

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-0954-PWS-E **TCEQ ID:** RN102692027 **CASE NO.:** 33808  
**RESPONDENT NAME:** Aqua Utilities, Inc.

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Plantation on Cotton Bayou, 6218 Plantation Drive, Baytown, Chambers County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on November 12, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Christopher Keffer, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-5610; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Steve Blackhurst, Environmental Compliance Manager, Aqua Utilities, Inc., 1421 Wells Branch Parkway, Suite 105, Pflugerville, Texas 78660  Mr. Robert L. Laughman, Chief Operating Officer, Aqua Utilities, Inc., 1421 Wells Branch Parkway, Suite 105, Pflugerville, Texas 78660  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 19, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 20, 2005; February 24 and May 19, 2006; April 19, 2007 (NOVs); May 21, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>WATER</b></p> <p>Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM") [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p>	<p><b>Total Assessed:</b> \$1,490</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,490</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> The Respondent has three or more enforcement actions for the same violation over the prior five year period.</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM; and</p> <p>b. Within 380 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS 0360096



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	11-Jun-2007	<b>Screening</b>	14-Jun-2007	<b>EPA Due</b>	
	<b>PCW</b>	14-Jun-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Aqua Utilities, Inc.		
<b>Reg. Ent. Ref. No.</b>	RN102692027		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	33808	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-0954-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Amy Martin
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,000
---	-------------------	---------

### 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>	24% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$240
---------------------------	-----------------	--------------------------------	-------

Notes: Enhancement recommended based on four Notices of Violation ("NOVs") for violations that are same or similar and two NOVs for violations that are not same or similar.

<b>Culpability</b>	Yes	25% Enhancement	<b>Subtotal 4</b>	\$250
--------------------	-----	-----------------	-------------------	-------

Notes: The Respondent was issued three alert letters for total trihalomethanes dated December 23, 2004, July 11, 2005, and January 10, 2007.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
------------------------------------	--------------	-------------------	-----

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

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

	0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$400	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$2,500		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,490
-----------------------------	-----------------------	---------

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

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

Notes:

<b>Final Penalty Amount</b>	\$1,490
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,490
-----------------------------------	-------------------------------	---------

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

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

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$1,490
------------------------	---------

Screening Date: 14-Jun-2007

Docket No.: 2007-0954-PWS-E

PCW

Respondent: Aqua Utilities, Inc.

Case ID No.: 33808

Reg. Ent. Reference No.: RN102692027

Media [Statute]: Public Water Supply

Enf. Coordinator: Amy Martin

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	4	20%
	Other written NOV's	2	4%
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%

Please Enter Yes or No

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) 24%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended based on four Notices of Violation ("NOVs") for violations that are same or similar and two NOV's for violations that are not same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 24%

Screening Date 14-Jun-2007

Docket No. 2007-0954-PWS-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33808

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102692027

Media [Statute] Public Water Supply

Enf. Coordinator Amy Martin

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average. Specifically, the running annual average concentration of TTHM was 0.099 mg/L for the third quarter of 2005, 0.086 mg/L for the fourth quarter of 2005, 0.081 mg/L for the first quarter of 2006, and 0.083 mg/L for the first quarter of 2007.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Exceeding the MCL for TTHM exposed the customers of the water supply to a significant amount of contaminants that did not exceed levels protective of human health or the environment.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 2 Number of violation days 638

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

Violation Base Penalty \$1,000

Two annual events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$400

Violation Final Penalty Total \$1,490

This violation Final Assessed Penalty (adjusted for limits) \$1,490

## Economic Benefit Worksheet

**Respondent:** Aqua Utilities, Inc.  
**Case ID No:** 33808  
**Reg. Ent. Reference No:** RN102692027  
**Media:** Public Water Supply  
**Violation No:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
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)	\$2,500	20-Oct-2005	1-Jan-2009	3.2	\$400	n/a	\$400

Notes for DELAYED costs

Estimated cost to implement an alternative method of disinfection. The Date Required is the date the exceedences were first discovered. The Final Date is the estimated 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

\$2,500

TOTAL

\$400

# Compliance History

Customer/Respondent/Owner-Operator:	CN602553265 Aqua Utilities, Inc.	Classification: AVERAGE	Rating: 1.28
Regulated Entity:	RN102692027 PLANTATION ON COTTON BAYOU	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0360096
	WATER LICENSING	LICENSE	0360096
Location:	6218 PLANTATION DR, CHAMBERS COUNTY, TX, 77520		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	June 14, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 14, 2002 to June 14, 2007		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Amy Martin Phone: 512-239-2540

## 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?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### 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 | 02/10/2003 | (20785)  |
| 2 | 03/24/2005 | (374958) |
| 3 | 10/20/2005 | (560840) |
| 4 | 02/24/2006 | (561784) |
| 5 | 05/19/2006 | (561791) |
| 6 | 04/19/2007 | (561806) |
| 7 | 06/05/2007 | (562594) |

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

**Date: 02/12/2003 (20785)**

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i)

Description: Failure to provide two or more wells.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)

Description: Failure to provide adequate service pump capacity. Classification: Moderate

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)[G]

Description: Failure to submit a planning report explaining the provision of service to its remaining certificated area.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to properly maintain the fence at the main plant.

**Date: 03/24/2005 (374958)**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failure to inspect the interior surfaces of the pressure tanks at plant #1.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to initiate maintenance and housekeeping practices.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to initiate maintenance and housekeeping practices.  
 Date: 10/20/2005 (560840)  
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 Description: Violated the maximum contaminant level for Trihalomethanes during the third quarter of 2005.  
 Date: 02/24/2006 (561784)  
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 Description: Violated the maximum contaminant level for Trihalomethanes during the fourth quarter of 2005.  
 Date: 05/19/2006 (561791)  
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 Description: Violated the maximum contaminant level for Trihalomethanes during the first quarter of 2006.  
 Date: 04/19/2007 (561806)  
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 Description: Violated the maximum contaminant level for Trihalomethanes during the first quarter of 2007.

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.  
RN102692027**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-0954-PWS-E**

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. (“Aqua Utilities”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Aqua Utilities presented this agreement to the Commission.

Aqua Utilities understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, 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 Agreed Order, Aqua Utilities agrees to waive all notice and procedural rights.

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

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

**I. FINDINGS OF FACT**

1. Aqua Utilities owns and operates a public water supply at 6218 Plantation Drive, Chambers County, Texas (the “Facility”) that has approximately 452 service connections and serves at least 25 people per day for at least 60 days per year.



2. During a record review on May 19, 2007, TCEQ staff documented that Aqua Utilities did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average. Specifically, the running annual average concentration of TTHM was 0.099 mg/L for the third quarter of 2005, 0.086 mg/L for the fourth quarter of 2005, 0.081 mg/L for the first quarter of 2006, and 0.083 mg/L for the first quarter of 2007.
3. Aqua Utilities received notices of the violations dated October 20, 2005, February 24, 2006, May 19, 2006, and April 19, 2007.

## **II. CONCLUSIONS OF LAW**

1. Aqua Utilities is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, Aqua Utilities failed to comply with the MCL of 0.080 mg/L for TTHM, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Aqua Utilities for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of One Thousand Four Hundred Ninety Dollars (\$1,490) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Aqua Utilities has paid the One Thousand Four Hundred Ninety Dollar (\$1,490) administrative penalty.

## **III. ORDERING PROVISIONS**

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

1. Aqua Utilities is assessed an administrative penalty in the amount of One Thousand Four Hundred Ninety Dollars (\$1,490) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Aqua Utilities' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Utilities, Inc., Docket No. 2007-0954-PWS-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. Aqua Utilities shall undertake the following technical requirements:
- a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113.
  - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

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:

Manager, Water Section  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

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. 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.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Aqua Utilities if the Executive Director determines that Aqua Utilities has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. 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.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*John S. Sullivan*  
For the Executive Director

11/13/2007  
Date

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

I understand that by entering into this Agreed Order, Aqua Utilities, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

*RLM*  
*Robert L. Laughman*  
Signature

*Sept. 5, 2007*  
Date

Robert L. Laughman  
Name (Printed or typed)  
Authorized Representative of  
Aqua Utilities, Inc.

*Chief Operating Officer*  
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.

