

**Executive Summary – Enforcement Matter – Case No. 61223**

**Aqua Texas, Inc.**

**RN102094240**

**Docket No. 2021-1119-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:**

Village Trace, located approximately 2,300 feet south of County Road 128 and approximately 2,500 feet east of County Road 143, Brazoria County

**Type of Operation:**

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:** March 31, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$45,500

**Total Paid to General Revenue:** \$45,500

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** June 23, 2021

**Date(s) of NOE(s):** August 16, 2021

**Executive Summary – Enforcement Matter – Case No. 61223**

**Aqua Texas, Inc.**

**RN102094240**

**Docket No. 2021-1119-MWD-E**

***Violation Information***

Failed to comply with permitted effluent limitations for daily average flow, total suspended solids, ammonia nitrogen, total residual chlorine, and carbonaceous biochemical oxygen demand (5-day) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012822001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to, within 130 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012822001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Cecilio Banuelos, Enforcement Division, Enforcement Team 1, MC R-15, (959) 389-7421; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Craig Blanchette, President, Aqua Texas, Inc., 1106 Clayton Lane, Suite 400W, Austin, Texas 78723

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

|              |                 |             |                  |             |                |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| <b>DATES</b> | <b>Assigned</b> | 23-Aug-2021 |                  |             |                |
|              | <b>PCW</b>      | 17-Nov-2022 | <b>Screening</b> | 23-Aug-2021 | <b>EPA Due</b> |

|  |                  |
|--|------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                  |
| <b>Respondent</b>                      | Aqua Texas, Inc. |
| <b>Reg. Ent. Ref. No.</b>              | RN102094240      |
| <b>Facility/Site Region</b>            | 12-Houston       |
| <b>Major/Minor Source</b>              | Minor            |

|  |                 |                              |                    |
|--|-----------------|------------------------------|--------------------|
| <b>CASE INFORMATION</b>                |                 |                              |                    |
| <b>Enf./Case ID No.</b>                | 61223           | <b>No. of Violations</b>     | 2                  |
| <b>Docket No.</b>                      | 2021-1119-MWD-E | <b>Order Type</b>            | Findings           |
| <b>Media Program(s)</b>                | Water Quality   | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                 | <b>Enf. Coordinator</b>      | Alyssa Loveday     |
|  |                 | <b>EC's Team</b>             | Enforcement Team 1 |
| <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> | \$32,500 |
|---|-------------------|----------|

### 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> | 40.0% Adjustment | <b>Subtotals 2, 3, &amp; 7</b> | \$13,000 |
|---------------------------|------------------|--------------------------------|----------|

Notes: Enhancement for four months of self-reported effluent violations and one order containing a denial of liability.

|                    |    |                  |                   |     |
|--------------------|----|------------------|-------------------|-----|
| <b>Culpability</b> | No | 0.0% Enhancement | <b>Subtotal 4</b> | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

|  |                   |     |
|--|-------------------|-----|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | \$0 |
|--|-------------------|-----|

|                         |                   |                   |     |
|-------------------------|-------------------|-------------------|-----|
| <b>Economic Benefit</b> | 0.0% Enhancement* | <b>Subtotal 6</b> | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts: \$2,384  
 Estimated Cost of Compliance: \$25,000  
 \*Capped at the Total EB \$ Amount

|                             |                       |          |
|-----------------------------|-----------------------|----------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$45,500 |
|-----------------------------|-----------------------|----------|

|   |      |                   |     |
|---|------|-------------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

|                             |          |
|-----------------------------|----------|
| <b>Final Penalty Amount</b> | \$45,500 |
|-----------------------------|----------|

|                                   |                               |          |
|-----------------------------------|-------------------------------|----------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$45,500 |
|-----------------------------------|-------------------------------|----------|

|                 |      |           |                   |     |
|-----------------|------|-----------|-------------------|-----|
| <b>DEFERRAL</b> | 0.0% | Reduction | <b>Adjustment</b> | \$0 |
|-----------------|------|-----------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

|                        |          |
|------------------------|----------|
| <b>PAYABLE PENALTY</b> | \$45,500 |
|------------------------|----------|

Screening Date 23-Aug-2021

Docket No. 2021-1119-MWD-E

PCW

Respondent Aqua Texas, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 61223

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102094240

Media Water Quality

Enf. Coordinator Alyssa Loveday

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Number | 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> )  | 1      | 20%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0      | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )                               | 0      | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0      | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government ( <i>number of counts</i> )   | 0      | 0%      |
| Emissions                     | Chronic excessive emissions events ( <i>number of events</i> )   | 0      | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )     | 0      | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )  | 0      | 0%      |
| 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)** 40%

#### >> 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 containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 40%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 40%

**Screening Date** 23-Aug-2021  
**Respondent** Aqua Texas, Inc.  
**Case ID No.** 61223  
**Reg. Ent. Reference No.** RN102094240  
**Media** Water Quality  
**Enf. Coordinator** Alyssa Loveday

**Docket No.** 2021-1119-MWD-E

**PCW**

*Policy Revision 5 (January 28, 2021)*

*PCW Revision February 11, 2021*

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012822001, Effluent Limitations and Monitoring Requirements No. 1

**Violation Description** Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

**Base Penalty** \$25,000

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

| OR | Release   | Harm  |          |       | Percent |
|----|-----------|-------|----------|-------|---------|
|    |           | Major | Moderate | Minor |         |
|    | Actual    | x     |          |       | 50.0%   |
|    | Potential |       |          |       |         |

**>> Programmatic Matrix**

|  | Falsification | Major | Moderate | Minor | Percent |
|--|---------------|-------|----------|-------|---------|
|  |               |       |          |       | 0.0%    |

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand, ammonia nitrogen, and flow to determine whether the discharged amounts of pollutants exceeded protective levels. Total Suspended Solids were also considered. 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** \$12,500

\$12,500

**Violation Events**

Number of Violation Events 2 59 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      | x |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event |   |

**Violation Base Penalty** \$25,000

Two monthly events are recommended for the months of December 2020 and February 2021.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

|               | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer |
|---------------|----------------|-----------------------------------|
| Extraordinary |                |                                   |
| Ordinary      |                |                                   |
| N/A           | x              |                                   |

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

**Violation Subtotal** \$25,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$2,384

**Violation Final Penalty Total** \$35,000

**This violation Final Assessed Penalty (adjusted for limits)** \$35,000

# Economic Benefit Worksheet

**Respondent** Aqua Texas, Inc.  
**Case ID No.** 61223  
**Reg. Ent. Reference No.** RN102094240  
**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 | Costs Saved | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### 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)        | \$25,000 | 30-Nov-2020 | 27-Oct-2022 | 1.91 | \$2,384 | n/a | \$2,384 |

**Notes for DELAYED costs**  
 Estimated Other cost to determine the cause of noncompliance, make the necessary repairs/adjustments to the Facility, and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance, and the Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE 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           |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs        |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.00 | \$0 | \$0 | \$0 |

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$25,000

**TOTAL** \$2,384

|                                |  |                     |                 |   |
|--------------------------------|--|---------------------|-----------------|---|
| <b>Screening Date</b>          | 23-Aug-2021  | <b>Docket No.</b>   | 2021-1119-MWD-E | <b>PCW</b>                                  |
| <b>Respondent</b>              | Aqua Texas, Inc.   |                     |                 | <i>Policy Revision 5 (January 28, 2021)</i> |
| <b>Case ID No.</b>             | 61223  |                     |                 | <i>PCW Revision February 11, 2021</i>       |
| <b>Reg. Ent. Reference No.</b> | RN102094240  |                     |                 |   |
| <b>Media</b>                   | Water Quality  |                     |                 |   |
| <b>Enf. Coordinator</b>        | Alyssa Loveday   |                     |                 |   |
| <b>Violation Number</b>        | 2  |                     |                 |   |
| <b>Rule Cite(s)</b>            | 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0012822001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2 |                     |                 |   |
| <b>Violation Description</b>   | Failed to comply with permitted effluent limitations, as shown in the attached effluent violation 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> 15.0% |
| Potential |                |             |          |       |                      |

**>> Programmatic Matrix**

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

Matrix Notes: A simplified model was used to evaluate carbonaceous biochemical oxygen demand, ammonia nitrogen, and flow to determine whether the discharged amounts of pollutants exceeded protective levels. Total chlorine and total suspended solids were also considered. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$21,250

\$3,750

**Violation Events**

|                            |              |    |                          |
|----------------------------|--------------|----|--------------------------|
| Number of Violation Events | 2            | 92 | Number of violation days |
|                            | daily        |    |                          |
|                            | weekly       |    |                          |
|                            | monthly      |    |                          |
|                            | quarterly    | x  |                          |
|                            | semiannual   |    |                          |
|                            | annual       |    |                          |
|                            | single event |    |                          |

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

Two quarterly events are recommended for the quarters containing the months of November 2020 and January and March 2021.

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

|               |  |                                   |
|---------------|--|-----------------------------------|
|               | Before NOE/NOV   | NOE/NOV to EDPRP/Settlement Offer |
| Extraordinary |  |                                   |
| Ordinary      |  |                                   |
| N/A           | x  |                                   |
| Notes         | The Respondent 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 \$10,500 |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> \$10,500 |  |

# Economic Benefit Worksheet

**Respondent** Aqua Texas, Inc.  
**Case ID No.** 61223  
**Reg. Ent. Reference No.** RN102094240  
**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 | Costs Saved | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### 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 Worksheet for Violation No. 1.

### Avoided Costs

**ANNUALIZE 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           |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs        |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

**TOTAL** \$0

Aqua Texas, Inc.  
 TPDES Permit No. WQ0012822001  
 Docket No. 2021-1119-MWD-E  
 Case No. 61223

| Effluent Violation Table |  |                                   |  |                                   |                              |                                 |                                  |                                   |  |
|--------------------------|--|-----------------------------------|--|-----------------------------------|------------------------------|---------------------------------|----------------------------------|-----------------------------------|--|
| Monitoring Period        | Carbonaceous Biochemical Oxygen Demand (5-day) |                                   |  | Total Residual Chlorine           | Flow                         | Ammonia Nitrogen                | Total Suspended Solids           |                                   |  |
|                          | Daily Avg. Conc. Limit = 5 mg/L                | Single Grab Conc. Limit = 30 mg/L | Daily Avg. Loading Limit = 1.4 lbs/day | Monthly Min. Conc. Limit = 1 mg/L | Daily Avg. Limit = 0.035 MGD | Daily Avg. Conc. Limit = 2 mg/L | Daily Avg. Conc. Limit = 12 mg/L | Single Grab Conc. Limit = 60 mg/L | Daily Avg. Loading Limit = 3.5 lbs/day |
| November 2020            | c  | c                                 | c                                      | 0.2                               | c                            | c                               | c                                | c                                 | c                                      |
| December 2020            | 6.87   | c                                 | 1.82                                   | c                                 | 0.055                        | c                               | 17.9                             | c                                 | 5.56                                   |
| January 2021             | 5.82   | c                                 | 1.69                                   | c                                 | 0.0591                       | c                               | 17                               | c                                 | 4.75                                   |
| February 2021            | 7.87   | c                                 | 1.68                                   | c                                 | 0.064                        | 2.73                            | 27.8                             | 68.7                              | 5.46                                   |
| March 2021               | >12.1  | >19.4                             | >1.91                                  | c                                 | c                            | 2.26                            | 23                               | c                                 | 3.64                                   |

Avg. = average  
 Conc. = concentration  
 mg/L = milligrams per liter  
 c = compliant

lbs/day = pounds per day  
 Min. = minimum  
 MGD = million gallons per day

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# Compliance History Report

Compliance History Report for CN604062463, RN102094240, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN604062463, Aqua Texas, Inc. **Classification:** SATISFACTORY **Rating:** 5.87  
**Regulated Entity:** RN102094240, VILLAGE TRACE **Classification:** SATISFACTORY **Rating:** 8.72  
**Complexity Points:** 5 **Repeat Violator:** NO  
**CH Group:** 08 - Sewage Treatment Facilities  
**Location:** Approximately 2,300 feet south of County Road 128 and approximately 2,500 feet east of County Road 143, in Brazoria County, Texas  
**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**WASTEWATER PERMIT** WQ0012822001

**WASTEWATER EPA ID** TX0094226

**Compliance History Period:** September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

**Date Compliance History Report Prepared:** August 30, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** August 30, 2017 to August 30, 2022

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

**Name:** Katelyn Tubbs

**Phone:** (512) 239-2512

**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? YES
- 3) Who is the current owner/operator? Aqua Texas, Inc. OWNER OPERATOR since 4/10/2018
- 4) Who was/were the prior owner(s)/operator(s)? Aqua Utilities, Inc., OWNER, 6/15/2011 to 3/6/2019  
Aqua Utilities, Inc., OWNER, 6/17/2011 to 3/6/2019

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

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

- 1 Effective Date: 09/26/2018 ADMINORDER 2017-0520-MWD-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Effluent Limits PERMIT  
Description: failed to comply with permitted effluent limitations

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

|        |                   |           |         |                    |           |
|--------|-------------------|-----------|---------|--------------------|-----------|
| Item 1 | October 18, 2017  | (1457306) | Item 7  | September 20, 2018 | (1528588) |
| Item 2 | November 16, 2017 | (1462752) | Item 8  | April 19, 2019     | (1573147) |
| Item 3 | December 18, 2017 | (1469169) | Item 9  | July 19, 2019      | (1594495) |
| Item 4 | January 18, 2018  | (1475861) | Item 10 | December 19, 2019  | (1627717) |
| Item 5 | April 18, 2018    | (1494979) | Item 11 | January 17, 2020   | (1635345) |
| Item 6 | May 16, 2018      | (1501928) |         |                    |           |



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AQUA TEXAS, INC.  
RN102094240

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-1119-MWD-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Texas, Inc. (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including 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 Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

### I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located approximately 2,300 feet south of County Road 128 and approximately 2,500 feet east of County Road 143 in Brazoria County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review for the Facility conducted on June 23, 2021, an investigator documented that the Respondent did not comply with permitted effluent limitations, as shown in the effluent violation table below:

| Monitoring Period | Carbonaceous Biochemical Oxygen Demand (5-day) |                                   |  | Total Residual Chlorine           | Flow                         | Ammonia Nitrogen                | Total Suspended Solids           |                                   |  |
|-------------------|--|-----------------------------------|--|-----------------------------------|------------------------------|---------------------------------|----------------------------------|-----------------------------------|--|
|                   | Daily Avg. Conc. Limit = 5 mg/L                | Single Grab Conc. Limit = 30 mg/L | Daily Avg. Loading Limit = 1.4 lbs/day | Monthly Min. Conc. Limit = 1 mg/L | Daily Avg. Limit = 0.035 MGD | Daily Avg. Conc. Limit = 2 mg/L | Daily Avg. Conc. Limit = 12 mg/L | Single Grab Conc. Limit = 60 mg/L | Daily Avg. Loading Limit = 3.5 lbs/day |
| November 2020     | c  | c                                 | c                                      | 0.2                               | c                            | c                               | c                                | c                                 | c                                      |
| December 2020     | 6.87   | c                                 | 1.82                                   | c                                 | 0.055                        | c                               | 17.9                             | c                                 | 5.56                                   |
| January 2021      | 5.82   | c                                 | 1.69                                   | c                                 | 0.0591                       | c                               | 17                               | c                                 | 4.75                                   |
| February 2021     | 7.87   | c                                 | 1.68                                   | c                                 | 0.064                        | 2.73                            | 27.8                             | 68.7                              | 5.46                                   |
| March 2021        | >12.1  | >19.4                             | >1.91                                  | c                                 | c                            | 2.26                            | 23                               | c                                 | 3.64                                   |

Avg. = average  
Conc. = concentration  
mg/L = milligrams per liter  
c = compliant

lbs/day = pounds per day  
Min. = minimum  
MGD = million gallons per day

## II. CONCLUSIONS OF LAW

- As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
- As evidenced by Finding of Fact No. 2, the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012822001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2.
- Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
- An administrative penalty in the amount of \$45,500 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the \$45,500 penalty.

### III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Texas, Inc., Docket No. 2021-1119-MWD-E" to:

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

2. The Respondent shall, within 130 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012822001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detail supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be signed by the Respondent 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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 Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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

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.

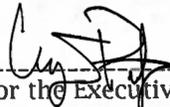
11. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

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Date

  
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For the Executive Director

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4/17/2023  
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Date

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

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

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

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

  
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Signature

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1/27/23  
-----  
Date

*craig Blanchette*  
-----  
Name (Printed or typed)  
Authorized Representative of  
Aqua Texas, Inc.

-----  
*President*  
-----  
Title

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

**Instructions:** Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.