

Executive Summary – Enforcement Matter – Case No. 41112
Aqua Development, Inc. dba Aqua Texas, Inc.
RN102343035
Docket No. 2011-0230-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Briar Creek Wastewater Treatment Plant, located approximately two miles east of the intersection of Farm-to-Market Road 973 and Blake Manor Road, Travis County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 17, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$4,582

Amount Deferred for Expedited Settlement: \$916

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$3,666

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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RN102343035
Docket No. 2011-0230-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: December 6, 2010
Date(s) of NOE(s): January 13, 2011

Violation Information

1. Failed to comply with permitted effluent limits for flow, ammonia nitrogen, phosphorus, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014061001, Interim Effluent Limitations and Monitoring Requirements No. 1].
2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 2010 [30 TEX. ADMIN. CODE § 305.125 (1) and (17) and TPDES Permit No. WQ0014061001, Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

- a. By October 31, 2010, achieved compliance with the permitted effluent limits by repairing a damaged manhole in the collection system; and
- b. By February 3, 2011, submitted the annual sludge report for the monitoring period ending July 31, 2010.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure timely submittal of signed and certified annual sludge report.
- b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

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Docket No. 2011-0230-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division,
Enforcement Team 1, MC R-09, (254) 761-3034; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Robert Laughman, President, Aqua Development, Inc., 2211 Louetta
Road, Spring, Texas 77388

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	18-Jan-2011	Screening	25-Jan-2011	EPA Due	
	PCW	25-Jan-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Aqua Development, Inc. dba Aqua Texas, Inc.
Reg. Ent. Ref. No.	RN102343035
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41112	No. of Violations	2
Docket No.	2011-0230-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,100
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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.	
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Compliance History	72.0% Enhancement	Subtotals 2, 3, & 7	\$2,232
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Notes: Enhancement for eight months of self-reported effluent violations, two NOV's for same/similar violations, one NOV for dissimilar violations, and one order with denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$750
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$342	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$6,870		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,582
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$4,582
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,582
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DEFERRAL	20.0% Reduction	Adjustment	-\$916
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,666
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Screening Date 25-Jan-2011

Docket No. 2011-0230-MWD-E

PCW

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

Policy Revision 2 (September 2002)

Case ID No. 41112

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102343035

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("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	1	2%
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 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) 72%

>> 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 for eight months of self-reported effluent violations, two NOVs for same/similar violations, one NOV for dissimilar violations, and one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 72%

Screening Date 25-Jan-2011

Docket No. 2011-0230-MWD-E

PCW

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

Policy Revision 2 (September 2002)

Case ID No. 41112

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102343035

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014061001, Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on December 6, 2010. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 152 Number of violation days

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

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$750

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

Notes The Respondent achieved compliance by October 31, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$326

Violation Final Penalty Total \$4,410

This violation Final Assessed Penalty (adjusted for limits) \$4,410

Economic Benefit Worksheet

Respondent Aqua Development, Inc. dba Aqua Texas, Inc.
Case ID No. 41112
Reg. Ent. Reference No. RN102343035
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				0.00	\$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)	\$6,520	31-Oct-2009	31-Oct-2010	1.00	\$326	n/a	\$326

Notes for DELAYED costs

Actual cost to repair the manhole in the collection system. Date required is the initial month of noncompliance. Final date is the 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

\$6,520

TOTAL

\$326

Screening Date 25-Jan-2011

Docket No. 2011-0230-MWD-E

PCW

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

Policy Revision 2 (September 2002)

Case ID No. 41112

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102343035

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s)

30 TAC § 305.125 (1) and (17) and TPDES Permit No. WQ0014061001, Sludge Provisions

Violation Description

Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 2010, as documented by a record review conducted on December 6, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

At least 75% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

50 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$172

This violation Final Assessed Penalty (adjusted for limits) \$172

Economic Benefit Worksheet

Respondent Aqua Development, Inc. dba Aqua Texas, Inc.
Case ID No. 41112
Reg. Ent. Reference No. RN102343035
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				0.00	\$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	\$250	1-Sep-2010	30-Sep-2011	1.08	\$13	n/a	\$13
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-Sep-2010	3-Feb-2011	0.42	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to submit the annual sludge report to the Enforcement Division and to update operational guidance and conduct employee training to ensure that the annual sludge report is submitted. Date required is the date the annual sludge report was due. Final dates are the anticipated date of compliance and the date the annual sludge report was submitted to the Enforcement Division.

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

\$350

TOTAL

\$16

Effluent Limit Violation Table

table rev.

Respondent	Aqua Development, Inc. dba Aqua Texas, Inc.
ID Number(s)	WQ0014061001
Docket Number	2011-0230-MWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number:

1

EFFLUENT PARAMETER						
Permit Limit						
	Daily Average Flow 0.22 Million Gallons per Day	Ammonia Nitrogen Single Grab 15 Milligrams per Liter	Phosphorus Daily Average Concentration 1 Milligram per Liter	Phosphorus Daily Average Loading 1.8 Pounds per Day	Total Suspended Solids Daily Average Concentration 5 Milligrams per Liter	Total Suspended Solids Daily Average Loading 9.2 Pounds per day
Month/Year						
October-2009	0.23	c	c	c	c	c
November-2009	0.25	c	c	c	c	c
December-2009	0.27	23	1.9	4.3	13	30
April-2010	c	c	c	c	8	9.3
September-2010	c	c	c	c	12	12.8

c - compliance

Compliance History

Customer/Respondent/Owner-Operator: CN600789705 Aqua Development, Inc. dba Aqua Texas, Inc. Classification: AVERAGE Rating: 2.07
Regulated Entity: RN102343035 BRIAR CREEK WWTP Classification: AVERAGE Site Rating: 0.71
ID Number(s): WASTEWATER PERMIT WQ0014061001
WASTEWATER EPA ID TX0117315

Location: LOCATED APPROXIMATELY 2 MILES EAST OF THE INTERSECTION OF FM 973 AND BLAKE MANOR RD., TRAVIS COUNTY

TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: January 24, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 24, 2006 to January 24, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Heather Brister Phone: (254) 761-3034

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: **09/26/2010** ADMINORDER 2009-1892-MWD-E
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: OPERATIONAL REQUIREMENTS NO. 4 OP

Description: Failed to demonstrate adequate compliance with the requirements for safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

- 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	02/16/2009	(723201)
2	03/24/2006	(732619)
3	02/26/2007	(732620)
4	03/10/2008	(732621)
5	04/10/2006	(732622)
6	04/07/2008	(732623)
7	04/14/2006	(732624)
8	04/16/2007	(732625)
9	04/22/2008	(732626)
10	05/15/2006	(732627)
11	05/11/2007	(732628)
12	05/15/2008	(732629)
13	06/15/2006	(732630)
14	06/25/2007	(732631)
15	07/28/2008	(732632)
16	07/13/2006	(732634)
17	07/11/2007	(732635)
18	08/12/2008	(732636)
19	08/11/2006	(732638)
20	08/20/2007	(732639)
21	08/15/2008	(732640)
22	09/12/2006	(732642)
23	10/01/2007	(732643)
24	09/22/2008	(732644)
25	10/16/2006	(732645)
26	10/16/2007	(732646)

27	11/14/2008	(732647)
28	11/16/2006	(732648)
29	11/29/2007	(732649)
30	11/17/2008	(732650)
31	12/12/2006	(732651)
32	12/12/2007	(732652)
33	03/27/2006	(732653)
34	01/18/2007	(732654)
35	03/10/2008	(732655)
36	03/27/2009	(739467)
37	04/01/2009	(740698)
38	02/24/2009	(755910)
39	01/12/2009	(755911)
40	01/15/2009	(755912)
41	06/25/2009	(759524)
42	04/06/2009	(772904)
43	04/20/2009	(772905)
44	10/27/2009	(780443)
45	01/04/2010	(818838)
46	02/01/2010	(818839)
47	01/04/2010	(818840)
48	04/14/2010	(835853)
49	04/14/2010	(835854)
50	08/02/2010	(868804)
51	08/02/2010	(868805)
52	08/02/2010	(868806)
53	08/31/2010	(869872)
54	01/14/2011	(880527)
55	09/14/2010	(883231)
56	10/22/2010	(883232)
57	10/18/2010	(883233)
58	10/18/2010	(883234)

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

Date:	01/31/2006	(732619)	CN600789705	
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:	01/31/2007	(732620)	CN600789705	
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:	09/30/2008	(732647)	CN600789705	
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:	02/18/2009	(723201)	CN600789705	
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet effluent limit for chlorine			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to provide non-compliance notification within 5 days			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet effluent limits			

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain a record of inspections for weekends

Date: 03/27/2009 (739467) CN600789705
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 OPERATIONAL REQUIREMENTS NO. 4 OP
 Description: Failed to demonstrate adequate compliance with the requirements for safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

Date: 10/31/2009 (818838) CN600789705
 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: 11/30/2009 (818839) CN600789705
 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: 12/31/2009 (818840) CN600789705
 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: 04/30/2010 (868804) CN600789705
 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: 08/31/2010 (869872) CN600789705
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 09/30/2010 (883234) CN600789705
 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 DEVELOPMENT, INC. DBA
AQUA TEXAS, INC.
RN102343035**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0230-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. ("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 a wastewater treatment plant located approximately two miles east of the intersection of Farm-to-Market Road 973 and Blake Manor Road in Travis County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
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 January 18, 2011.
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 Four Thousand Five Hundred Eighty-Two Dollars (\$4,582) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Six Hundred Sixty-Six Dollars (\$3,666) of the administrative penalty and Nine Hundred Sixteen Dollars (\$916) 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.
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 recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By October 31, 2010, achieved compliance with the permitted effluent limits by repairing a damaged manhole in the collection system; and
 - b. By February 3, 2011, submitted the annual sludge report for the monitoring period ending July 31, 2010.
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 the Respondent 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

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014061001, Interim Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on December 6, 2010 and shown in the following table:

EFFLUENT PARAMETER						
Permit Limit						
	Daily Average Flow 0.22 Million Gallons per Day	Ammonia Nitrogen Single Grab 15 Milligrams per Liter	Phosphorus Daily Average Concentration 1 Milligram per Liter	Phosphorus Daily Average Loading 1.8 Pounds per Day	Total Suspended Solids Daily Average Concentration 5 Milligrams per Liter	Total Suspended Solids Daily Average Loading 9.2 Pounds per day
Month/Year						
October-2009	0.23	c	c	c	c	c
November-2009	0.25	c	c	c	c	c
December-2009	0.27	23	1.9	4.3	13	30
April-2010	c	c	c	c	8	9.3
September-2010	c	c	c	c	12	12.8

c - compliance

- Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 by September 1, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125 (1) and (17) and TPDES Permit No. WQ0014061001, Sludge Provisions, as documented by a record review conducted on December 6, 2010.

III. DENIALS

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

IV. ORDERING PROVISIONS

- 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 Development, Inc. dba Aqua Texas, Inc., Docket No. 2011-0230-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

- It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure timely submittal of signed and certified annual sludge report, in accordance with TPDES Permit No. WQ0014061001.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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 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 fines 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

3. 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.
4. 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.

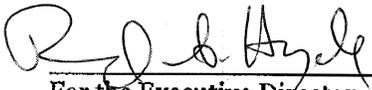
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the 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.
6. 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.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. 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.

Aqua Development, Inc. dba Aqua Texas, Inc.
DOCKET NO. 2011-0230-MWD-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/9/11

Date

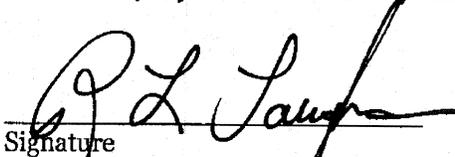
I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for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

AB
BCK



Signature

8/25/2011

Date

ROBERT LAUGHMAN

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

PRESIDENT

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.