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February 17, 2012

W.U. WASTEWATER

FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

MAR 13 2012

SOUTHWEST DISTRICT  
TAMPA

VIA TELECOPY (863) 834-6271  
AND U.S. MAIL

Mr. Richard J. Ruede  
Wastewater Collection Superintendent  
Department of Water Utilities  
City of Lakeland  
1825 Glendale Street  
Lakeland, FL 33803-4300

Re: Preliminary Response to City of Lakeland Notice of Violation and Notice of  
Significant Non-Compliance for Aqua Clean Environmental Co., Inc.  
Wastewater Discharge Permit No. 1041C

Dear Mr. Ruede:

On behalf of Aqua Clean Environmental Co., Inc. ("Aqua Clean"), we are in receipt of the City of Lakeland Department of Water Utilities' Notice of Violation Letter and Notice of Significant Non-Compliance dated February 9, 2010 for the Aqua Clean facility located at 3210 Whitten Road in Lakeland, Florida. The purpose of this correspondence is to provide the preliminary response requested by the City of Lakeland regarding the alleged acceptance by Aqua Clean of metal-bearing wastes from the generator Quality Aerospace Coatings.

As an initial matter, please be assured that Aqua Clean does not knowingly or intentionally accept wastewater from any customers that is defined or characterized as metal-bearing waste as set forth in 40 C.F.R. Part 437. As the City of Lakeland is aware, the Florida Department of Environmental Protection ("FDEP") issued Warning Notices to Aqua Clean and Quality Aerospace Coatings regarding the wastewater generated by Quality Aerospace Coatings that was accepted by Aqua Clean. Upon issuance of the Warning Letter, Aqua Clean and this

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office conducted a detailed investigation regarding the facts and circumstances for the wastewater generated by Quality Aerospace Coatings. We also carefully evaluated wastewater characterization and due diligence activities implemented by Aqua Clean in connection with this wastewater. Based upon several followup meetings with the FDEP in Tampa, the Department has made a preliminary determination that the Warning Letter issued to Aqua Clean will be resolved without formal enforcement action or the assessment of civil penalties against Aqua Clean because Aqua Clean acted reasonably and performed adequate due diligence in connection with the characterization of the wastewater generated by Quality Aerospace Coatings. In addition, the FDEP reportedly has pursued a formal enforcement action against Quality Aerospace Coatings based upon the facts and circumstances set forth below.

As the generator of the wastewater in question, it is the legal responsibility of Quality Aerospace Coatings to properly characterize the wastewater and to provide Aqua Clean sufficient information to make a determination as to whether the wastewater constitutes metal-bearing wastes. In addition, pursuant to the provisions of the Resource Conservation and Recovery Act, it is the legal responsibility of Quality Aerospace Coatings as the generator of such waste to perform a proper waste characterization to determine whether the waste constitutes regulated hazardous waste. As the City of Lakeland is aware, Quality Aerospace Coatings provided Aqua Clean a Material Data Certification that certified the wastewater in question was not a hazardous waste under RCRA.

As the FDEP has confirmed, Quality Aerospace Coatings did not properly characterize the wastewaters that were accepted by Aqua Clean. Aqua Clean made reasonable waste determination and/or characterization for this wastewater based upon the incomplete and potentially inaccurate information provided by Quality Aerospace Coatings in the Material Data Certification provided to Aqua Clean by Quality Aerospace Coatings. Below please find additional detailed information regarding the diligence exercised by Aqua Clean in connection with the wastewater generated by Quality Aerospace Coatings.

Quality Aerospace Coatings contacted Mr. Bob Torok of Aqua Clean with a request that Aqua Clean provide pricing for wastewaters that would be generated in Quality Aerospace Coatings' new business operation. Mr. Torok first visited Quality Aerospace Coatings in August or October 2010 prior to active operations of the new Quality Aerospace Coatings' business operations. Quality Aerospace Coatings informed Aqua Clean they would be performing aluminum anodizing, and Mr. Torok clearly informed Quality Aerospace Coatings that Aqua Clean does not accept hazardous waste.

Prior to Quality Aerospace Coatings opening for business operations and generating wastewaters that would be accepted by Aqua Clean, Mr. Torok again visited Quality Aerospace Coatings to obtain waste profile information and the referenced Material Data Certification. During that site visit meeting, Quality Aerospace Coatings asked Aqua Clean if it would accept hazardous waste, and Mr. Torok clearly informed Quality Aerospace Coatings that Aqua Clean would not accept any hazardous waste. Mr. Torok referred Quality Aerospace Coatings to another consultant that could assist Quality Aerospace Coatings on the proper characterization and handling of hazardous waste.

During Mr. Torok's site visit and in connection with Quality Aerospace Coatings' descriptions of its business operations, Aqua Clean was never made aware that Quality Aerospace Coatings was actually performing metal plating operations. Rather, Quality Aerospace Coatings informed Aqua Clean that it was performing aluminum anodizing that would generate a waste stream that was neutralized wastewater with a pH in the range of 2.5 to 12. Before Aqua Clean accepted any wastewater from Quality Aerospace Coatings, Mr. Torok returned to the Quality Aerospace Coatings facility again and obtained a pH reading of the wastewater which indicated a pH in the mid-range of 6 from a sample of the drummed wastewater. In summary, Quality Aerospace Coatings did not properly characterize the wastewaters that were accepted by Aqua Clean, and as set forth above, Aqua Clean maintains written documentation which informs all generators that it does not accept hazardous waste.

As a result of additional negotiations with the FDEP to resolve the Warning Letter involving the wastewater generated by Quality Aerospace Coatings, Aqua Clean has agreed to require all generators to complete additional information on the Aqua Clean Material Data Certification prior to the acceptance of any wastewater by Aqua Clean from new customers. Aqua Clean has also agreed to expand its sampling program to ensure the proper evaluation of these wastewaters. Aqua Clean will discuss these issues in greater detail during the meeting that has been requested by the City of Lakeland with Aqua Clean to address the Notice of Violation Letter.

Pursuant to the City of Lakeland's request, Aqua Clean is enclosing a Certification Statement pursuant to Chapter 102, Section 102-46(b) of the City of Lakeland Code in connection with the City's request for a Certification Statement that Aqua Clean does not accept any wastewater that would fall under Subpart A of 40 C.F.R. Part 437 as metal-bearing waste. Aqua Clean will provide the original executed certification to the City of Lakeland during our upcoming meeting to discuss the remaining issues set forth in the Notice of Violation Letter and Notice of Significant Non-Compliance dated February 9, 2012.

Aqua Clean has also reviewed Attachments #1, #2 and #3 included in the City of Lakeland's Notice of Violation letter dated February 9, 2012, which were provided by the City of Lakeland, the FDEP and the United States Environmental Protection Agency. Again, had Aqua Clean been made aware of the facts and circumstances regarding the appropriate characterization of the wastewaters generated by Quality Aerospace Coatings as described in Attachment #1, Aqua Clean would not have accepted this wastewater from Quality Aerospace Coatings. As set forth above, Aqua Clean performed reasonable and diligent activities to properly evaluate the wastewater based upon the information provided by Quality Aerospace Coatings, the multiple site visits performed by representatives of Aqua Clean and the Material Data Certification information provided to Aqua Clean by Quality Aerospace Coatings.

Again, Aqua Clean looks forward to meeting with the City of Lakeland to provide the requested Certification Statement pursuant to the provisions of Chapter 102 of the City of Lakeland Code as well as to address any outstanding issues in connection with the Notice of Violation Letter and Notice of Significant Non-Compliance dated February 9, 2012 for the Quality Aerospace Coatings wastewater. For now, please be assured that Aqua Clean will not knowingly or intentionally accept any wastewater that is defined in 40 C.F.R. Part 437 as metal-

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bearing wastes. As always, please do not hesitate to contact me or representatives of Aqua Clean if the City of Lakeland requires any additional information regarding the above matters prior to our upcoming meeting.

Sincerely yours,

FOWLER WHITE BOGGS P.A.



Ron H. Noble

cc: Mr. W.D. Miller  
William Preston, Esquire  
Timothy Campbell, Esquire

Enclosure

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## **CERTIFICATION STATEMENT**

Aqua Clean Environmental Co., Inc. does not knowingly or intentionally accept wastewater for treatment or disposal to the City of Lakeland sewer system which meets the definition of metal-bearing wastes as defined in 40 C.F.R. Part 437.2.

I certify under penalty of law that this document and all attachments were prepared under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

A handwritten signature in dark ink, appearing to read 'W.D. Miller', is written over a horizontal line.

W.D. Miller  
Vice President