

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1525-MWD-E **TCEQ ID:** RN102915451 **CASE NO.:** 32445

RESPONDENT NAME: Aqua Utilities, Inc. dba Aqua Texas, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Port Adventure, approximately 1,500 feet north of Farm-to-Market ("FM") Road 356, approximately 1.5 miles east of the intersection of FM Road 356 and FM Road 355, Trinity County</p> <p>TYPE OF OPERATION: Wastewater treatment</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 28, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Laurie Eaves, Enforcement Division, Enforcement Team I, MC 169, (512) 239-4495; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Mr. Robert L. Laughman, President, Aqua Utilities, Inc., 1421 Wells Branch Parkway, Suite 105, Pflugerville, Texas 78660 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 21, 2006</p> <p>Date of NOE Relating to this Case: August 7, 2006 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limitations [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14096001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 3].</p>	<p>Total Assessed: \$4,410</p> <p>Total Deferred: \$882 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,528</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 60 days after the effective date of this Agreed Order, achieve compliance with the permitted effluent limits contained in TPDES Permit No. 14096001 and submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	27-Nov-2006	Screening	5-Dec-2006	EPA Due	
	PCW	29-Jan-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Aqua Utilities, Inc. dba Aqua Texas, Inc.		
Reg. Ent. Ref. No.	RN102915451		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor *

CASE INFORMATION				
Enf./Case ID No.	32445	No. of Violations	1	
Docket No.	2006-1525-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Laurie Eaves	
Multi-Media		EC's Team	EnforcementTeam 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 47% Enhancement Subtotals 2, 3, & 7 \$1,410

Notes: The Respondent self-reported eight months of effluent quality violations and was issued two NOV's (one for the same or similar violations and one for violations not considered to be the same or similar).

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts \$1,576 0% Enhancement* Subtotal 6 \$0
 *Capped at the Total EB \$ Amount
Approx. Cost of Compliance \$10,000

SUM OF SUBTOTALS 1-7 Final Subtotal \$4,410

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$4,410

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$4,410

DEFERRAL 20% Reduction Adjustment -\$882

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$3,528

Screening Date 5-Dec-2006

Docket No. 2006-1525-MWD-E

PCW

Respondent Aqua Utilities, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32445

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102915451

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	9	45%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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) 47%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported eight months of effluent quality violations and was issued two NOVs (one for the same or similar violations and one for violations not considered to be the same or similar).

Total Adjustment Percentage (Subtotals 2, 3, & 7) 47%

Screening Date 5-Dec-2006

Docket No. 2006-1525-MWD-E

PCW

Respondent Aqua Utilities, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32445

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102915451

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. 14096001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Violation Description Failed to comply with permitted effluent limitations as detailed in the effluent chart, as documented by a record review conducted on August 7, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was utilized to evaluate the values for CBOD5, NH3-N and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The amounts discharged at the time of the violations were insignificant and did not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 153 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,576

Violation Final Penalty Total \$4,410

This violation Final Assessed Penalty (adjusted for limits) \$4,410

Economic Benefit Worksheet

Respondent: Aqua Utilities, Inc. dba Aqua Texas, Inc.
Case ID No.: 32445
Reg. Ent. Reference No.: RN102915451
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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$10,000	1-May-2005	1-Aug-2007	2.3	\$75	\$1,501	\$1,576
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of evaluating the cause of the effluent violations and implementing necessary rehabilitation work. Date Required is the first month of noncompliance. Final Date is the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$10,000	TOTAL	\$1,576
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Effluent Quality Violations
Aqua Utilities, Inc. dba Aqua Texas, Inc.
RN102915451
Docket No. 2006-1525-MWD-E

Month	pH Minimum Permit Limit = 6.0 mg/L	Total Suspended Solids Daily Average Concentration Permit Limit = 15 mg/L	Total Suspended Solids Single Grab Permit Limit = 60 mg/L	Ammonia Nitrogen Daily Average Concentration Permit Limit = 3 mg/L
May 2005	c	24.2	72.0	c
July 2005	3.9	c	c	4.2
September 2005	c	c	c	4.4
November 2005	c	c	c	4.4
December 2005	c	40.3	70.0	c

mg/L = Milligrams per liter

Compliance History

Customer/Respondent/Owner-Operator: CN602787509 Aqua Utilities, Inc. dba Aqua Texas, Inc. Classification: AVERAGE Rating: 0.96
Regulated Entity: RN102915451 PORT ADVENTURE Classification: AVERAGE Site Rating: 0.59
ID Number(s): WASTEWATER PERMIT WQ0014096001
WASTEWATER PERMIT TPDES0112747
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2280031
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2280031
WATER LICENSING LICENSE 2280031
Location: Approximately 1,500 feet north of Farm-to-Market ("FM") Road 356, approximately 1.5 miles east of the intersection of FM Road 356 and FM Road 355, Trinity County
Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region: REGION 10 – BEAUMONT
Date Compliance History Prepared: January 29, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 24, 2002 to January 24, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Laurie Eaves Phone: 512/239-4495

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Aqua Utilities, Inc.
4. If Yes, who was/were the prior owner(s)? AquaSource
5. When did the change(s) in ownership occur? 01/16/2004

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

- 1 06/25/2002 (228047)
- 2 08/22/2002 (228052)
- 3 02/20/2004 (324684)
- 4 09/25/2002 (228055)
- 5 10/21/2002 (228058)
- 6 07/22/2005 (446977)
- 7 09/02/2005 (446978)
- 8 09/23/2005 (446979)
- 9 11/22/2002 (228061)
- 10 12/30/2002 (228064)
- 11 01/24/2002 (228065)
- 12 01/21/2003 (228066)
- 13 03/22/2005 (389195)
- 14 05/28/2004 (365340)
- 15 08/23/2006 (527848)
- 16 12/20/2004 (389196)
- 17 09/07/2004 (365341)
- 18 01/20/2005 (389197)
- 19 06/10/2005 (392997)
- 20 09/23/2004 (365342)
- 21 10/20/2004 (365343)
- 22 09/20/2006 (527849)
- 23 11/22/2004 (365344)
- 24 10/17/2006 (527850)

25 05/11/2006 (459879)
26 02/22/2006 (490996)
27 03/20/2006 (490997)
28 10/24/2005 (490998)
29 04/06/2005 (375037)
30 11/29/2005 (490999)
31 04/24/2006 (505567)
32 12/20/2005 (491000)
33 05/23/2006 (505568)
34 01/23/2006 (491001)
35 06/19/2006 (505569)
36 07/12/2006 (505570)
37 08/17/2006 (488234)
38 10/31/2005 (435737)
39 09/01/2005 (404319)
40 04/19/2005 (426763)
41 05/23/2005 (426764)
42 06/24/2005 (426765)
43 03/18/2004 (324672)
44 03/25/2003 (324673)
45 02/19/2002 (228037)
46 04/13/2004 (324674)
47 02/24/2003 (228038)
48 04/30/2004 (324675)
49 05/23/2003 (324676)
50 03/21/2002 (228040)
51 06/23/2003 (324677)
52 07/18/2003 (324678)
53 04/22/2002 (228042)
54 09/05/2003 (324679)
55 04/24/2003 (228043)
56 10/07/2003 (324680)
57 10/20/2003 (324681)
58 05/22/2002 (228045)
59 12/08/2003 (324682)
60 01/20/2004 (324683)

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

Date: 07/31/2006 (527848)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (389197)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2005 (490998)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2005 (491000)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (505568)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2005 (491001)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2005 (446978)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2005 (426765)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/06/2005 (375037)
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure to ensure that all measurements are accurately accomplished in a representative manner.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure to accurately complete the discharge monitoring reports and submit them
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure to prevent unauthorized discharges into or adjacent to the waters of the state.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT IA
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 06/10/2005 (392997)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
Description: Failure to have well casing vent facing downward.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(Q)
Description: Failure to have air release device covered with 16-mesh or finer, corrosion resistant material.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(g)
Description: Failure to collect bacteriological samples after line break.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 288, SubChapter B 288.20[G]
Description: Failure to have an adopted drought contingency plan available for review at the time of the investigation.

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
AQUA UTILITIES, INC. DBA
AQUA TEXAS, INC.
RN102915451

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER
DOCKET NO. 2006-1525-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Utilities, Inc. dba Aqua Texas, Inc. ("Aqua Utilities") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Aqua Utilities appear before the Commission and together stipulate that:

1. Aqua Utilities owns and operates a wastewater treatment facility located approximately 1,500 feet north of Farm-to-Market ("FM") Road 356, approximately 1.5 miles east of the intersection of FM Road 356 and FM Road 355, Trinity County, Texas (the "Facility").
2. Aqua Utilities has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Aqua Utilities agree that the Commission has jurisdiction to enter this Agreed Order, and that Aqua Utilities is subject to the Commission's jurisdiction.
4. Aqua Utilities received notice of the violations alleged in Section II ("Allegations") on or about August 12, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Aqua Utilities of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Four Hundred Ten Dollars (\$4,410) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Aqua Utilities has paid Three Thousand Five Hundred Twenty-Eight Dollars (\$3,528) of the administrative penalty and Eight Hundred Eighty-Two Dollars (\$882) is deferred contingent upon Aqua Utilities' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Aqua Utilities fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Aqua Utilities to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Aqua Utilities have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Aqua Utilities has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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.

II. ALLEGATIONS

As owner and operator of the Facility, Aqua Utilities is alleged to have failed to comply with permitted effluent limitations as detailed in the effluent chart below, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14096001, Final Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review conducted on July 21, 2006.

Month	pH Minimum Permit Limit = 6.0 mg/L	Total Suspended Solids Daily Average Concentration Permit Limit = 15 mg/L	Total Suspended Solids Single Grab Permit Limit = 60 mg/L	Ammonia Nitrogen Daily Average Concentration Permit Limit = 3 mg/L
May 2005	c	24.2	72.0	c
July 2005	3.9	c	c	4.2
September 2005	c	c	c	4.4
November 2005	c	e	c	4.4
December 2005	c	40.3	70.0	c

mg/L = Milligrams per liter

III. DENIALS

Aqua Utilities generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Aqua Utilities pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Aqua Utilities' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Utilities, Inc. dba Aqua Texas, Inc., Docket No. 2006-1525-MWD-E" to:

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

2. It is further ordered that Aqua Utilities shall, within 60 days after the effective date of this Agreed Order, achieve compliance with the permitted effluent limits contained in TPDES Permit No. 14096001 and submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate 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 for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon Aqua Utilities. Aqua Utilities is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Aqua Utilities fails 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, Aqua Utilities' failure to comply is not a violation of this Agreed Order. Aqua Utilities shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Aqua Utilities shall notify the Executive Director within seven days after Aqua Utilities becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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 Aqua Utilities shall be made in writing to the Executive Director. Extensions are not effective until Aqua Utilities receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Aqua Utilities in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Aqua Utilities, or three days after the date on which the Commission mails notice of the Order to Aqua Utilities, 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

7/9/07

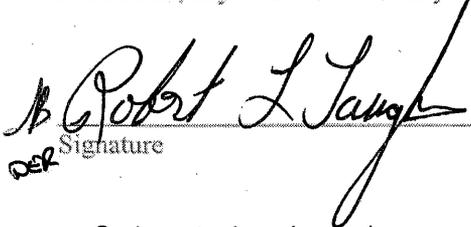
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me;
- and
- TCEQ seeking other relief as authorized by law.

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



Signature

3/28/07

Date

Robert L. Laughman

Name (Printed or typed)
Authorized Representative of
Aqua Utilities, Inc. dba Aqua Texas, Inc.

President

Title

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

10/10/10

10/10/10

Handwritten notes or a list of items, possibly including names and dates.

10/10/10

Handwritten signature or name, possibly "Michael Smith".