

## City of Kyle and Aqua Operations, Inc.

RN102182680

Docket No. 2013-0498-MWD-E

**Order Type:**

Findings Agreed Order

**Findings Order Justification:** Three or more enforcement actions (4 NOVs, 1 order) over the prior five year period for the same violations.

**Media:**

MWD – Municipal Wastewater Discharge

**Small Business:**

City of Kyle - N/A

Aqua Operations, Inc. - Yes

**Location(s) Where Violation(s) Occurred:**

941 New Bridge Drive, approximately 2.7 miles northwest of the intersection of State Route 21 and Farm-to-Market Road 2720, Hays County

**Type of Operation:**

wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third-Parties: None

**Texas Register Publication Date:** February 13, 2015

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$37,488

**Total Paid to General Revenue:** \$37,488

**Total Due to General Revenue:** \$0

**Compliance History Classifications:**

Person/CN – Satisfactory (Both Respondents)

Site/RN – Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** November 20, 2012

**Date(s) of NOV(s):** June 30, 2012; July 31, 2012; October 31, 2012;  
November 30, 2012

**Date(s) of NOE(s):** February 1, 2013

## City of Kyle and Aqua Operations, Inc.

RN102182680

Docket No. 2013-0498-MWD-E

**Violation Information**

1. Failed to prevent the discharge of wastewater solids from the wastewater treatment plant ("WWTP") [TEX. WATER CODE § 26.121(a)(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011041002 Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions 2.d.].
2. Failed to timely submit the discharge noncompliance notification within 24 hours of becoming aware of the unauthorized discharge [TEX. WATER CODE § 26.039(b); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0011041002, Monitoring and Reporting Requirement No. 7.a.].
3. Failed to ensure that all of the Facility's systems of collection, treatment, and disposal are properly operated and maintained [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0011041002, Operational Requirements No. 1].
4. Failed to comply with permitted effluent limits [TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0011041002, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6].
5. Failed to prevent the discharge of solids from the WWTP [TEX. WATER CODE § 26.121(a)(1) and TPDES Permit No. WQ0011041002, Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions 2.d.].

**Corrective Actions/Technical Requirements****Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 60 days:
  - a. Update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished (violation no. 2);
  - b. Develop and implement procedures to ensure all Facility WWTP units operated by Aqua Operations, Inc. are maintained and operated properly, including the clarifier, aeration basin, digester, and screening device. The procedures shall also include routine inspections of the Facility WWTP units and receiving stream at the Facility's outfall. Records of those observations shall be maintained at the Facility in a log book that is readily available to TCEQ representatives upon request (violation no. 3); and
  - c. Develop and implement procedures to ensure that the City of Kyle's collection system used to deliver wastewater influent to the Facility is maintained and operated properly. These procedures shall include routine inspections of the City of Kyle's collection system and lift stations to ensure that all TCEQ Rules, Regulations, and permit guidelines regarding the City of Kyle's collection system are followed. Records of the City of Kyle's observations shall be maintained in a log book that is readily available to TCEQ representatives upon request.
2. Within 180 days, develop and implement a solids management plan. The plan shall outline a program of internal process control testing to monitor the efficiency of the Facility and to maintain the proper solids balance within the collection system. The plan shall be prepared by an independent Texas registered professional engineer or an independent "A" TCEQ Certified Wastewater Operator (violations nos. 1 and 5). At a minimum, the plan shall contain the following:
  - a. A schedule of regular and periodic examinations of the wastewater solids within the Facility by the operator to maintain the appropriate quantity and quality of solids;
  - b. A program to maintain records of the examinations, process control test results and solids removal;

**City of Kyle and Aqua Operations, Inc.**

RN102182680

Docket No. 2013-0498-MWD-E

- c. Procedures for keeping organized, written records of the process control analyses, which shall be maintained for a period of three years at the Facility in a daily log book and shall be made available to TCEQ representatives upon request;
  - d. Steps to address the management of screenings and debris which enter the Facility operated by Aqua Operations, Inc. At the Facility, this shall include prevention of screen bypasses, management of debris within the Facility, and routine cleaning/maintenance procedures to prevent clogging of Facility WWTP units. This shall also include routine cleaning/maintenance procedures by the City of Kyle to prevent clogging of the collection system outside the Facility, routine inspections by the City of Kyle of its collection system and lift stations to ensure that all TCEQ Rules, Regulations, and permit guidelines regarding the City of Kyle's collection system are followed; and
  - e. Steps to address the hydraulic surges and equitable distribution of flow between the old and new treatment trains, which shall include measures to prevent surging and disproportionate flows between the two treatment trains.
3. Within 210 days submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0011041002, 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 limitations (violation no. 4).
  4. Submit written certification to demonstrate compliance:
    - a. Within 75 days for Technical Requirement No. 1; and
    - b. Within 210 days for Technical Requirements No. 2.

**Litigation Information**

<b>Date Petition(s) Filed:</b>	September 27, 2013
<b>Date Answer Filed:</b>	October 22, 2013
<b>SOAH Referral Date:</b>	December 12, 2013
<b>Hearing Date(s):</b>	
Preliminary hearing:	February 6, 2014
Evidentiary hearing:	October 21-23, 2014 (continued)
<b>Settlement Date:</b>	December 11, 2014

**Contact Information**

**TCEQ Attorneys:** Meaghan Bailey, Litigation Division, (512) 239-3400  
 Lena Roberts, Litigation Division, (512) 239-3400  
 Garrett Arthur, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division, (817) 588-5886

**TCEQ Regional Contact:** Carolyn Runyon, Austin Regional Office, (512) 239-7050

**Respondents' Contacts:**

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

Aqua Operations, Inc. - Robert Laughman, Chief Operating Officer, Aqua Operations, Inc., 762 West Lancaster Avenue, Bryn Mawr, Pennsylvania, 19010

**Respondents' Attorneys:**

City of Kyle - Lea Ream, Davidson Troilo Ream & Garza, 7750 West Interstate 10, Suite 800, San Antonio, Texas 78229-5815;

Aqua Operations, Inc. - Paul Terrill, The Terrill Firm, P.C., 810 West 10th Street, Austin, Texas 78701

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# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	2-Feb-2013	<b>Screening</b>	15-Feb-2013	<b>EPA Due</b>	
	<b>PCW</b>	10-Oct-2014				

## RESPONDENT/FACILITY INFORMATION

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

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46307	<b>No. of Violations</b>	6
<b>Docket No.</b>	2013-0498-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$26,500
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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.

<b>Compliance History</b>	45.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$11,925
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Notes: Enhancement for four months of self-reported effluent violations and one order without denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondents do not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$937
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$468  
 Approx. Cost of Compliance: \$9,270  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$37,488
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$37,488
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$37,488
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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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.

<b>PAYABLE PENALTY</b>	\$37,488
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**Screening Date** 15-Feb-2013

**Docket No.** 2013-0498-MWD-E

**PCW**

**Respondent** City of Kyle and Aqua Operations, Inc.

*Policy Revision 3 (September 2011)*

**Case ID No.** 46307

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN102182680

**Media [Statute]** Water Quality

**Enf. Coordinator** Cheryl Thompson

### 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> )	4	20%
	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	1	25%
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)** 45%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for four months of self-reported effluent violations and one order without denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 45%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 45%

**Screening Date** 15-Feb-2013 **Docket No.** 2013-0498-MWD-E **PCW**  
**Respondent** City of Kyle and Aqua Operations, Inc. *Policy Revision 3 (September 2011)*  
**Case ID No.** 46307 *PCW Revision August 3, 2011*  
**Reg. Ent. Reference No.** RN102182680  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Cheryl Thompson

**Violation Number** 1  
**Rule Cite(s)** Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011041002 Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions 2.d. and Tex. Water Code § 26.121(a)(1)  
**Violation Description** Failed to prevent the discharge of wastewater from the wastewater treatment plant ("WWTP"). Specifically, beginning around November 13 through November 21, 2012 more than 100,000 gallons of partially treated wastewater containing floating solids from a final clarifier discharged into the receiving stream (Plum Creek). Floating solids in the creek and settled solids covering the bottom of the creek were observed from the point of discharge for approximately one-half mile downstream to Heidenreich Lane.

**Base Penalty** \$25,000

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

OR	<b>Harm</b>				Percent
	<b>Release</b>	Major	Moderate	Minor	
	Actual		x		
	Potential				30.0%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

**Adjustment** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 1 5 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

One monthly event is recommended from the period of November 13, 2012 (date of the discharge) to November 21, 2012 (date the discharge ceased).

**Good Faith Efforts to Comply** 0.0% Reduction \$0

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

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

**Violation Subtotal** \$7,500

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

**Estimated EB Amount** \$298 **Violation Final Penalty Total** \$10,875

**This violation Final Assessed Penalty (adjusted for limits)** \$10,875

# Economic Benefit Worksheet

**Respondent** City of Kyle and Aqua Operations, Inc.  
**Case ID No.** 46307  
**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)	\$500	20-Nov-2012	30-Nov-2013	1.03	\$2	\$34	\$36
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)	\$5,000	13-Nov-2012	30-Nov-2013	1.05	\$262	n/a	\$262

**Notes for DELAYED costs**  
 Estimated cost to remove sludge, solids and debris from the receiving stream and to pump into the WWTP digester; and to develop and implement procedures to prevent unauthorized discharges and to implement a solids management plan. Dates required are date of the discharge and the investigation date. Final date is the projected date of compliance to develop and begin implementing procedures to prevent unauthorized discharges.

### 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**  
 (Empty box for notes)

Approx. Cost of Compliance	\$5,500	<b>TOTAL</b>	\$298
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Screening Date 15-Feb-2013

Docket No. 2013-0498-MWD-E

PCW

Respondent City of Kyle and Aqua Operations, Inc.

Policy Revision 3 (September 2011)

Case ID No. 46307

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102182680

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.039(b); TPDES Permit No. WQ0011041002, Monitoring and Reporting Requirement No. 7.a.

Violation Description

Failed to timely submit the discharge noncompliance notification within 24 hours of becoming aware of the unauthorized discharge. Specifically, the wastewater treatment plant discharged solids into Plum Creek beginning around November 13, 2012 and the discharge was not reported until November 20, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

7 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$250

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$363

This violation Final Assessed Penalty (adjusted for limits) \$363

# Economic Benefit Worksheet

**Respondent** City of Kyle and Aqua Operations, Inc.  
**Case ID No.** 46307  
**Reg. Ent. Reference No.** RN102182680  
**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	20-Nov-2012	31-Oct-2013	0.95	\$12	n/a	\$12
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20	14-Nov-2012	20-Nov-2012	0.02	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to submit the noncompliance report to the TCEQ Regional office within 24 hours of the November 13, 2012 discharge. Date required is the date the noncompliance report was due and the final date is the date the noncompliance notification was submitted. The delayed cost also includes the estimated cost to update the Facility's operational guidance and conduct employee training to ensure the timely submittal of all reporting requirements. Date required is the investigation date and the final date is the projected 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 \$270

**TOTAL** \$12

Screening Date 15-Feb-2013

Docket No. 2013-0498-MWD-E

PCW

Respondent City of Kyle and Aqua Operations, Inc.

Policy Revision 3 (September 2011)

Case ID No. 46307

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102182680

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s)

TPDES Permit No. WQ0011041002, Operational Requirements No. 1 and 30 Tex. Admin. Code § 305.125(5)

Violation Description

Failed to ensure that all of the Facility's systems of collection, treatment, and disposal are properly operated and maintained. Specifically, trash and debris were observed in the clarifier, aeration basin, and digester, and the mechanical screen was coated with rags.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

87 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

One quarterly event is recommended from the period of November 20, 2012 (date of investigation) to February 15, 2013 (screening date).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$71

Violation Final Penalty Total \$5,438

This violation Final Assessed Penalty (adjusted for limits) \$5,438

# Economic Benefit Worksheet

**Respondent** City of Kyle and Aqua Operations, Inc.  
**Case ID No.** 46307  
**Reg. Ent. Reference No.** RN102182680  
**Media** Water Quality  
**Violation No.** 3

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)	\$1,500	20-Nov-2012	31-Oct-2013	0.95	\$71	n/a	\$71

**Notes for DELAYED costs**  
 Estimated cost to remove all trash and debris from the clarifier, the aeration basin, digester and screens.  
 Date required is the investigation date and the final date is the projected 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	\$1,500	<b>TOTAL</b>	\$71
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Screening Date 15-Feb-2013

Docket No. 2013-0498-MWD-E

PCW

Respondent City of Kyle and Aqua Operations, Inc.

Policy Revision 3 (September 2011)

Case ID No. 46307

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102182680

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 4

Rule Cite(s)

TPDES Permit No. WQ0011041002, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits, as documented during an investigation conducted on November 20, 2012 and a record review conducted on March 18, 2013. See attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
				0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment. Dissolved oxygen and total residual chlorine were also considered. As a result of these discharges, 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.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 92 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

One quarterly event is recommended for the quarter containing the months of October 2012 and December 2012.

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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$88

Violation Final Penalty Total \$5,438

This violation Final Assessed Penalty (adjusted for limits) \$5,438

Effluent Violation Table

City of Kyle and Aqua Operations, Inc.

Docket No. 2013-0498-MWD-E; RN102182680

Violation No. 4

TPDES Permit No. WQ0011041002

	NH <sub>3</sub> -N Daily Avg. Conc. 3 mg/L	NH <sub>3</sub> -N Daily Max. Conc. 10 mg/L	NH <sub>3</sub> -N Daily Avg. Loading 75 lbs/day	TSS Daily Max. Conc. 40 mg/L	DO Monthly Min. 6 mg/L	Total Residual Chlorine Inst. Max. .1 mg/L	Total Residual Chlorine Min. 1.0 mg/L
October 2012	3.22	16.6	c	44	c	c	c
December 2012	3.12	21.5	c	c	c	.14	c
December 5, 2012 (investigation date)	c	c	c	c	c	c	0.3*

mg/L = milligrams per liter  
 lbs/day = pounds per day  
 Min. = minimum  
 NH<sub>3</sub>-N = ammonia nitrogen

Avg. = average  
 TSS = total suspended solids  
 DO = dissolved oxygen  
 Inst. = instantaneous

Conc. = concentration  
 c = compliant  
 Max. = maximum  
 \* = grab sample

# Economic Benefit Worksheet

**Respondent** City of Kyle and Aqua Operations, Inc.  
**Case ID No.** 46307  
**Reg. Ent. Reference No.** RN102182680  
**Media** Water Quality  
**Violation No.** 4

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)	\$1,500	31-Oct-2012	31-Dec-2013	1.17	\$88	n/a	\$88

Notes for DELAYED costs

The estimated cost to adjust pumps to keep steady flow in old plant, add more air to help maintain extra flow, to unclog the line that feeds liquid sulfur dioxide and to repair the blowers and air diffusers. Date required is the month the first non-compliant excursion was documented. 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 \$1,500

**TOTAL** \$88

<b>Screening Date</b>	15-Feb-2013	<b>Docket No.</b>	2013-0498-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of Kyle and Aqua Operations, Inc.			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	46307			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN102182680			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Cheryl Thompson			
<b>Violation Number</b>	5			
<b>Rule Cite(s)</b>	TPDES Permit No. WQ0011041002, Interim Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)			
<b>Violation Description</b>	Failed to comply with permitted effluent limits, as documented during a record review conducted on March 18, 2013. See attached table.			
		<b>Base Penalty</b>	\$25,000	

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual		x		<b>Percent</b> 30.0%
Potential					

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0.0%

**Matrix Notes**

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment. Total suspended solids, dissolved oxygen and total residual chlorine were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

**Adjustment** \$17,500

**\$7,500**

**Violation Events**

Number of Violation Events: 1      30 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$7,500

One monthly event is recommended for the month of November 2012.

**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 does not meet the good faith criteria for this violation.

**Violation Subtotal** \$7,500

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount \$0	Violation Final Penalty Total \$10,875
<b>This violation Final Assessed Penalty (adjusted for limits) \$10,875</b>	

Effluent Violation Table  
 City of Kyle and Aqua Operations, Inc.  
 Docket No. 2013-0498-MWD-E; RN102182680  
 Violation No. 5  
 TPDES Permit No. WQ0011041002

	NH <sub>3</sub> -N Daily Avg. Conc. 3 mg/L	NH <sub>3</sub> -N Daily Max. Conc. 10 mg/L	NH <sub>3</sub> -N Daily Avg. Loading 75 lbs/day	TSS Daily Max. Conc. 40 mg/L	DO Monthly Min. 6 mg/L	Total Residual Chlorine Inst. Max. .1 mg/L	Total Residual Chlorine Min. 1.0 mg/L
November 2012	7.26	27.4	113.9	c	3.86	c	c
November 21, 2012 (investigation date)	c	c	c	c	c	0.39*/2.2*	c

mg/L = milligrams per liter  
 lbs/day = pounds per day  
 Min. = minimum  
 NH<sub>3</sub>-N = ammonia nitrogen

Avg. = average  
 TSS = total suspended solids  
 DO = dissolved oxygen  
 Inst. = instantaneous

Conc. = concentration  
 c = compliant  
 Max. = maximum  
 \* = grab sample

# Economic Benefit Worksheet

**Respondent** City of Kyle and Aqua Operations, Inc.  
**Case ID No.** 46307  
**Reg. Ent. Reference No.** RN102182680  
**Media** Water Quality  
**Violation No.** 5

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation no. 4.

### 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 \$0

**TOTAL** \$0

**Screening Date** 15-Feb-2013 **Docket No.** 2013-0498-MWD-E **PCW**  
**Respondent** City of Kyle and Aqua Operations, Inc. *Policy Revision 3 (September 2011)*  
**Case ID No.** 46307 *PCW Revision August 3, 2011*  
**Reg. Ent. Reference No.** RN102182680  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Cheryl Thompson

**Violation Number**

**Rule Cite(s)**

TPDES Permit No. WQ0011041002 Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions 2.d. and Tex. Water Code § 26.121(a)(1)

**Violation Description**

Failed to prevent the discharge of solids from the WWTP. Specifically, on December 3, 2012, a reportable discharge of solids from the WWTP into the receiving stream occurred.

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	x
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="15.0%"/>

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0.0%"/>

**Matrix Notes**

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	x
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended.

**Good Faith Efforts to Comply**  Reduction

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

**Notes**

The Respondent returned to compliance.

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** City of Kyle and Aqua Operations, Inc.  
**Case ID No.** 46307  
**Reg. Ent. Reference No.** RN102182680  
**Media** Water Quality  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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)	\$500	3-Dec-2012	3-Dec-2012	0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to unclog the transfer line from the aeration basin to the clarifier in Plant #1. The cost of cleanup is addressed in violation no. 1. Date required is the date of the discharge and the final date is the date the line was cleaned.

### 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 \$500

**TOTAL** \$0

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# Compliance History Report

**PUBLISHED** Compliance History Report for CN600334510, RN102182680, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600334510, City of Kyle **Classification:** SATISFACTORY **Rating:** 3.77

**Regulated Entity:** RN102182680, CITY OF KYLE WWTP **Classification:** SATISFACTORY **Rating:** 6.41

**Complexity Points:** 0 **Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** 941 New Bridge Drive, approximately 2.7 miles northwest of the intersection of State Route 21 and Farm-to-Market Road 2720, Hays County, Texas

**TCEQ Region:** REGION 11 - AUSTIN

**ID Number(s):** **WASTEWATER PERMIT** WQ0011041002  
**WASTEWATER AUTHORIZATION** R11041002  
**WASTEWATER EPA ID** TX0119466

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 9/1/2012

**Date Compliance History Report Prepared:** April 8, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 18, 2008 to March 18, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Cheryl Thompson

**Phone:** (817) 588-5886

## Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

- 1 **Effective Date:** 08/27/2011 **ADMINORDER 2011-0047-MWD-E (Findings Order-Agreed Order Without Denial)**

Classification: Major

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(5)

TWC Chapter 26 26.121

Rqmt Prov: WQ0011041002 OP

Description: 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.

### B. Criminal convictions:

N/A

### C. Chronic excessive emissions events:

N/A

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

Item 1	March 20, 2008	(677397)	Item 20	December 28, 2009	(930613)	Item 39	September 19, 2011	(967233)
Item 2	May 20, 2008	(696104)	Item 21	February 22, 2010	(930604)	Item 40	October 19, 2011	(973195)
Item 3	June 09, 2008	(696103)	Item 22	March 18, 2010	(930605)	Item 41	November 18, 2011	(979331)
Item 4	June 20, 2008	(696105)	Item 23	April 16, 2010	(836193)	Item 42	December 21, 2011	(986162)
Item 5	June 24, 2008	(696106)	Item 24	May 19, 2010	(836194)	Item 43	February 22, 2012	(999838)
Item 6	August 28, 2008	(717750)	Item 25	June 18, 2010	(847907)	Item 44	March 19, 2012	(1005384)
Item 7	September 19, 2008	(717751)	Item 26	August 19, 2010	(868933)	Item 45	April 18, 2012	(1011953)
Item 8	November 06, 2008	(733072)	Item 27	September 20, 2010	(875788)	Item 46	May 22, 2012	(1018324)
Item 9	November 18, 2008	(733073)	Item 28	October 20, 2010	(883368)	Item 47	June 20, 2012	(1026046)
Item 10	December 18, 2008	(756247)	Item 29	December 20, 2010	(898127)	Item 48	September 19, 2012	(1048880)
Item 11	March 10, 2009	(756244)	Item 30	December 21, 2010	(889759)	Item 49	October 18, 2012	(1069868)
Item 12	March 18, 2009	(756245)	Item 31	January 18, 2011	(904028)			
Item 13	April 27, 2009	(773222)	Item 32	February 17, 2011	(910908)			
Item 14	May 20, 2009	(773223)	Item 33	March 01, 2011	(954560)			
Item 15	June 16, 2009	(930607)	Item 34	March 18, 2011	(918179)			
Item 16	September 21, 2009	(930609)	Item 35	April 20, 2011	(930606)			
Item 17	October 20, 2009	(930610)	Item 36	May 22, 2011	(939888)			
Item 18	November 18, 2009	(930611)	Item 37	June 17, 2011	(947297)			
Item 19	December 21, 2009	(930612)	Item 38	August 19, 2011	(961141)			

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- |          |  |                  |                    |                 |          |
|----------|--|------------------|--------------------|-----------------|----------|
| <b>1</b> | <b>Date: 6/30/2012</b>   | <b>(1033409)</b> | <b>CN600334510</b> | Classification: | Moderate |
|          | Self Report? YES   |                  |                    |                 |          |
|          | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |                  |                    |                 |          |
|          | Description: Failure to meet the limit for one or more permit parameter                            |                  |                    |                 |          |
| <b>2</b> | <b>Date: 7/31/2012</b>   | <b>(1069867)</b> | <b>CN600334510</b> | Classification: | Moderate |
|          | Self Report? YES   |                  |                    |                 |          |
|          | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |                  |                    |                 |          |
|          | Description: Failure to meet the limit for one or more permit parameter                            |                  |                    |                 |          |
| <b>3</b> | <b>Date: 10/31/2012</b>  | <b>(1069869)</b> | <b>CN600334510</b> | Classification: | Moderate |
|          | Self Report? YES   |                  |                    |                 |          |
|          | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |                  |                    |                 |          |
|          | Description: Failure to meet the limit for one or more permit parameter                            |                  |                    |                 |          |
| <b>4</b> | <b>Date: 11/30/2012</b>  | <b>(1069870)</b> | <b>CN600334510</b> | Classification: | Moderate |
|          | Self Report? YES   |                  |                    |                 |          |
|          | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>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

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# Compliance History Report

**PUBLISHED** Compliance History Report for CN602931685, RN102182680, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN602931685, Aqua Operations, Inc. **Classification:** SATISFACTORY **Rating:** 6.41

**Regulated Entity:** RN102182680, CITY OF KYLE WWTP **Classification:** SATISFACTORY **Rating:** 6.41

**Complexity Points:** 0 **Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** 941 New Bridge Drive, approximately 2.7 miles northwest of the intersection of State Route 21 and Farm-to-Market Road 2720, Hays County, Texas

**TCEQ Region:** REGION 11 - AUSTIN

**ID Number(s):** **WASTEWATER PERMIT** WQ0011041002  
**WASTEWATER AUTHORIZATION** R11041002  
**WASTEWATER EPA ID** TX0119466

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 9/1/2012

**Date Compliance History Report Prepared:** March 20, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 18, 2008 to March 18, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Cheryl Thompson

**Phone:** (817) 588-5886

**Site and Owner/Operator History:**

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

- 1 **Effective Date:** 08/27/2011 **ADMINORDER 2011-0047-MWD-E (Findings Order-Agreed Order Without Denial)**

Classification: Major

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(5)

TWC Chapter 26 26.121

Rqmt Prov: WQ0011041002 OP

Description: 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.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	March 20, 2008	(677397)	Item 20	December 28, 2009	(930613)	Item 39	September 19, 2011	(967233)
Item 2	May 20, 2008	(696104)	Item 21	February 22, 2010	(930604)	Item 40	October 19, 2011	(973195)
Item 3	June 09, 2008	(696103)	Item 22	March 18, 2010	(930605)	Item 41	November 18, 2011	(979331)
Item 4	June 20, 2008	(696105)	Item 23	April 16, 2010	(836193)	Item 42	December 21, 2011	(986162)
Item 5	June 24, 2008	(696106)	Item 24	May 19, 2010	(836194)	Item 43	February 22, 2012	(999838)
Item 6	August 28, 2008	(717750)	Item 25	June 18, 2010	(847907)	Item 44	March 19, 2012	(1005384)
Item 7	September 19, 2008	(717751)	Item 26	August 19, 2010	(868933)	Item 45	April 18, 2012	(1011953)
Item 8	November 06, 2008	(733072)	Item 27	September 20, 2010	(875788)	Item 46	May 22, 2012	(1018324)
Item 9	November 18, 2008	(733073)	Item 28	October 20, 2010	(883368)	Item 47	June 20, 2012	(1026046)
Item 10	December 18, 2008	(756247)	Item 29	December 20, 2010	(898127)	Item 48	September 19, 2012	(1048880)
Item 11	March 10, 2009	(756244)	Item 30	December 21, 2010	(889759)	Item 49	October 18, 2012	(1069868)
Item 12	March 18, 2009	(756245)	Item 31	January 18, 2011	(904028)			
Item 13	April 27, 2009	(773222)	Item 32	February 17, 2011	(910908)			
Item 14	May 20, 2009	(773223)	Item 33	March 01, 2011	(954560)			
Item 15	June 16, 2009	(930607)	Item 34	March 18, 2011	(918179)			
Item 16	September 21, 2009	(930609)	Item 35	April 20, 2011	(930606)			
Item 17	October 20, 2009	(930610)	Item 36	May 22, 2011	(939888)			
Item 18	November 18, 2009	(930611)	Item 37	June 17, 2011	(947297)			
Item 19	December 21, 2009	(930612)	Item 38	August 19, 2011	(961141)			

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- |          |  |                  |                    |                 |          |
|----------|--|------------------|--------------------|-----------------|----------|
| <b>1</b> | <b>Date: 6/30/2012</b>   | <b>(1033409)</b> | <b>CN600334510</b> | Classification: | Moderate |
|          | Self Report? YES   |                  |                    |                 |          |
|          | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |                  |                    |                 |          |
|          | Description: Failure to meet the limit for one or more permit parameter                            |                  |                    |                 |          |
| <b>2</b> | <b>Date: 7/31/2012</b>   | <b>(1069867)</b> | <b>CN600334510</b> | Classification: | Moderate |
|          | Self Report? YES   |                  |                    |                 |          |
|          | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |                  |                    |                 |          |
|          | Description: Failure to meet the limit for one or more permit parameter                            |                  |                    |                 |          |
| <b>3</b> | <b>Date: 10/31/2012</b>  | <b>(1069869)</b> | <b>CN600334510</b> | Classification: | Moderate |
|          | Self Report? YES   |                  |                    |                 |          |
|          | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |                  |                    |                 |          |
|          | Description: Failure to meet the limit for one or more permit parameter                            |                  |                    |                 |          |
| <b>4</b> | <b>Date: 11/30/2012</b>  | <b>(1069870)</b> | <b>CN600334510</b> | Classification: | Moderate |
|          | Self Report? YES   |                  |                    |                 |          |
|          | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>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  
CITY OF KYLE AND AQUA  
OPERATIONS, INC.;  
RN102182680**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2013-0498-MWD-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding City of Kyle and Aqua Operations, Inc. ("Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, City of Kyle, represented by Lea Ream of the law firm Davidson Troilo Ream & Garza, and Aqua Operations, Inc. represented by Paul Terrill, III of the Terrill Firm, P.C., presented this Agreed Order to the Commission.

Respondents understand that they have certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, the right to an evidentiary hearing, notice of an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Respondents.

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

### **FINDINGS OF FACT**

1. Aqua Operations, Inc. owns and operates a wastewater treatment plant ("WWTP") on land owned by the City of Kyle and leased to Aqua Operations, Inc. at 941 New Bridge Drive, approximately 2.7 miles northwest of the intersection of State Route 21 and Farm-to-Market Road 2720 in Hays County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5). The City of Kyle owns and operates the wastewater collection system that delivers influent to the WWTP and is located outside the Facility.
2. During an investigation conducted on November 20, 2012, a TCEQ Austin Regional Office investigator documented that Respondents:
  - a. Failed to prevent the discharge of wastewater solids from the WWTP. Specifically, beginning around November 13 through November 21, 2012, more than 100,000 gallons of partially treated wastewater containing floating solids from a final clarifier discharged into the receiving stream (Plum Creek). Floating solids in the creek and settled solids covering the bottom of the creek were observed from the point of discharge for approximately one-half mile downstream to Heidenreich Lane;

- b. Failed to timely submit the discharge noncompliance notification within 24 hours of becoming aware of the unauthorized discharge. Specifically, the WWTP discharged solids into Plum Creek beginning around November 13, 2012, and the discharge was not reported until November 20, 2012;
- c. Failed to ensure that all of the Facility's systems of collection, treatment, and disposal are properly operated and maintained. Specifically, trash and debris were observed in the clarifier, aeration basin, and digester, and the mechanical screen was coated with rags;
- d. Failed to comply with permitted effluent limits. Specifically, Respondents did not comply with its permitted effluent limits as shown in the table below:

	NH3-N Daily Avg. Conc. 3 mg/L	NH3-N Daily Max. Conc. 10 mg/L	NH3-N Daily Avg. Loading 75 lbs/day	TSS Daily Max. Conc. 40 mg/L	DO Monthly Min. 6 mg/L	Total Residual Chlorine Inst. Max. .1 mg/L	Total Residual Chlorine Min. 1.0 mg/L
October 2012	3.22	16.6	c	44	c	c	c
November 2012	7.26	27.4	113.9	c	3.86	c	c
November 21, 2012 (investigation date)	c	c	c	c	C	0.39* 2.20*	C
December 2012	3.12	21.5	c	c	C	.14	C
December 5, 2012 (investigation date)	c	c	c	c	c	c	0.3*
Avg. = average Conc. = concentration Min. = minimum NH3-N = ammonia nitrogen Max. = maximum lbs/day = pounds per day Inst. = instantaneous TSS = total suspended solids mg/L = milligrams per liter c = compliant DO = dissolved oxygen * = grab samples							

- e. Failed to prevent the discharge of solids from the WWTP. Specifically, on December 3, 2012, a reportable discharge of solids from the WWTP into the receiving stream occurred.

**CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondents failed to prevent the discharge of wastewater solids from the WWTP, in violation of TEX. WATER CODE § 26.121(a)(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011041002 Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions 2.d.

3. As evidenced by Finding of Fact No. 2.b., Respondents failed to timely submit the discharge noncompliance notification within 24 hours of becoming aware of the unauthorized discharge, in violation of TEX. WATER CODE § 26.039(b); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0011041002, Monitoring and Reporting Requirement No. 7.a.
4. As evidenced by Finding of Fact No. 2.c., Respondents failed to ensure that all of the Facility's systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0011041002, Operational Requirements No. 1.
5. As evidenced by Finding of Fact No. 2.d., Respondents failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0011041002, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6.
6. As evidenced by Finding of Fact No. 2.e., Respondents failed to prevent the discharge of solids from the WWTP, in violation of TEX. WATER CODE § 26.121(a)(1) and TPDES Permit No. WQ0011041002, Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions 2.d.
7. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondents for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of thirty-seven thousand four hundred eighty-eight dollars (\$37,488.00) 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. Aqua Operations, Inc. has paid eighteen thousand seven hundred forty-four dollars (\$18,744.00) of the administrative penalty. The City of Kyle has paid eighteen thousand seven hundred forty-four dollars (\$18,744.00) of the administrative penalty.

### **ORDERING PROVISIONS**

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

1. Respondents are assessed an administrative penalty as set forth in Conclusion of Law No. 8, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here, nor does this Order adjudicate any issues or disputes between the Respondents arising under any contractual or other relationship, including but not limited to, any claims pending in litigation between the Respondents in Hays County District Court.
2. Respondents shall undertake the following technical requirements:
  - a. Within 60 days after the effective date of this Agreed Order, Respondents shall:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished; (Conclusion of Law No. 3); and

- ii. Develop and implement procedures to ensure all Facility WWTP units operated by Aqua Operations, Inc. are maintained and operated properly, including the clarifier, aeration basin, digester, and screening device. The procedures shall also include routine inspections of the Facility WWTP units and receiving stream at the Facility's outfall. Records of those observations shall be maintained at the Facility in a log book that is readily available to TCEQ representatives upon request.
  - iii. Develop and implement procedures to ensure that the City of Kyle's collection system used to deliver wastewater influent to the Facility is maintained and operated properly. These procedures shall include routine inspections of the City of Kyle's collection system and lift stations to ensure that all TCEQ Rules, Regulations, and permit guidelines regarding the City of Kyle's collection system are followed. Records of the City of Kyle's observations shall be maintained in a log book that is readily available to TCEQ representatives upon request.
- b. Within 75 days after the effective date of this Agreed Order, Respondents shall submit written certification in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provisions Nos. 2.a.i, 2.a.ii, and 2.a.iii.
- c. Within 180 days after the effective date of this Agreed Order, Respondents shall develop and implement a solids management plan. The plan shall outline a program of internal process control testing to monitor the efficiency of the Facility and to maintain the proper solids balance within the collection system. The plan shall be prepared by an independent Texas registered professional engineer or an independent "A" TCEQ Certified Wastewater Operator (Conclusions of Law Nos. 2 and 6). At a minimum, the plan shall contain the following:
- i. A schedule of regular and periodic examinations of the wastewater solids within the Facility by the operator to maintain the appropriate quantity and quality of solids;
  - ii. A program to maintain records of the examinations, process control test results and solids removal;
  - iii. Procedures for keeping organized, written records of the process control analyses, which shall be maintained for a period of three years at the Facility in a daily log book and shall be made available to TCEQ representatives upon request;
  - iv. Steps to address the management of screenings and debris which enter the Facility operated by Aqua Operations, Inc. At the Facility, this shall include prevention of screen bypasses, management of debris within the Facility, and routine cleaning/maintenance procedures to prevent clogging of Facility WWTP units. This shall also include routine cleaning/maintenance procedures by the City of Kyle to prevent clogging of the collection system outside the Facility, routine inspections by the City of Kyle of its collection system and lift stations to ensure that all TCEQ Rules, Regulations, and permit guidelines regarding the City of Kyle's collection system are followed.
  - v. Steps to address the hydraulic surges and equitable distribution of flow between the old and new treatment trains, which shall include measures

to prevent surging and disproportionate flows between the two treatment trains.

- d. Within 210 days after the effective date of this Agreed Order, Respondents shall submit written certification in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provisions Nos. 2.c.i. through 2.c.v.
- e. Within 210 days after the effective date of this Agreed Order, Respondents shall submit certification of compliance with the permitted effluent limitations of TPDES Permit No.WQ0011041002, 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 limitations. (Conclusion of Law No. 5).
- f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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."

Respondents shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Carolyn Runyon, Water Section Manager  
Austin Regional Office  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondents' failure to comply is not a

- violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed in Ordering Provision No. 2.f., above.
  7. This Agreed Order, issued by the Commission, shall not be admissible against either Respondent in a civil proceeding, including the proceeding currently pending between Respondents in Hays County District Court, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute.
  8. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
  9. 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.
  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. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondents, or three days after the date on which the Commission mails notice of this Agreed Order to Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
For the Executive Director

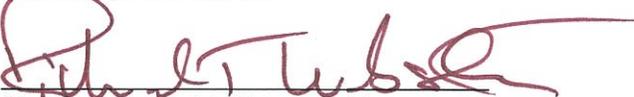
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of City of Kyle or Aqua Operations, Inc., as 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 in this Agreed 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Todd Webster, Mayor  
City of Kyle

12/11/2014  
\_\_\_\_\_  
Date

If mailing address has changed, please check this box and provide the new address below:

\_\_\_\_\_  
Robert Laughman, Chief Operating Officer  
Aqua Operations, Inc.

\_\_\_\_\_  
Date

If mailing address has changed, please check this box and provide the new address below:

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date

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- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

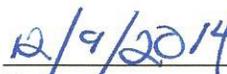
In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

\_\_\_\_\_  
Signature – Todd Webster, Mayor  
City of Kyle

\_\_\_\_\_  
Date

If mailing address has changed, please check this box and provide the new address below:

\_\_\_\_\_  
  
Robert Laughman, Chief Operating Officer  
Aqua Operations, Inc

\_\_\_\_\_  
  
Date

If mailing address has changed, please check this box and provide the new address below:

\_\_\_\_\_