

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1790-MWD-E **TCEQ ID:** RN102076890 **CASE NO.:** 36812

RESPONDENT NAME: Aqua Water Supply Corporation

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: C Iron Removal Water Treatment Plant, located on State Highway 95 approximately 2.8 miles south of the United States Highway 290 and State Highway 95 intersection, Elgin, Bastrop County</p> <p>TYPE OF OPERATION: Iron removal plant and associated water treatment facility</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 April 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-1460; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Michael Neese, Assistant General Manager, Aqua Water Supply Corporation, P.O. Box P, Bastrop, Texas 78602 Mr. John Burke, General Manager, Aqua Water Supply Corporation, P.O. Box P, Bastrop, Texas 78602 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: October 17, 2008</p> <p>Date of NOV/NOE Relating to this Case: October 27, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for total suspended solids and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14225001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$5,800</p> <p>Total Deferred: \$1,160 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$4,640</p> <p>Total Paid (Due) to General Revenue: \$0</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>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 14225001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0014225001

Attachment A
Docket Number: 2008-1790-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Aqua Water Supply Corporation

Payable Penalty Amount: Four Thousand Six Hundred Forty Dollars (\$4,640)

SEP Amount: Four Thousand Six Hundred Forty Dollars (\$4,640)

Type of SEP: Pre-approved

Third-Party Recipient: Lower Colorado River Authority's Household Hazardous Waste and Reusable Materials Collection

Location of SEP: Bastrop County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Lower Colorado River Authority ("LCRA") Household Hazardous Waste and Reusable Materials Collection. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Lower Colorado River Authority and the Texas Commission on Environmental Quality*. SEP monies will be used to sponsor household hazardous waste collection events, battery collection events, used oil collection events, paint collection events, and tire collection events in conjunction with local city and county governments through the LCRA Statutory District. These collection events provide citizens with a safe and convenient opportunity to properly dispose of household hazardous wastes such as: paint, tires, pesticides, motor oil, oil filters, antifreeze, batteries, and household cleaners. Citizens will be encouraged to reuse unused portions of properly labeled and handled chemical products (i.e. fertilizers, paints, and some pesticides/herbicides) through the reusable materials exchange. SEP monies will be used by LCRA to supplement scheduled events, and to add additional collection events. The LCRA has not previously budgeted for these supplemental, additional, or special collection events and will not budget for them.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.



Aqua Water Supply Corporation
Agreed Order - Attachment A

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Attachment A
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Aqua Water Supply Corporation
Agreed Order B Attachment A

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Texas Commission on Environmental Quality
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Oct-2008			
	PCW	14-Nov-2008	Screening	14-Nov-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Aqua Water Supply Corporation
Reg. Ent. Ref. No.	RN102076890
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36812	No. of Violations	1
Docket No.	2008-1790-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jeremy Escobar
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$4,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 50.0% Enhancement Subtotals 2, 3, & 7 \$2,000

Notes: Enhancement due to ten self-reported NOV's with similar violations.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$877
Approx. Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$6,000

OTHER FACTORS AS JUSTICE MAY REQUIRE -3.3% Adjustment -\$200

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction to prevent the self-reported violations from overly impacting the penalty.

Final Penalty Amount \$5,800

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$5,800

DEFERRAL 20.0% Reduction Adjustment -\$1,160

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY \$4,640

Screening Date 14-Nov-2008

Docket No. 2008-1790-MWD-E

PCW

Respondent Aqua Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 36812

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102076890

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

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>	10	50%
	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 <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) 50%

>> **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

Enhancement due to ten self-reported NOVs with similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

Screening Date 14-Nov-2008	Docket No. 2008-1790-MWD-E	PCW														
Respondent Aqua Water Supply Corporation		<small>Policy Revision 2 (September 2002)</small>														
Case ID No. 36812		<small>PCW Revision October 30, 2008</small>														
Reg. Ent. Reference No. RN102076890																
Media [Statute] Water Quality																
Enf. Coordinator Jeremy Escobar																
Violation Number <input type="text" value="1"/>																
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14225001, Effluent Limitations and Monitoring Requirements No. 1															
Violation Description	Failed to comply with permit effluent limits, as document in a record review conducted on October 17, 2008. See attached table.															
	Base Penalty	<input type="text" value="\$10,000"/>														
>> Environmental, Property and Human Health Matrix																
	Harm															
	Release Major Moderate Minor															
OR	Actual	<input type="text" value="X"/>														
	Potential	<input type="text"/>														
	Percent	<input type="text" value="10%"/>														
>> Programmatic Matrix																
	Falsification Major Moderate Minor															
	<input type="text"/>	<input type="text" value="0%"/>														
Matrix Notes	Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors as a result of the violation.															
	Adjustment	<input type="text" value="\$9,000"/>														
		<input type="text" value="\$1,000"/>														
Violation Events																
Number of Violation Events	<input type="text" value="4"/>	<input type="text" value="152"/> Number of violation days														
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input checked="" type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$4,000"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input checked="" type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text"/>															
	<input type="text" value="Four quarterly events are recommended."/>															
Good Faith Efforts to Comply	<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>														
	<small>Before NOV NOV to EDPRP/Settlement Offer</small>															
Extraordinary	<input type="text"/>															
Ordinary	<input type="text"/>															
N/A	<input checked="" type="text"/> (mark with x)															
Notes	The Respondent does not meet the good faith criteria for this violation.															
	Violation Subtotal	<input type="text" value="\$4,000"/>														
Economic Benefit (EB) for this violation																
Statutory Limit Test																
Estimated EB Amount	<input type="text" value="\$877"/>	Violation Final Penalty Total <input type="text" value="\$5,800"/>														
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,800"/>															

Economic Benefit Worksheet

Respondent Aqua Water Supply Corporation
Case ID No. 36812
Reg. Ent. Reference No. RN102076890
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	30-Nov-2007	31-Aug-2009	1.75	\$877	n/a	\$877

Notes for DELAYED costs
 Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the water treatment system. Date required is the first date of non-compliance. The final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$10,000	TOTAL	\$877
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Effluent Violation Table

Aqua Water Supply Corporation

Permitted Effluent Limits	TSS Daily Average Loading 1.8 lbs/day	TSS Daily Average Concentration 25 mg/L	TSS Daily Max 45 mg/L	Flow Daily Average 0.00885 MGD
November 2007	C	C	C	.01075
February 2008	2.54	C	C	.01025
March 2008	1.93	C	C	.00941
June 2008	C	C	C	.01470
July 2008	2.97	27.19	55.33	.013565
August 2008	5.63	125.79	217.75	.01131

lbs/day = pounds per day	MGD = million gallons per day	TSS = Total Suspended Solids	C = compliant	mg/L = milligrams per liter
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600610828 Aqua Water Supply Corporation	Classification: AVERAGE	Rating: 0.59
Regulated Entity:	RN102076890 C IRON REMOVAL WATER TREATMENT PLANT	Classification: AVERAGE	Site Rating: 0.35
ID Number(s):	WASTEWATER PERMIT		WQ0014224001
	WASTEWATER PERMIT		TPDES0119954
	WASTEWATER PERMIT		TX0119954
	WASTEWATER PERMIT		WQ0014225001
	WASTEWATER PERMIT		WQ0014225001
	WASTEWATER PERMIT		TX0119962
Location:	State Highway 95, approximately 2.8 miles south of the US Highway 290 and State Highway 95 intersection in Elgin, Bastrop County, Texas	Rating Date: 9/1/2008	Repeat Violator: NO
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	November 13, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 13, 2003 to November 13, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>jeremy escobar</u>	Phone:	<u>239-1460</u>

Site Compliance History Components

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

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/05/2003	(328046)
2	01/06/2004	(328048)
3	02/06/2004	(328036)
4	03/05/2004	(328037)
5	04/07/2004	(328038)
6	05/10/2004	(367414)
7	06/04/2004	(367415)
8	07/06/2004	(367416)
9	08/09/2004	(367417)
10	09/07/2004	(367418)
11	10/08/2004	(390270)
12	11/09/2004	(390271)
13	12/13/2004	(390272)
14	01/11/2005	(390273)
15	02/04/2005	(390268)
16	03/11/2005	(447778)
17	04/12/2005	(390269)
18	05/05/2005	(427737)
19	06/02/2005	(342366)
20	06/03/2005	(427738)
21	07/07/2005	(427739)
22	08/05/2005	(447779)
23	09/09/2005	(447780)
24	10/14/2005	(492960)
25	11/08/2005	(492961)
26	12/14/2005	(492962)
27	01/06/2006	(492963)
28	02/09/2006	(492958)
29	03/02/2006	(492959)
30	04/05/2006	(506530)
31	05/02/2006	(506531)
32	06/05/2006	(506532)
33	07/10/2006	(506533)
34	08/04/2006	(528711)
35	09/06/2006	(528712)

36 10/04/2006 (528713)
 37 11/06/2006 (632051)
 38 12/07/2006 (632053)
 39 01/08/2007 (632055)
 40 02/07/2007 (632042)
 41 03/02/2007 (632043)
 42 04/03/2007 (632044)
 43 05/09/2007 (632045)
 44 06/05/2007 (632046)
 45 07/13/2007 (632047)
 46 08/03/2007 (632048)
 47 09/05/2007 (632049)
 48 10/04/2007 (632050)
 49 11/09/2007 (632052)
 50 12/10/2007 (632054)
 51 12/11/2007 (632057)
 52 01/08/2008 (632056)
 53 01/08/2008 (632058)
 54 02/05/2008 (677458)
 55 02/05/2008 (677461)
 56 03/07/2008 (677459)
 57 03/07/2008 (677462)
 58 04/07/2008 (677460)
 59 04/14/2008 (677463)
 60 05/06/2008 (696198)
 61 05/06/2008 (696201)
 62 06/05/2008 (696199)
 63 06/05/2008 (696202)
 64 07/08/2008 (696200)
 65 07/08/2008 (696203)
 66 10/28/2008 (705792)

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

Date: 01/31/2005 (390268)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2005 (447778)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2005 (390269)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2005 (492962)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2007 (632057)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2008 (677462)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2008 (677463)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2008 (696203)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2008
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2008
Self Report? YES

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
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 WATER SUPPLY
CORPORATION
RN102076890

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§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1790-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 Water Supply Corporation ("The Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an iron removal plant and associated water treatment facility located on State Highway 95 approximately 2.8 miles south of the United States Highway 290 and State Highway 95 intersection in Elgin, Bastrop County, Texas (the "Facility").
2. The Respondent 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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 1, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand Eight Hundred Dollars (\$5,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand One Hundred Sixty Dollars (\$1,160) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Four Thousand Six Hundred Forty Dollars (\$4,640) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
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 the Respondent 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 the Respondent 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, the Respondent 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 ("TPDES") Permit No. 14225001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on October 17, 2008, and as illustrated in the following table:

Effluent Violation Table Aqua Water Supply Corporation				
Permitted Effluent Limits	TSS Daily Average Loading 1.8 lbs/day	TSS Daily Average Concentration 25 mg/L	TSS Daily Max 45 mg/L	Flow Daily Average 0.00885 MGD
November 2007	C	C	C	.01075
February 2008	2.54	C	C	.01025
March 2008	1.93	C	C	.00941
June 2008	C	C	C	.01470
July 2008	2.97	27.19	55.33	.013565
August 2008	5.63	125.79	217.75	.01131

lbs/day = pounds per day	MGD = million gallons per day	TSS = Total Suspended Solids	C = compliant	mg/L = milligrams per liter
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III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 Water Supply Corporation, Docket No. 2008-1790-MWD-E" to:

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

2. The Respondent shall implement and complete an SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Six Hundred Forty Dollars (\$4,640) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES

Permit No. 14225001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall 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 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

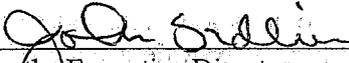
4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

3/24/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

2-6-09
Date

John Burke

Name (Printed or typed)
Authorized Representative of
Aqua Water Supply Corporation

General Manager
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.

Attachment A
Docket Number: 2008-1790-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Aqua Water Supply Corporation

Payable Penalty Amount: Four Thousand Six Hundred Forty Dollars (\$4,640)

SEP Amount: Four Thousand Six Hundred Forty Dollars (\$4,640)

Type of SEP: Pre-approved

Third-Party Recipient: Lower Colorado River Authority's Household Hazardous Waste and Reusable Materials Collection

Location of SEP: Bastrop County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Lower Colorado River Authority ("LCRA") Household Hazardous Waste and Reusable Materials Collection. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Lower Colorado River Authority and the Texas Commission on Environmental Quality*. SEP monies will be used to sponsor household hazardous waste collection events, battery collection events, used oil collection events, paint collection events, and tire collection events in conjunction with local city and county governments through the LCRA Statutory District. These collection events provide citizens with a safe and convenient opportunity to properly dispose of household hazardous wastes such as: paint, tires, pesticides, motor oil, oil filters, antifreeze, batteries, and household cleaners. Citizens will be encouraged to reuse unused portions of properly labeled and handled chemical products (i.e. fertilizers, paints, and some pesticides/herbicides) through the reusable materials exchange. SEP monies will be used by LCRA to supplement scheduled events, and to add additional collection events. The LCRA has not previously budgeted for these supplemental, additional, or special collection events and will not budget for them.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a safe and convenient means for proper disposal of household hazardous waste. The program helps protect the environment, particularly the Edwards Aquifer and groundwater sources. It also discourages illegal dumping of hazardous materials by providing a convenient and free source for waste disposal.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lower Colorado River Authority
Attn: Jack Ranney
PO Box 220
Austin, Texas 78767-0220

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to ATexas Commission on Environmental Quality@ and mailed to:

Aqua Water Supply Corporation
Agreed Order B Attachment A

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

