

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-1913-PWS-E **TCEQ ID:** RN102685393 **CASE NO.:** 35005  
**RESPONDENT NAME:** Aqua Texas, 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 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> Cedar Point, Cedar Point Road, Onalaska, Polk County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received September 12, 2007, concerning four water outages in the past month. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 19, 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> 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 Texas, Inc., 1106 Clayton Lane, Suite 400 W, Austin, Texas 78723-1066  Mr. Robert Laughman, President, Aqua Texas, Inc., 1106 Clayton Lane, Suite 400 W, Austin, Texas 78723-1066  <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 checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> September 12, 2007</p> <p><b>Date of Investigation Relating to this Case:</b> September 17, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 8, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failed to issue a boil water notification to customers of the water system within 24 hours after a loss of distribution system pressure and water outage occurred. Specifically, a boil water notice was not issued within 24 hours of a loss of pressure and water outage that occurred on September 12, 2007 [30 TEX. ADMIN. CODE § 290.46(q)(1) and 290.46(q)(2)].</p>	<p><b>Total Assessed:</b> \$360</p> <p><b>Total Deferred:</b> \$72  <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> \$288</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>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, develop and implement a standard operating procedure ensuring that special precautions and boil water notices are issued in the event of low distribution pressures, water outages, E-coli or fecal coliform positive water samples, lower than minimum chlorine residuals or other conditions which indicate that the potability of the water has been compromised; and</p> <p>b. Within 45 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 1870155



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

<b>DATES</b>	<b>Assigned</b>	12-Nov-2007	<b>Screening</b>	27-Nov-2007	<b>EPA Due</b>	
	<b>PCW</b>	3-Dec-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Aqua Texas, Inc.
<b>Reg. Ent. Ref. No.</b>	RN102685393
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	35005	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2007-1913-PWS-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Christopher Keffer	
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 2	
<b>Admin. Penalty \$</b>	<b>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>	\$250
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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>	4% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$10
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**Notes** The penalty is enhanced due to two dissimilar NOVs as those in the current enforcement action in the past five years.

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

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

<b>Total EB Amounts</b>	\$106	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	\$0
<b>Approx. Cost of Compliance</b>	\$100	<i>*Capped at the Total EB \$ Amount</i>		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$260
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	38%	<b>Adjustment</b>	\$100
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommended adjustment to capture avoided cost associated with the violations.

<b>Final Penalty Amount</b>	\$360
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$360
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<b>DEFERRAL</b>	20% Reduction	<b>Adjustment</b>	-\$72
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$288
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**Screening Date** 27-Nov-2007

**Docket No.** 2007-1913-PWS-E

**PCW**

**Respondent** Aqua Texas, Inc.

Policy Revision 2 (September 2002)

**Case ID No.** 35005

PCW Revision November 6, 2007

**Reg. Ent. Reference No.** RN102685393

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Christopher Keffer

**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)	0	0%
	Other written NOVs	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 judgements 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)** 4%

>> **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** The penalty is enhanced due to two dissimilar NOV's as those in the current enforcement action in the past five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 4%

**Screening Date** 27-Nov-2007

**Docket No.** 2007-1913-PWS-E

**PCW**

**Respondent** Aqua Texas, Inc.

*Policy Revision 2 (September 2002)*

**Case ID No.** 35005

*PCW Revision November 6, 2007*

**Reg. Ent. Reference No.** RN102685393

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Christopher Keffer

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 290.46(q)(1) and 290.46(q)(2)

**Violation Description**

Failed to issue a boil water notification to customers of the water system within 24 hours after a loss of distribution system pressure and water outage occurred. Specifically, a boil water notice was not issued within 24 hours of a loss of pressure and water outage that occurred on September 12, 2007.

**Base Penalty**

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Percent**

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

**Number of Violation Events**

**Number of violation days**

*mark only one with an x*

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

**Violation Base Penalty**

One single event is recommended.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Aqua Texas, Inc.  
**Case ID No.** 35005  
**Reg. Ent. Reference No.** RN102685393  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### 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				0.0	\$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)	\$100	12-Sep-2007	27-Nov-2007	1.1	\$6	\$100	\$106

Notes for AVOIDED costs

The avoided costs include the amount necessary to provide all customers of the water supply with a proper boil water notification, calculated from the date when the boil water notice should have been issued to the screening date.

Approx. Cost of Compliance

\$100

TOTAL

\$106

# Compliance History

Customer/Respondent/Owner-Operator:	CN601570773 Aqua Texas, Inc.	Classification: AVERAGE	Rating: 1.28
Regulated Entity:	RN102685393 CEDAR POINT	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	1870155 1870155
Location:	CEDAR POINT RD, ONALASKA, TX, 77360		
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	November 13, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 13, 2002 to November 13, 2007		

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

Name: Christopher Keffer Phone: (512) 239-5610

## 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 | 04/25/2003 | (33340)  |  |
| 2 | 11/05/2003 | (253552) |  |
| 3 | 09/15/2004 | (289428) |  |
| 4 | 03/03/2005 | (346799) |  |
| 5 | 09/06/2005 | (405145) |  |
| 6 | 08/23/2006 | (497715) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |  |         |                          |
|--------------|--|---------|--------------------------|
| Date:        | 04/25/2003   | (33340) |                          |
| Self Report? | NO   |         | Classification: Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  |         |                          |
| Description: | Failure to perform the internal surface inspections of all three pressure tanks within the last five years.  |         |                          |
| Self Report? | NO   |         | Classification: Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)   |         |                          |
| Description: | Failure to provide a full-face self-contained breathing apparatus (SCBA) for each water plant using chlorine gas.                                    |         |                          |
| Self Report? | NO   |         | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)   |         |                          |
| Description: | Failure to install the required backflow prevention assembly on the water line to the sewage dump station located near the front of the subdivision. |         |                          |
| Self Report? | NO   |         | Classification: Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)   |         |                          |
| Description: | Failure to keep monthly flushing records.  |         |                          |
| Self Report? | NO   |         | Classification: Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)   |         |                          |
| Description: | Failure to provide recorded copies of sanitary control easements for all land within   |         |                          |

150 feet of all four wells at the time of the investigation.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to maintain the smaller pressure tank at Water Plant # 2.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)  
 Description: Failure to provide a well casing extending at least 18 inches above the natural ground surface on Well # 1 B.

During the investigation, it was noted that the well casing on Well # 1 B extended about 7 inches above the natural surface of the ground.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 288, SubChapter B 288.20  
 Description: Failure to provide a copy of the drought contingency plan at the time of the investigation.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  
 Description: Failure to replace the casing vent screen on Well # 2 A.  
 Date: 03/03/2005 (346799)

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
 Description: Failure to provide recorded copies of sanitary control easements for all land within 150 feet of all four wells at the time of the investigation.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)  
 Description: Failure to provide a well casing extending at least 18 inches above the natural ground surface on Well # 1 B.

During the investigation, it was noted that the well casing on Well # 1 B extended about 7 inches above the natural surface of the ground.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)  
 Description: Failure to provide a pressure tank capacity of 20 gallons per connection.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i)  
 Description: Failure to provide a well capacity of 0.6 gpm per connection.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(4)  
 Description: Failure to provide protective paint on the interior of both pressure tanks.

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 TEXAS, INC.  
RN102685393

§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2007-1913-PWS-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 Texas, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. 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 public water supply at Cedar Point Road in Onalaska, Polk County, Texas (the "Facility") that has approximately 526 service connections and serves at least 25 people per day for at least 60 days per year.
2. 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.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 13, 2007.
4. 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.



5. An administrative penalty in the amount of Three Hundred Sixty Dollars (\$360) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Eighty-Eight Dollars (\$288) of the administrative penalty and Seventy-Two Dollars (\$72) 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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 failed to issue a boil water notification to customers of the water system within 24 hours after a loss of distribution system pressure and water outage occurred, in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1) and 290.46(q)(2), as documented during an investigation conducted on September 17, 2007. Specifically, a boil water notice was not issued within 24 hours of a loss of pressure and water outage that occurred on September 12, 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 5 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 Texas, Inc., Docket No. 2007-1913-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. 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, develop and implement a standard operating procedure ensuring that special precautions and boil water notices are issued in the event of low distribution pressures, water outages, E-coli or fecal coliform positive water samples, lower than minimum chlorine residuals or other conditions which indicate that the potability of the water has been compromised; and
  - b. Within 45 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:

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

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. 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.
5. 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.
6. 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.
7. 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

John Srdin  
\_\_\_\_\_  
For the Executive Director

4/30/2008  
\_\_\_\_\_  
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.

*[Handwritten initials]*

Robert Laughman  
\_\_\_\_\_  
Signature

March 6, 2008  
\_\_\_\_\_  
Date

ROBERT LAUGHMAN  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
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.

