
Inspection/Reporting/Sampling	\$600	1-Apr-2006	1-Feb-2008	1.8	\$55	\$1,103	\$1,158
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

Estimated costs of additional personnel time for operations, maintenance, and monitoring of the facility based on \$200 per month for 12 months and additional process control testing based on \$50 per month for 12 months. Date required is the first violation month. Final date is the projected date of compliance.

Approx. Cost of Compliance

\$13,000

TOTAL

\$7,193

Screening Date 27-Apr-2007

Docket No. 2007-0691-MWD-E

PCW

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

Policy Revision 2 (September 2002)

Case ID No. 33343

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102343233

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014175001, Interim I Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit limits during October 2006. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		25%
Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Site-specific water quality modeling was conducted to evaluate the effects of contaminants on human health and the environment. Failure to comply with permit limits resulted in the exposure of a significant amount of contaminants which may not have exceed levels protective of human health and the environment.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 31

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

Violation Base Penalty \$2,500

One monthly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,750

This violation Final Assessed Penalty (adjusted for limits) \$5,750

Economic Benefit Worksheet

Respondent: Aqua Development, Inc. dba Aqua Texas, Inc.
Case ID No.: 33343
Reg. Ent. Reference No.: RN102343233
Media: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				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

Economic benefit for this violation is included in the economic benefit calculation for violation 1.

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	\$0	TOTAL	\$0
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Respondent: Aqua Development, Inc. dba Aqua Texas, Inc.
 ID Number: RN102343233 (Rose Meadows III)
 Docket Number: 2007-0691-MWD-E
 Enf. Coordinator: Catherine Albrecht

Corresponds to Violation Numbers: 1 and 2

OUTFALL 001 INTERIM I EFFLUENT PARAMETERS

Month/Year	NH3-N Dly Avg Conc Limit of 2.0 (in mg/L)	NH3-N Single Grab Limit of 15.0 (in mg/L)	NH3-H Dly Avg Loading Limit of 1.3 (in lbs/day)	TSS Dly Avg Conc Limit of 15.0 (in mg/L)	TCR, Max Limit of ≤ 4.0 (in mg/L)
Apr-06	c	c	c	16.4	c
Sep-06	c	c	c	c	4.7
Oct-06	11.6	29.6	4.62	c	4.4
Nov-06	3.92	c	1.71	c	c

Abbreviations: Ammonia-Nitrogen (“NH3-N”); Total Suspended Solids (“TSS”); Total Chlorine Residual (“TCR”); Daily Average (“Dly Avg”); Maximum (“Max”); Concentration (“Conc”); milligrams per liter (“mg/L”); pounds per day (“lbs/d”); and compliant (“c”)

Compliance History

Customer/Respondent/Owner-Operator: CN600789705 Aqua Development, Inc. dba Aqua Texas, Inc. Classification: AVERAGE Rating: 2.01

Regulated Entity: RN102343233 ROSE MEADOWS III WWTP Classification: AVERAGE Site Rating: 18.58

ID Number(s): WASTEWATER PERMIT WQ0014175001
 WASTEWATER PERMIT TX0122459
 WASTEWATER EPA ID TX0122459

Location: Approximately 2.5 miles east of the intersection of Farm-to-Market Road 360 and State Highway 36 in Fort Bend County Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 30, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 30, 2002 to April 30, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Catherine Albrecht Phone: (713)767-3672

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.

Effective Date: 03/11/2005 ADMINORDER 2004-0595-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(4)
 TWC Chapter 26 26.121(a)(1)

Rqmt Prov: Permit Cond. Nos. 2.d. and 2.g. PERMIT

Description: Failure to prevent the unauthorized discharge of partially treated wastewater from the wastewater treatment plant to the ground and into a roadside ditch.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)(1)

Rqmt Prov: EL&MR, Nos. 1 & 2 PERMIT

Description: Failure to maintain compliance with the total suspended solids ("TSS") single grab limit of 60.0 milligrams per liter ("mg/L") with a measure value of 73.0 mg/L and the minimum chlorine residual limit of 1.0 mg/L with a measured value 0.59 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)(1)

Rqmt Prov: EL&MR, No. 1 PERMIT

Description: Failure to maintain compliance with the total suspended solids (TSS) daily average (Dly Avg) concentration (Conc.) limit of 15.0 mg/L, TSS single grab limit of 60.0 mg/L, TSS daily average loading limit of 0.94 pounds per day (#/day), and flow daily average limit of 0.075 million gallons per day (MGD).

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 11/22/2002 (236075)
- 2 12/30/2002 (236076)
- 3 01/17/2003 (236077)
- 4 02/24/2003 (236073)
- 5 03/25/2003 (328341)
- 6 04/25/2003 (236074)
- 7 05/23/2003 (367629)
- 8 06/23/2003 (328343)
- 9 07/18/2003 (328344)
- 10 09/02/2003 (367631)

11 09/02/2003 (328345)
12 10/20/2003 (328346)
13 11/06/2003 (254222)
14 12/01/2003 (328347)
15 01/12/2004 (256195)
16 01/20/2004 (328348)
17 02/20/2004 (328349)
18 03/18/2004 (328340)
19 04/13/2004 (328342)
20 04/30/2004 (367628)
21 05/28/2004 (367630)
22 09/07/2004 (367632)
23 09/23/2004 (367633)
24 10/20/2004 (367634)
25 11/22/2004 (390363)
26 11/30/2004 (342757)
27 12/20/2004 (390364)
28 01/20/2005 (390365)
29 03/22/2005 (390362)
30 04/22/2005 (427840)
31 05/27/2005 (427839)
32 05/27/2005 (427841)
33 06/23/2005 (427842)
34 06/28/2005 (378367)
35 09/12/2005 (405186)
36 11/10/2005 (436735)
37 02/07/2006 (400907)
38 04/09/2007 (554791)

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

Date: 12/31/2002 (236077)
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: 01/31/2003 (236073)
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: 02/28/2003 (328341)
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: 03/31/2003 (236074)
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 (367631)
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: 08/31/2003 (328345)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2003 (328346)
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: 10/09/2003 (269855)
Self Report? NO Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure to prevent the unauthorized discharge of partially treated wastewater from the wastewater treatment plant.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)

Description: Failure to submit a noncompliance notification within twenty four hours by phone or fax and/or a written notification within five working days.

Date: 11/30/2003 (328348)
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 (328349)
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 (328340)
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 (328342)
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 (367632)
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: 08/31/2004 (367633)
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: 10/25/2004 (338695)
Self Report? NO Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure to prevent the unauthorized discharge of partially treated wastewater from the wastewater treatment plant.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to submit noncompliance notifications.

Date: 11/30/2004 (390364)
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: 06/23/2005 (378367)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with the permit limit for peak flow.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with permit effluent limits for chlorine residual.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to prevent the unauthorized discharge of wastewater related solids into the receiving stream.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to provide lighting in the chlorine room.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
Description: Failure to properly complete the discharge monitoring reports (DMRs) for the months of February and August 2004.

Date: 04/30/2006
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2006
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: 10/31/2006
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2006
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: 12/31/2006
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 DEVELOPMENT, INC. DBA
AQUA TEXAS, INC.
RN102343233

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0691-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Development, Inc. dba Aqua Texas, Inc. ("ADI") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and ADI appear before the Commission and together stipulate that:

1. ADI owns and operates Rose Meadows III Wastewater Treatment Facility located approximately 2.5 miles east of the intersection of Farm-to-Market Road 360 and State Highway 36 in Fort Bend County, Texas (the "Facility").
2. ADI has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and ADI agree that the Commission has jurisdiction to enter this Agreed Order, and that ADI is subject to the Commission's jurisdiction.
4. ADI received notice of the violations alleged in Section II ("Allegations") on or about April 10, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by ADI of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twelve Thousand Six Hundred Fifty Dollars (\$12,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). ADI has paid Ten Thousand One Hundred Twenty Dollars (\$10,120) of the administrative penalty and Two Thousand Five Hundred Thirty Dollars (\$2,530) is deferred contingent upon ADI's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If ADI fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require ADI to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and ADI have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that ADI has not complied with one or more of the terms or conditions in this Agreed Order.
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, ADI is alleged to have failed to comply with permit limits, as listed below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014175001, Interim I Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 22, 2007:

Month/Year	NH3-N Dly Avg Conc Limit of 2.0 (in mg/L)	NH3-N Single Grab Limit of 15.0 (in mg/L)	NH3-N Dly Avg Loading Limit of 1.3 (in lbs/day)	TSS Dly Avg Conc Limit of 15.0 (in mg/L)	TCR Max Limit of ≤ 4.0 (in mg/L)
Apr-06	c	c	c	16.4	c
Sep-06	c	c	c	c	4.7
Oct-06	11.6	29.6	4.62	c	4.4
Nov-06	3.92	c	1.71	c	c

Abbreviations: Ammonia-Nitrogen ("NH3-N"); Total Suspended Solids ("TSS"); Total Chlorine Residual ("TCR"); Daily Average ("Dly Avg"); Maximum ("Max"); Concentration ("Conc"); milligrams per liter ("mg/L"); pounds per day ("lbs/day"); and compliant ("c").

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that ADI pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and ADI's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Development, Inc. dba Aqua Texas, Inc., Docket No. 2007-0691-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 ADI shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, complete all necessary rehabilitation and repairs to the collection system and treatment system to prevent the hydraulic overloading and/or backup of wastewater in the Facility and to maintain compliance with effluent limits of TPDES Permit No. WQ0014175001; and
 - b. Within 120 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a. including compliance with effluent limits of TPDES Permit No. WQ0014175001. The certification shall include photographs, receipts, and/or other records to demonstrate compliance and shall 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:

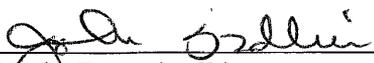
Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon ADI. ADI is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If ADI 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, ADI's failure to comply is not a violation of this Agreed Order. ADI shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. ADI shall notify the Executive Director within seven days after ADI 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 ADI shall be made in writing to the Executive Director. Extensions are not effective until ADI 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 ADI in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
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 ADI, or three days after the date on which the Commission mails notice of the Order to ADI, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

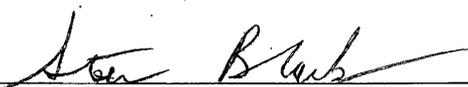
Date 12/03/2007

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.



Signature

Date 8/22/07

Steve Blackhurst
Name (Printed or typed)
Authorized Representative of
Aqua Development, Inc. dba Aqua Texas, Inc.

Title Environmental Compliance Mgr.

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.

