

Executive Summary – Enforcement Matter – Case No. 40969
Aqua Operations, Inc. and City of Kyle
RN102182680
Docket No. 2011-0047-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Kyle wastewater treatment facility, located at 941 New Bridge Drive, approximately 2.7 miles northwest of the intersection of State Route 21 and Farm-to-Market Road 2770, Hays County

Type of Operation:

Domestic wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 27, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$20,000

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$20,000

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: Yes

Statutory Limit Adjustment: Statutory Maximum Limit Adjustment \$19,200

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 40969
Aqua Operations, Inc. and City of Kyle
RN102182680
Docket No. 2011-0047-MWD-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 1, 2010
Date(s) of NOE(s): December 20, 2010

Violation Information

Failed to properly operate and maintain the lift station and to prevent the unauthorized discharge of untreated wastewater into or adjacent to water in the State [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System Permit No. WQ0011041002 Permit Condition No. 2.g. and Operational Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondents hired a third party contractor who removed the discharged wastewater, disposed of the dead fish, and disinfected the affected area on November 1, 2010.

Technical Requirements:

- a. Within 60 days, implement measures and procedures to prevent further unauthorized discharges. Such measures shall include but not be limited to repair/rehabilitation of the incoming wastewater treatment plant lift station; and
- b. Within 90 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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Robert Laughman, President, Aqua Operations, Inc., 1106 Clayton Lane, Suite 400 W, Austin, Texas 78723

Executive Summary – Enforcement Matter – Case No. 40969
Aqua Operations, Inc. and City of Kyle
RN102182680
Docket No. 2011-0047-MWD-E

Steve Blackhurst, Regional Environmental Compliance Manager, Aqua Operations, Inc.,
1106 Clayton Lane, Suite 400 W, Austin, Texas 78723

Lanny S. Lambert, City Manager, City of Kyle, P.O. Box 40, Kyle, Texas 78640

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Dec-2010	Screening	5-Jan-2011	EPA Due	
	PCW	5-Jan-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Aqua Operations, Inc. and City of Kyle
Reg. Ent. Ref. No.	RN102182680
Facility/Site Region	11-Austin
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	40969	No. of Violations	1
Docket No.	2011-0047-MWD-E	Order Type	Findings
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** **\$20,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **96.0%** Enhancement **Subtotals 2, 3, & 7** **\$19,200**

Notes: Enhancement for three NOV's with same/similar violations, 11 months of self-reported effluent violations, three NOV's with dissimilar violations, and one agreed order with a denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondents do 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 **\$1,226**
 Approx. Cost of Compliance **\$49,050**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$39,200**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$39,200**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$20,000**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$20,000**

Screening Date 5-Jan-2011

Docket No. 2011-0047-MWD-E

PCW

Respondent Aqua Operations, Inc. and City of Kyle

Policy Revision 2 (September 2002)

Case ID No. 40969

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102182680

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	14	70%
	Other written NOVs	3	6%
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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 96%

>> **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 three NOVs with same/similar violations, 11 months of self-reported effluent violations, three NOVs with dissimilar violations, and one agreed order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 96%

Screening Date 5-Jan-2011

Docket No. 2011-0047-MWD-E

PCW

Respondent Aqua Operations, Inc. and City of Kyle

Policy Revision 2 (September 2002)

Case ID No. 40969

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102182680

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121, 30 Tex. Admin. Code § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011041002, Permit Condition No. 2.g and Operational Requirements No. 1

Violation Description Failed to prevent the unauthorized discharge of untreated wastewater into or adjacent to water in the State. Specifically, on October 31 and November 1, 2010, the incoming wastewater treatment plant lift station failed to operate properly for approximately 24 hours, resulting in a discharge of approximately 1,000,000 gallons of untreated wastewater into an unnamed tributary of Plum Creek, killing approximately 2,982 fish. The stream quality was impacted by low dissolved oxygen levels, high E. coli levels, sewage odors, brown colored foam, and high ammonia-nitrogen levels.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 100%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 2 Number of violation days 2

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$20,000

Two daily events are recommended from the October 31, 2010 unauthorized discharge date, to the November 1, 2010 cleanup date.

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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$20,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,226

Violation Final Penalty Total \$39,200

This violation Final Assessed Penalty (adjusted for limits) \$20,000

Economic Benefit Worksheet

Respondent Aqua Operations, Inc. and City of Kyle
Case ID No. 40969
Reg. Ent. Reference No. RN102182680
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	\$7,050	31-Oct-2010	1-Nov-2010	0.00	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$42,000	31-Oct-2010	1-Jun-2011	0.58	\$1,225	n/a	\$1,225

Notes for DELAYED costs

Cost provided by Respondents to hire a vacuum truck to remove discharged wastewater, disinfect the area, and evaluate and determine the cause of the lift station malfunction and implement the necessary repairs to prevent future unauthorized discharges. Date required is the initial date of the unauthorized discharge. Final dates are the date cleanup and disinfection was completed and the estimated date of compliance for the lift station repair.

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

\$49,050

TOTAL

\$1,226

Compliance History

Customer/Respondent/Owner-Operator:	CN602931685 Aqua Operations Inc.	Classification: AVERAGE	Rating: 2.08
Regulated Entity:	RN102182680 CITY OF KYLE WWTP	Classification: AVERAGE	Site Rating: 2.08
ID Number(s):	WASTEWATER WASTEWATER	PERMIT EPA ID	WQ0011041002 TX0119466
Location:	941 NEW BRIDGE DRIVE, APPROXIMATELY 2.7 MILES NORTHWEST OF THE INTERSECTION OF STATE ROUTE 21 AND FARM-TO-MARKET ROAD 2770 IN HAYS COUNTY TEXAS		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	January 27, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 05, 2006 to January 05, 2011		

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

Name: Jeremy Escobar Phone: (361) 825-3422

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: 10/02/2006 ADMINORDER 2006-0417-MWD-E
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rgmt Prov: Effluent Limits PERMIT
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1	04/07/2006	(456783)
2	02/17/2006	(492759)
3	03/20/2006	(492760)
4	01/25/2006	(492764)
5	07/07/2006	(506418)
6	05/15/2006	(506419)
7	06/12/2006	(506420)
8	06/13/2006	(506421)
9	06/13/2006	(506422)
10	08/21/2006	(528641)
11	09/21/2006	(528642)
12	01/30/2007	(537489)
13	10/18/2006	(551929)
14	11/16/2006	(551930)
15	12/22/2006	(551931)
16	12/29/2006	(553748)
17	08/09/2007	(589243)
18	08/09/2007	(589244)
19	08/09/2007	(589245)

20	05/14/2007	(589246)
21	06/20/2007	(589247)
22	07/20/2007	(589248)
23	08/16/2007	(605787)
24	09/28/2010	(608857)
25	12/10/2007	(631773)
26	12/05/2007	(631774)
27	12/05/2007	(631775)
28	12/19/2007	(631776)
29	10/25/2007	(631777)
30	02/21/2008	(677396)
31	03/20/2008	(677397)
32	08/06/2008	(681613)
33	06/09/2008	(696103)
34	05/20/2008	(696104)
35	06/20/2008	(696105)
36	06/24/2008	(696106)
37	10/20/2008	(705771)
38	08/28/2008	(717750)
39	09/19/2008	(717751)
40	11/06/2008	(733072)
41	11/18/2008	(733073)
42	11/06/2008	(733074)
43	03/10/2009	(756244)
44	03/18/2009	(756245)
45	03/18/2009	(756246)
46	12/18/2008	(756247)
47	04/27/2009	(773222)
48	05/20/2009	(773223)
49	02/03/2010	(785447)
50	03/24/2010	(796318)
51	11/03/2009	(827930)
52	04/16/2010	(836193)
53	05/19/2010	(836194)
54	06/18/2010	(847907)
55	06/18/2010	(862321)
56	08/19/2010	(868933)
57	09/20/2010	(875788)
58	10/20/2010	(883368)
59	12/17/2010	(884924)
60	12/21/2010	(889759)

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

Date:	01/13/2006 (437177)	CN602931685	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(4)		
	30 TAC Chapter 305, SubChapter F 305.125(5)		
	TWC Chapter 26 26.121		
	TWC Chapter 26 26.121(a)		
	TWC Chapter 26 26.121(a)(1)		
	TWC Chapter 26 26.121(a)(2)		
	TWC Chapter 26 26.121(a)(3)		
	TWC Chapter 26 26.121(b)		
	TWC Chapter 26 26.121(c)		
	TWC Chapter 26 26.121(d)		
	TWC Chapter 26 26.121(e)		
Description:	Failure to prevent any discharge which has a reasonable likelihood of adversely affecting human health or the environment as stated under the Permit Conditions section of Permit No.: WQ0011041-002.		
Date:	02/28/2006 (492760)	CN602931685	
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: 04/30/2006 (506419) CN602931685
 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: 05/31/2006 (506420) CN602931685
 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: 06/30/2006 (506421) CN602931685
 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: 07/31/2006 (528641)
 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: 08/31/2006 (528642) CN602931685
 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: 09/30/2006 (551929)
 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: 12/29/2006 (553748) CN602931685
 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: 12/31/2006 (506422) CN602931685
 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: 01/29/2007 (537489) CN602931685
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
 Description: MONITORING AND REPORTING REQUIREMENTS PERMIT
 Partial failure of unauthorized discharge reporting requirements
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter C 319.302(d)
 Description: Partial failure of public notification requirements for unauthorized wastewater discharges by wastewater treatment facilities owned or operated by local governments

Date: 01/31/2007 (589243)
 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: 08/31/2007 (631773) CN602931685
 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: 08/08/2008 (681613)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: EFF LIMITS AND MONITORING REQUIRE (4) PERMIT
 No access to the receiving stream
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(b)(1)
 Description: OPERATIONAL REQUIREMENTS (1) PERMIT
 Inadequate screening of untreatable solids

Self Report? NO		Classification: Moderate
Citation:	30 TAC Chapter 210, SubChapter C 210.36(2) 30 TAC Chapter 210, SubChapter C 210.36(2)(A) 30 TAC Chapter 210, SubChapter C 210.36(2)(B)	
Description:	Failure to submit required monthly reports for reclaimed water	
Self Report? NO		Classification: Moderate
Citation:	30 TAC Chapter 210, SubChapter C 210.33 30 TAC Chapter 210, SubChapter C 210.33(1) 30 TAC Chapter 210, SubChapter C 210.33(2) 30 TAC Chapter 210, SubChapter C 210.33(2)(A) 30 TAC Chapter 210, SubChapter C 210.33(2)(B)	
Description:	Failure to analyze the reclaimed water for the specified parameters	
Self Report? NO		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d) 2D TWC Chapter 26, SubChapter A 26.121(e) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(2)	
Description:	Failure to prevent unauthorized discharges	
Self Report? NO		Classification: Moderate
Citation:	30 TAC Chapter 30, SubChapter J 30.331(b) 30 TAC Chapter 30, SubChapter J 30.350(d)	
Description:	Failure by the City of Kyle to employ at least one licensed operator who holds a license class equal to or higher than that category of system to operate and maintain the wastewater collection system.	
Date:	06/30/2009 (756246)	CN602931685
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:	11/03/2009 (827930)	
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:	01/28/2010 (785447)	
Self Report? NO		Classification: Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)	
Description:	Failure to submit accurate effluent monitoring data on the monthly DMR	
Self Report? NO		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d) 2D TWC Chapter 26, SubChapter A 26.121(e) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(2)	
Description:	Failure to prevent unauthorized discharges	
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 319, SubChapter A 319.11(b)	
Description:	Failure to properly preserve composite samples	

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

13	10/18/2006	(551929)
14	11/16/2006	(551930)
15	12/22/2006	(551931)
16	12/29/2006	(553748)
17	08/09/2007	(589243)
18	08/09/2007	(589244)
19	08/09/2007	(589245)
20	05/14/2007	(589246)
21	06/20/2007	(589247)
22	07/20/2007	(589248)
23	08/16/2007	(605787)
24	09/28/2010	(608857)
25	12/10/2007	(631773)
26	12/05/2007	(631774)
27	12/05/2007	(631775)
28	12/19/2007	(631776)
29	10/25/2007	(631777)
30	02/21/2008	(677396)
31	03/20/2008	(677397)
32	08/06/2008	(681613)
33	06/09/2008	(696103)
34	05/20/2008	(696104)
35	06/20/2008	(696105)
36	06/24/2008	(696106)
37	10/20/2008	(705771)
38	08/28/2008	(717750)
39	09/19/2008	(717751)
40	11/06/2008	(733072)
41	11/18/2008	(733073)
42	11/06/2008	(733074)
43	03/10/2009	(756244)
44	03/18/2009	(756245)
45	03/18/2009	(756246)
46	12/18/2008	(756247)
47	04/27/2009	(773222)
48	05/20/2009	(773223)
49	02/03/2010	(785447)
50	03/24/2010	(796318)
51	11/03/2009	(827930)
52	04/16/2010	(836193)
53	05/19/2010	(836194)
54	06/18/2010	(847907)
55	06/18/2010	(862321)
56	08/19/2010	(868933)
57	09/20/2010	(875788)
58	10/20/2010	(883368)
59	12/17/2010	(884924)
60	12/21/2010	(889759)

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

Date: 01/13/2006 (437177)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)
Description: Failure to prevent any discharge which has a reasonable likelihood of adversely affecting human health or the environment as stated under the Permit Conditions section of Permit No.: WQ0011041-002.

Date: 02/28/2006 (492760) CN600334510
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: 04/30/2006 (506419) CN600334510
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: 05/31/2006 (506420) CN600334510
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: 06/30/2006 (506421) CN600334510
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: 07/31/2006 (528641) CN600334510
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: 08/31/2006 (528642) CN600334510
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: 09/30/2006 (551929) CN600334510
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: 12/29/2006 (553748) CN600334510
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: 12/31/2006 (506422) CN600334510
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 01/29/2007 (537489) CN600334510
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
MONITORING AND REPORTING REQUIREMENTS PERMIT
Description: Partial failure of unauthorized discharge reporting requirements
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter C 319.302(d)
Description: Partial failure of public notification requirements for unauthorized wastewater discharges by wastewater treatment facilities owned or operated by local governments

Date 01/31/2007 (589243)
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 08/31/2007 (631773) CN600334510
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 08/08/2008 (681613)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
EFF LIMITS AND MONITORING REQUIRE (4) PERMIT
Description: No access to the receiving stream
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(b)(1)
OPERATIONAL REQUIREMENTS (1) PERMIT
Description: Inadequate screening of untreatable solids
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 210, SubChapter C 210.36(2)
30 TAC Chapter 210, SubChapter C 210.36(2)(A)
30 TAC Chapter 210, SubChapter C 210.36(2)(B)
Description: Failure to submit required monthly reports for reclaimed water
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 210, SubChapter C 210.33
30 TAC Chapter 210, SubChapter C 210.33(1)
30 TAC Chapter 210, SubChapter C 210.33(2)
30 TAC Chapter 210, SubChapter C 210.33(2)(A)
30 TAC Chapter 210, SubChapter C 210.33(2)(B)
Description: Failure to analyze the reclaimed water for the specified parameters
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
2D TWC Chapter 26, SubChapter A 26.121(a)(3)
2D TWC Chapter 26, SubChapter A 26.121(b)
2D TWC Chapter 26, SubChapter A 26.121(c)
2D TWC Chapter 26, SubChapter A 26.121(d)
2D TWC Chapter 26, SubChapter A 26.121(e)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(2)
Description: Failure to prevent unauthorized discharges
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 30, SubChapter J 30.331(b)
30 TAC Chapter 30, SubChapter J 30.350(d)
Description: Failure by the City of Kyle to employ at least one licensed operator who holds a license class equal to or higher than that category of system to operate and maintain the wastewater collection system.

Date	06/30/2009	(756246)	CN600334510
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	11/03/2009	(827930)	
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	01/28/2010	(785447)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to submit accurate effluent monitoring data on the monthly DMR		
Self Report?	NO		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d) 2D TWC Chapter 26, SubChapter A 26.121(e) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(2)		
Description:	Failure to prevent unauthorized discharges		
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 319, SubChapter A 319.11(b)		
Description:	Failure to properly preserve composite samples		

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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
AQUA OPERATIONS, INC. AND CITY	§	
OF KYLE	§	
RN102182680	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-0047-MWD-E

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 Operations, Inc. and City of Kyle ("the Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents presented this agreement to the Commission.

The Respondents understand that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondents.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondents own and operate a domestic wastewater treatment facility located at 941 New Bridge Drive, approximately 2.7 miles northwest of the intersection of State Route 21 and Farm-To-Market Road 2770 in Hays County Texas (the "Facility").

2. The Respondents have discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on November 1, 2010, TCEQ staff documented that between October 31 and November 1, 2010, the incoming wastewater treatment plant lift station failed to operate properly for approximately 24 hours, resulting in a discharge of approximately 1,000,000 gallons of untreated wastewater into an unnamed tributary of Plum Creek, killing approximately 2,982 fish. The stream quality was impacted by low dissolved oxygen levels, high *E. coli* levels, sewage odors, brown colored foam, and high ammonia-nitrogen levels.
4. The Respondents received notice of the violations on December 20, 2010.
5. The Executive Director recognizes that the Respondents hired a third party contractor who removed the discharged wastewater, disposed of the dead fish, and disinfected the affected area on November 1, 2010.

II. CONCLUSIONS OF LAW

1. The Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondents failed to properly operate and maintain the lift station and to prevent the unauthorized discharge of untreated wastewater into or adjacent to water in the State, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011041002 Permit Condition No. 2.g. and Operational Requirements No. 1
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondents for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Twenty Thousand Dollars (\$20,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondents have paid the Twenty Thousand Dollar (\$20,000) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondents are assessed an administrative penalty in the amount of Twenty Thousand Dollars (\$20,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Operations, Inc. and City of Kyle, Docket No. 2011-0047-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 Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. It is further ordered that the Respondents shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, implement measures and procedures to prevent further unauthorized discharges. Such measures shall include but not be limited to repair/rehabilitation of the incoming wastewater treatment plant lift station; and
 - b. Within 90 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. 3.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 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 Respondents. The Respondents are 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 Respondents fail 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 Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondents if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.

8. 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.
9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents 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.
10. 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.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 6/2/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of Aqua Operations, Inc. and City of Kyle. I am authorized to agree to the attached Agreed Order on behalf of Aqua Operations, Inc. and City of Kyle, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Aqua Operations, Inc. and City of Kyle waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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 April 13, 2011

BR
RCR

ROBERT LAUGHMAN

Name (Printed or typed)
Authorized Representative of
Aqua Operations, 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 III, Paragraph 1 of this Agreed Order.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

6/2/2011
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Aqua Operations, Inc. and City of Kyle. I am authorized to agree to the attached Agreed Order on behalf of Aqua Operations, Inc. and City of Kyle, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Aqua Operations, Inc. and City of Kyle waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

5/24/11
Date

Lanny S. Lambert
Name (Printed or typed)
Authorized Representative of
City of Kyle

City Manager
Title

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