

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-0842-MWD-E **TCEQ ID:** RN101513729 **CASE NO.:** 35906

**RESPONDENT NAME:** Aqua Utilities, Inc.

<b>ORDER TYPE:</b>		
<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	
<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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Goforth WWTP, located approximately four miles southeast of the intersection of Interstate Highway 35 and Farm-to-Market Road 2001 and five miles north of the intersection of State Highway 21 and Farm-to-Market Road 272, Hays County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" 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 3, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Robert Laughman, President, Aqua Utilities, Inc., 1106 Clayton Lane, Suite 400, Austin, Texas 78723  <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> March 21, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 23, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to comply with permitted limits for total suspended solids [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013293001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the Discharge Monitoring Report ("DMR") for the monitoring period ending September 30, 2007 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013293001, Monitoring and Reporting Requirements].</p>	<p><b>Total Assessed:</b> \$5,850</p> <p><b>Total Deferred:</b> \$1,170  <input checked="" 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> \$4,680</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the DMR for the monitoring period ending September 30, 2007; and</p> <p>b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013293001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0013293001



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision April 29, 2008

<b>DATES</b>	<b>Assigned</b>	28-Apr-2008			
	<b>PCW</b>	12-May-2008	<b>Screening</b>	12-May-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Aqua Utilities, Inc.
<b>Reg. Ent. Ref. No.</b>	RN101513729
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	35906	<b>No. of Violations</b>	2
<b>Docket No.</b>	2008-0842-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Cheryl Thompson
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$3,000</b>
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### 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>	95.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$2,850</b>
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**Notes** The Respondent self-reported 14 months of effluent violations, received one NOV for the same or similar violations and one 1660 Order.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0.0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	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.

	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$55	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$550	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$5,850</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$5,850**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$5,850</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$1,170</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral is recommended.

<b>PAYABLE PENALTY</b>	<b>\$4,680</b>
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Screening Date 12-May-2008

Docket No. 2008-0842-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35906

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101513729

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

## Compliance History Worksheet

## &gt;&gt; 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 ( <i>number of NOVs meeting criteria</i> )	15	75%
	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 judgements 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%
<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) 95%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

The Respondent self-reported 14 months of effluent violations, received one NOV for the same or similiar violations and one 1660 Order.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 95%

<b>Screening Date</b>	12-May-2008	<b>Docket No.</b>	2008-0842-MWD-E	<b>PCW</b>
<b>Respondent</b>	Aqua Utilities, Inc.	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	35906	PCW Revision April 29, 2008		
<b>Reg. Ent. Reference No.</b>	RN101513729			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Cheryl Thompson			

<b>Violation Number</b>	1
<b>Rule Cite(s)</b>	TPDES Permit No. WQ0013293001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)
<b>Violation Description</b>	Failed to comply with permitted limits, as documented during a record review conducted on March 21, 2008. See attached table.
<b>Base Penalty</b>	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				X
	Potential			10%	

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
				0%
Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment as the result of the excursions.				

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2      123 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation      Statutory Limit Test

Estimated EB Amount \$52      Violation Final Penalty Total \$3,900

This violation Final Assessed Penalty (adjusted for limits) \$3,900

### Economic Benefit Worksheet

**Respondent:** Aqua Utilities, Inc.  
**Case ID No.:** 35906  
**Reg. Ent. Reference No.:** RN101513729  
**Media:** Water Quality  
**Violation No.:** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$500	31-Jan-2007	28-Feb-2009	2.08	\$52	n/a	\$52

**Notes for DELAYED costs**  
 Estimated cost to repair the blower and to add a small sand filter to help maintain the Total Suspended Solids ("TSS"). Date required is the month the first non-compliant excursion was documented. Final date is the expected date of compliance.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$500	<b>TOTAL</b>	\$52
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<b>Screening Date</b> 12-May-2008	<b>Docket No.</b> 2008-0842-MWD-E	<b>PCW</b>
<b>Respondent</b> Aqua Utilities, Inc.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35906	<i>PCW Revision April 29, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN101513729		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Cheryl Thompson		
<b>Violation Number</b> <input type="text" value="2"/>		
<b>Rule Cite(s)</b> 30 Tex. Admin. Code § 305.125(17), TPDES Permit No. WQ0013293001 Monitoring and Reporting Requirements		
<b>Violation Description</b>	Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the Discharge Monitoring Report ("DMR") for the monitoring period ending September 30, 2007.	
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>

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

OR	<b>Harm</b>				
		Major	Moderate		Minor
	<b>Release</b>				
	<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
	<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

		Major	Moderate	Minor	
	<b>Falsification</b>				
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	100% of the rule requirement was not met.				

**Adjustment**

**Violation Events**

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="205"/>	Number of violation days
mark only one with an x <input type="checkbox"/> daily <input type="checkbox"/> monthly <input type="checkbox"/> quarterly <input type="checkbox"/> semiannual <input type="checkbox"/> annual <input checked="" type="checkbox"/> single event	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>	
One single event is recommended.		

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$3"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$1,950"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,950"/>	

### Economic Benefit Worksheet

**Respondent:** Aqua Utilities, Inc.  
**Case ID No.:** 35906  
**Reg. Ent. Reference No.:** RN101513729  
**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	Onetime Costs	EB Amount
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No commas or \$

**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)	\$50	20-Oct-2007	31-Dec-2008	1.20	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to submit missing report. Date required is the date the DMR was due and the final date is the projected date of compliance.

**Avoided Costs**

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

**TOTAL**

\$3

# Compliance History

Customer/Respondent/Owner-Operator:	CN602787509	Aqua Utilities, Inc.	Classification: AVERAGE	Rating: 1.51
Regulated Entity:	RN101513729	GOFORTH WWTP	Classification: AVERAGE	Site Rating: 2.58
ID Number(s):	WASTEWATER	PERMIT		WQ0013293001
	WASTEWATER	PERMIT		TX0100684
	WASTEWATER	PERMIT		TPDES0100684
	WASTEWATER	EPA ID		TX0100684
	WASTEWATER LICENSING	LICENSE		WQ0013293001
Location:	Approx. 4 miles southeast of the intersection of Interstate Hwy 35 and FM Road 2001 and 5 miles north of the intersection of State Hwy 21 and FM Road 272, Hays County, Texas			Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	May 16, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 16, 2003 to May 16, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Cheryl Thompson		Phone:	(817)588-5886

## 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.
- |   |                            |
|---|----------------------------|
| Effective Date: 01/26/2006  | ADMINORDER 2005-0739-MWD-E |
| Classification: Moderate  |                            |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1)  |                            |
| Rqmt Prov: Final Effluent Limitations & MR PERMIT   |                            |
| Description: Failed to maintain compliance with permitted effluent limits.  |                            |
| Classification: Moderate  |                            |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)   |                            |
| Rqmt Prov: Sludge Provisions/Reporting Requirements PERMIT  |                            |
| Description: Failed to submit an annual sludge report that was due on September 1, 2004.  |                            |
| Classification: Minor   |                            |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  |                            |
| Rqmt Prov: Monitoring/Reporting Requirements No. 1 PERMIT   |                            |
| Description: Failed to include all parameter data on DMRs submitted for the periods ending in December 2003 and June, July and August 2004. |                            |
- 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 | 05/19/2003 | (321308) |
| 2 | 06/17/2003 | (321309) |
| 3 | 07/09/2003 | (321310) |
| 4 | 07/15/2003 | (143547) |
| 5 | 09/10/2003 | (321311) |
| 6 | 10/09/2003 | (321312) |
| 7 | 12/16/2003 | (321313) |

8	12/16/2003	(321315)
9	01/15/2004	(321316)
10	02/17/2004	(388264)
11	03/12/2004	(321306)
12	04/15/2004	(321307)
13	05/14/2004	(363441)
14	06/14/2004	(363442)
15	07/22/2004	(363443)
16	08/20/2004	(363444)
17	09/17/2004	(363445)
18	10/18/2004	(363446)
19	11/15/2004	(388267)
20	12/16/2004	(388268)
21	01/13/2005	(388269)
22	02/09/2005	(388265)
23	03/14/2005	(388266)
24	04/08/2005	(348302)
25	04/20/2005	(425820)
26	05/17/2005	(425821)
27	06/17/2005	(425822)
28	07/29/2005	(395163)
29	08/19/2005	(446325)
30	09/20/2005	(446326)
31	10/18/2005	(478782)
32	11/21/2005	(478783)
33	12/20/2005	(478784)
34	01/12/2006	(478785)
35	02/17/2006	(478780)
36	03/20/2006	(478781)
37	04/13/2006	(504818)
38	05/15/2006	(504819)
39	06/12/2006	(504820)
40	07/20/2006	(527127)
41	08/21/2006	(527128)
42	09/21/2006	(527129)
43	10/18/2006	(627862)
44	11/16/2006	(627863)
45	12/22/2006	(627865)
46	01/26/2007	(627867)
47	02/16/2007	(627855)
48	03/16/2007	(627856)
49	04/16/2007	(627857)
50	05/14/2007	(627858)
51	06/25/2007	(627859)
52	07/16/2007	(627860)
53	08/16/2007	(627861)
54	08/22/2007	(513619)
55	12/04/2007	(627864)
56	12/19/2007	(627866)
57	04/23/2008	(639864)

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

Date	01/31/2004	(388264)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	02/29/2004	(321306)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	03/31/2004	(321307)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	04/30/2004	(363441)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			

TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 05/31/2004 (363442)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date 07/09/2005 (395163)  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT EFFLUENT LIMITS AND MON. REQUIREMENTS  
 Description: Inadequate chlorine residual  
 Inadequate chlorine residual

Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: There was no access to the receiving stream, and observations of the receiving stream not being conducted and recorded.

Date 01/31/2006 (478780)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date 02/28/2006 (478781)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date 03/31/2006 (504818)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date 04/30/2006 (504819)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date 12/31/2006 (627867)  
 Self Report? YES Classification Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date 01/31/2007 (627855)  
 Self Report? YES Classification Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date 10/31/2007 (627864)  
 Self Report? YES Classification Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter  
 Date 11/30/2007 (627866)  
 Self Report? YES Classification Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2007

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

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.  
RN101513729

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-0842-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. ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately four miles southeast of the intersection of Interstate Highway 35 and Farm-to-Market Road 2001 and five miles north of the intersection of State Highway 21 and Farm-to-Market Road 272 in Hays County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 28, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Five Thousand Eight Hundred Fifty Dollars (\$5,850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Six Hundred Eighty Dollars (\$4,680) of the administrative penalty and One Thousand One Hundred Seventy Dollars (\$1,170) is deferred contingent upon the Respondent's 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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent 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 the Respondent 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, the Respondent is alleged to have:

1. Failed to comply with permitted limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013293001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 21, 2008 and as depicted in the table below:

	Total Suspended Solids Daily Average (loading)	Total Suspended Solids Daily Average (concentration)
<i>Month/Year</i>	5.3 lbs/day	15 mg/l
Jan-07	c	15.75
Oct-07	c	23.25
Nov-07	5.467	29.4
Dec-07	c	26

milligrams per liter = mg/L      compliant (no excursions) = c  
 pounds per day = lbs/day



2. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. WQ0013293001 Monitoring and Reporting Requirements, as documented during a record review conducted on March 21, 2008. Specifically, the Respondent failed to submit the Discharge Monitoring Report ("DMR") for the monitoring period ending September 30, 2007.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's 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., Docket No. 2008-0842-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 the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit the DMR for the monitoring period ending September 30, 2007 as described in Ordering Provision 2.c;
  - b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013293001, 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; and
  - c. The certifications 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:

Water Section, Manager  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed 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.
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 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.
6. This Agreed 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 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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

*[Signature]*  
For the Executive Director

10/10/2008  
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 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 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.

*AB 8-14-08  
BCE 08/14/08*  
*[Signature]*  
Signature

August 18, 2008  
Date

ROBERT LAUGHMAN  
Name (Printed or typed)  
Authorized Representative of  
Aqua Utilities, 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.

Handwritten text at the top of the page, possibly a title or header.

Handwritten text in the upper middle section of the page.

Main body of handwritten text, consisting of several lines of cursive script.

Handwritten signature or name on the left side of the page.

Small handwritten text or date below the signature on the left.

Handwritten signature or name on the right side of the page.

Small handwritten text or date below the signature on the right.

Handwritten text or signature at the far right edge of the page.