



January 11, 2023

REVIEWED

JAN 11 2023

By GCW

H

TCEQ OCC

11 JAN '23 16:08

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Re: Water Quality Notices

RE: Aqua Utilities, Inc., TPDES Permit No. WQ0005206000

Dear Ms. Gharis,

Aqua Utilities, Inc., dba Aqua Texas as the applicant of TPDES Permit No. WQ0005206000 has provided comment and received the response to comments of the Executive Director. Aqua Texas respectively requests a contested case hearing.

A. Aqua Texas timely submitted public comments. 30 TAC § 55.201(c)

The public comment period for this application ended on November 7, 2022. Aqua Texas submitted public comments on May 12, 2021 (Attachment A) and February 11, 2020 (Attachment B) explaining that the proposed effluent limitations in the draft permit are unachievable.

B. Identifying Information. 30 TAC § 55.201(d)(1)

This contested case hearing request is made by Aqua Texas.

Aqua Texas' address is 1106 Clayton Lane, Suite 400W Austin, TX 78723. The company's phone number is 512.990.4400.

Scot Foltz, Environmental Compliance Manager, will serve as Aqua Texas' contact related to this matter. His contact information is as follows:

Address: 1106 Clayton Ln, Suite 400W, Austin, TX 78723
Office Phone: 512-990-4400 x561012
Cell Phone: 512-844-6475
Email: SWFoltz@AquaAmerica.com

**C. Aqua Texas has justiciable interests affected by the permit application.
30 TAC § 55.201(d)(2)**

Aqua Texas operates the Country View Estates Potable Water Treatment Plant (WTP) located on Country Scene Road, approximately 2 miles north of Park Road 37 and 2.5 miles north of State Highway 16, northeast of the City of Helotes, Medina County, Texas 78023. Accordingly, Aqua Texas has a justiciable interest because its operations are directly affected by the terms of the proposed permit. *See also* 30 TAC § 55.201(b)(3) (authorizing applicant to request contested case hearing).

Further, the draft permit's discharge limitations for total dissolved solids (TDS) and sulfate are not achievable and are lower than the natural groundwater the company treats to supply public drinking water.

Accordingly, if this permit were to be issued as drafted, it would immediately place Aqua Texas in violation of the permit's effluent discharge limitations with no feasible way to comply. The company will effectively need to cease treating and providing drinking water, and more than 100 customers will be left without drinking water.

D. Disputed issues of fact. 30 TAC § 55.201(d)(4)(B)

As noted in Aqua Texas' public comments, the company cannot feasibly discharge effluent with TDS and sulfate levels lower than the natural groundwater supply well. Accordingly, the effluent limitations proposed in the draft permit are improper and unachievable.

Aqua Texas asserts the following relevant and material disputed issues of fact:

- 1) Whether the effluent limitations for TDS and sulfate in the proposed permit were properly calculated:
 - a. Based on the applicable criteria in the *Texas Surface Water Quality Standards* for the receiving water;
 - b. In accordance with the methodology outlined in the *Procedures to Implement the Texas Surface Water Quality Standards*; and
 - c. Consistent with all other applicable TCEQ rules for TPDES permit applications;
- 2) Whether the draft permit correctly identifies the presence of perennial pools. *See* Draft Permit at page 6 (Appendix A, p. 1) ; and

- 3) Whether the geographic locations of water quality data utilized in the permit limits calculations were derived consistent with all applicable TCEQ rules and guidance. *See* Draft Permit at pages 6, and 13 (Appendix B, p. 1). These pages identify the intermittent receiving waterbody as "San Geronimo Creek" yet identified the Segment Number as 1903, which is the Medina River.

* * *

Aqua Texas appreciates TCEQ's consideration of this contested case hearing request, and the company strongly supports the need to protect the waterways of the State of Texas. But the discharge limits set forth in the draft permit are unachievable and put Aqua Texas in the impossible position of operating in violation of the permit or ceasing to supply drinking water to its customers.

We understand this situation is a challenging and Aqua Texas wants to resolve this issue quickly as possible while being protective of our customers' health.

Sincerely,

DocuSigned by:

324B5C1A43A44C8...

Craig Blanchette
President
Aqua Texas

Attachment A

Jouenne, Danielle

From: Foltz, Scot W
Sent: Tuesday, February 11, 2020 1:15 PM
To: 'Sophia Houston'; 'da@aeg-austin.com'
Cc: 'Shannon Gibson'; Reeh, Brent C; McDaniel, Joseph; Bautista, Abel M
Subject: RE: [EXTERNAL] WQ0005206000 AQUA TEXAS, INC.

All,

Please let this email serve as Aqua Texas's (aka Aqua Utilities) official response to the draft permit WQ0005206000.

Aqua Texas cannot accept the draft permit as written primarily due to the fact the limits are unachievable.

The permit is for the discharge of water from the water treatment plant. The water treatment plant is required due to the high TDS in the ground water used as a source of drinking water. No other source of drinking water is available. The proposed limits are lower than the natural groundwater in the area that we are required to treat to supply public drinking water. No other feasible option to discharging the effluent have been identified.

Sincerely,

Scot W. Foltz
Environmental Compliance Manager
Aqua Texas Inc.
O: 512-990-4400 x56101
M: 512-844-6475



From: Sophia Houston <Sophia.Houston@tceq.texas.gov>
Sent: Wednesday, February 05, 2020 3:10 PM
To: Foltz, Scot W <SWFoltz@aquaamerica.com>; da@aeg-austin.com
Cc: Shannon Gibson <Shannon.Gibson@tceq.texas.gov>
Subject: [EXTERNAL] WQ0005206000 AQUA TEXAS, INC.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

The draft acceptance request letter, draft permit, NAPD, and statement of basis/technical summary are attached for your review.

Please email your comments to the attention of the **Permit Coordinator** or fax them to (512) 239-4430. Your comments and/or approval is due no later than **2/12/2020**. For your convenience, the Permit Coordinator has been copied on this email.

Please note: *The draft permit will be filled with the Office of the Chief Clerk for issuance of public notice no later than one (1) week from the deadline indicated above.*

Thank you,

Sophia Houston
Customer Information & Assistance Team
Water Quality Division

Attachment B

REVIEWED

JUL 06 2021

By AP**Lab Report****Upper Guadalupe River Authority**

Date: 5/11/2021

125 Lehmann Dr. Suite 100, Kerrville, TX 78028

(830) 896-5445

TCEQ State Lab ID: 48145

CLIENT:	Aqua Texas	Lab Order:	2105009
	512 Rodriquez St		
	Kerrville, TX 78028		
	dbarnes@aquaaamerica.com		
	Ph: 8302576301		
Project:	Country View		
System ID No:	1630026		

Lab ID:	2105009-001	Collection Date/Time:	5/3/2021 10:40:00 AM
Sample Site:	G1630026A	Source:	DRINKING WATER RAW
Sampled By:	James Laing	Sample Type:	Grab
		Field Cl2 Residual:	0 mg/L

Analyses	Result	PQL	Qual	Units	DF	Date Analyzed
CHLORIDE						
Chloride	19	0.20		mg/L	1	5/5/2021 1:14:00 PM
SULFATE						
Sulfate	1,500	20		mg/L	100	5/5/2021 2:01:00 PM
TOTAL DISSOLVED SOLIDS						
Residue-filterable (TDS)	2594	50		mg/L	1	5/3/2021

Quality Control sample results available upon request.

Suffix : (N) - NELAP Accredited Analysis**Qualifiers:** Q - Data qualified: see Case Narrative. All required Quality Control was acceptable unless the result is flagged with a "Q" or otherwise noted in the Case Narrative.**Abbreviations :** PQL - Practical Quantitation Limit; DF - Dilution Factor

Upper Guadalupe River Authority

Date: 5/11/2021

125 Lehmann Dr. Suite 100, Kerrville, TX 78028

(830) 896-5445

TCEQ State Lab ID: 48145

CLIENT: Aqua Texas
512 Rodriguez St
Kerrville, TX 78028
dbarnes@aquaaamerica.com
Ph: 8302576301

Lab Order: 2105009

Project: Country View

System ID No: 1630026

Signature: 
Nicole Shepherd, Lab Manager

Test Methods: Standard Methods for the Examination of Water and Wastewater; EPA Methods for Water and Wastewater; ASTM Int'l Standard Test Methods; Hach Methods



NELAP Accredited by TCEQ
For a list of Fields of Accreditation and current NELAP certificate, visit the Lab Services section of www.ugra.org

Confidentiality Statement: This is a confidential report for use by the addressed customer or authorized agent. This report may not be reproduced except in full.

Compliance Statement: All laboratory analyses performed in connection with the generation of the data set forth in this report were undertaken in accordance with requirements applicable to the laboratory methods used, unless otherwise noted in an attached Case Narrative. Any known problems/ anomalies observed by this laboratory (and if applicable, laboratories subcontracted through this laboratory) that might affect the quality of the data have been identified in the Case Narrative. Results shown relate only to the samples tested. Any known problems associated with the quality of the samples have been identified in the Case Narrative. All required Quality Control associated with the samples was acceptable unless the result is qualified with a "Q" flag or otherwise noted in the Case Narrative. The use of the measured values in this report for regulatory compliance purposes must be evaluated by, and is solely the responsibility of, the customer.

Quality Control sample results available upon request.

Suffix : (N) - NELAP Accredited Analysis

Qualifiers: Q - Data qualified: see Case Narrative. All required Quality Control was acceptable unless the result is flagged with a "Q" or otherwise noted in the Case Narrative.

Abbreviations : PQL - Practical Quantitation Limit; DF - Dilution Factor

Abigail Flores

From: Mike Lindner
Sent: Wednesday, May 12, 2021 2:11 PM
To: Shannon Gibson; Laurie Fleet
Subject: FW: WQ0005206000_Country View Estates_Draft Permit_RO Water Discharge_Contested
Attachments: 2105009.pdf; 2105009c.pdf

Just FYI.

I let him know I had received his email.

Mike Lindner
Team Leader
Industrial Wastewater Permits
TCEQ
512 239 3045

From: Foltz, Scot W <SWFoltz@aquaaamerica.com>
Sent: Wednesday, May 12, 2021 11:21 AM
To: Mike Lindner <Mike.Lindner@tceq.texas.gov>
Subject: FW: WQ0005206000_Country View Estates_Draft Permit_RO Water Discharge_Contested

Mike

Just so you can see the issue with the proposed permit we pulled samples from the water supply well. See attached results. I can't discharge less than what is natural in the environment.

Scot W. Foltz
Environmental Compliance Manager
Aqua Texas Inc.
O: 512-990-4400 x56101
M: 512-844-6475



From: Schroeter, Laura B <LBSchroeter@aquaaamerica.com>
Sent: Thursday, April 22, 2021 11:59 AM
To: McDaniel, Joseph <JMcDaniel@aquaaamerica.com>; Reeh, Brent C <BCReeh@aquaaamerica.com>
Cc: Foltz, Scot W <SWFoltz@aquaaamerica.com>; Montes, Joaquin O <JOMontes@aquaaamerica.com>
Subject: WQ0005206000_Country View Estates_Draft Permit_RO Water Discharge_Contested

Texas Commission on Environmental Quality INTEROFFICE MEMORANDUM

TO: Laurie Gharis, Chief Clerk
Chief Clerk's Office

DATE: June 29, 2021

FROM: Mike Lindner, Team Leader
Industrial Permits Team

REVIEWED

JUL 01 2021

SUBJECT: **APPLICANT COMMENTS**
Aqua Utilities, Inc. - Permit No. WQ0005206000

By GCW

Attached are comments submitted by the applicant on the above referenced permit. This permit does not qualify for issuance by the Executive Director pursuant to Texas Water Code §5.122 because the applicant has not agreed in writing to the action to be taken by the Executive Director.

These comments will require a Response to Comments, regardless of whether withdrawn in whole or in part.

You can contact me at 239-3045 (Mike) if you have any questions.

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2021 JUL -1 AM 8:24
CHIEF CLERKS OFFICE