

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1294-MWD-E **TCEQ ID:** RN101524767 **CASE NO.:** 36356

**RESPONDENT NAME:** Aqua Utilities, Inc. dba 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 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> Little Cypress Bayou EST PLA, located approximately 1,200 feet east and 1,600 feet north of the intersection of State Highway 87 and Farm-to-Market Road 1130, Orange County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater system</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> Complaints were received on May 22 and May 24, 2008, alleging unauthorized discharges of wastewater treatment plant sludge. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> Complaints were received, but the complainants have 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 March 16, 2009. 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. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Robert L. Laughman, President, 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 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> May 22, May 24, and June 2, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> May 23, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 1, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>1) Failure to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, an unauthorized discharge of an unknown amount of wastewater occurred from the collection system on Rosewood Drive on September 12, 2007, due to the 2-inch force main not having the capacity required for high flows pumped from the lift station. This resulted in high water levels at the lift station and along the Rosewood and Hazelwood collection lines. The discharge flowed from residential clean out valves on Rosewood Drive [30 TEX. ADMIN. CODE § 305.125(4), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012109001, Permit Conditions No. 2.g.].</p> <p>2) Failure to submit noncompliance notification within the timeframes specified by the permit. Specifically, the Respondent failed to submit a final written report documenting corrective action taken regarding sewage discharges on September 12, 2007, within five days of the incident [30 TEX. ADMIN. CODE § 305.125(9)(A), TEX. WATER CODE § 26.039(b), and TPDES Permit No. WQ0012109001, Monitoring and Reporting Requirements No. 7.a.].</p>	<p><b>Total Assessed:</b> \$7,410</p> <p><b>Total Deferred:</b> \$1,482  <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> \$5,928</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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By September 15, 2007, cleaned and disinfected the affected areas along Rosewood Drive and Hazelwood Drive;</p> <p>b. By January 1, 2008, replaced the 2-inch force main line along Rosewood Drive and Hazelwood Drive with 1,200 feet of 4-inch force main line;</p> <p>c. By May 27, 2008, removed and properly disposed of the sludge from the roadside ditches;</p> <p>d. On June 30, 2008, submitted the final written report documenting corrective actions taken regarding the September 12, 2007, unauthorized discharge; and</p> <p>e. By August 11, 2008 updated the Facility's operational guidance and conducted employee training to ensure the following:</p> <p>i. Reporting requirements for unauthorized discharges are properly accomplished; and</p> <p>ii. All gates at the Facility are locked and secured at all times.</p>

<p>3) Failure to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, an unauthorized discharge of approximately 65,000 gallons of sludge occurred from the sludge digester at the Facility. The discharge flowed into a roadside ditch on Armitage Road and into a ditch that runs through a field [30 TEX. ADMIN. CODE § 305.125(4), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0012109001, Permit Conditions No. 2.g.].</p> <p>4) Failure to ensure that the plant area is completely fenced off with lockable gates at all access points. Specifically, the back gate at the Facility was left open and unsecured with no personnel on site [30 TEX. ADMIN. CODE § 317.7(e)].</p>		
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Additional ID No(s): WQ0012109001





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>DATES</b>	Assigned	7-Jul-2008	Screening	4-Aug-2008	EPA Due	
	PCW	4-Aug-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Aqua Utilities, Inc. dba Aqua Texas, Inc.
Reg. Ent. Ref. No.	RN101524767
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36356	No. of Violations	4
Docket No.	2008-1294-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Brister
Admin. Penalty \$	Limit Minimum \$0	EC's Team	Enforcement Team 1
	Maximum \$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$5,500</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>	57.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$3,135</b>
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**Notes**  
The Respondent self-reported five monthly effluent violations, was issued two Notices of Violations ("NOVs") for violations that are same or similar, was issued one NOV for violations that are not considered same or similar, and received one Agreed Order with denial of liability language.

<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 Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$1,225</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts \$211  
Approx. Cost of Compliance \$24,297  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$7,410</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**

<b>Final Penalty Amount</b>	<b>\$7,410</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$7,410</b>
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	<b>-\$1,482</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 offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$5,928</b>
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Screening Date 4-Aug-2008

Docket No. 2008-1294-MWD-E

PCW

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

Policy Revision 2 (September 2002)

Case ID No. 36356

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101524767

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

### 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)	7	35%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 57%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported five monthly effluent violations, was issued two Notices of Violations ("NOVs") for violations that are same or similar, was issued one NOV for violations that are not considered same or similar, and received one Agreed Order with denial of liability language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 57%

**Screening Date** 4-Aug-2008 **Docket No.** 2008-1294-MWD-E **PCW**

**Respondent** Aqua Utilities, Inc. dba Aqua Texas, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 36356 *PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN101524767

**Media [Statute]** Water Quality

**Enf. Coordinator** Heather Brister

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(4), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012109001, Permit Conditions No. 2.g

**Violation Description** Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, an unauthorized discharge of an unknown amount of wastewater occurred from the collection system on Rosewood Drive on September 12, 2007, due to the 2-inch force main not having the capacity required for high flows pumped from the lift station. This resulted in high water levels at the lift station and along the Rosewood and Hazelwood collection lines. The discharge flowed from residential clean out valves on Rosewood Drive, as documented by a review of the Facility's records during the May 23, 2008 investigation.

**Base Penalty** \$10,000

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

OR	<b>Harm</b>			Percent <input type="text" value="10%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input checked="" type="checkbox"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes** Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

**Adjustment** \$9,000

**\$1,000**

**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 checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty** \$2,000

Two quarterly events are recommended from the date of the unauthorized discharge (September 12, 2007) to the date of compliance (January 1, 2008).

**Good Faith Efforts to Comply**  Reduction **\$500**

Extraordinary	Before NOV	<input type="text"/>
	NOV to EDPRP/Settlement Offer	<input type="text"/>
	Ordinary	<input checked="" type="checkbox"/>
N/A		<input type="text"/> (mark with x)

**Notes** The Respondent achieved compliance on January 1, 2008.

**Violation Subtotal** \$1,500

**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 Utilities, Inc. dba Aqua Texas, Inc.  
**Case ID No.** 36356  
**Reg. Ent. Reference No.** RN101524767  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$2,000	12-Sep-2007	15-Sep-2007	0.01	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$11,450	12-Sep-2007	1-Jan-2008	0.30	\$174	n/a	\$174

**Notes for DELAYED costs**  
 Estimated cost to clean and disinfect the affected areas and to replace the 2-inch force main line with 1,200 feet of 4-inch force main line and clean and disinfect the affected areas. Date Required is the date the unauthorized discharge occurred. Final Dates are the date the unauthorized discharge was cleaned and properly disposed of and the final 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**

<b>Approx. Cost of Compliance</b>	<b>\$13,450</b>	<b>TOTAL</b>	<b>\$175</b>
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<b>Screening Date</b> 4-Aug-2008	<b>Docket No.</b> 2008-1294-MWD-E	<b>PCW</b>	
<b>Respondent</b> Aqua Utilities, Inc. dba Aqua Texas, Inc.	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 36356	<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101524767			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Heather Brister			
<b>Violation Number</b> <input type="text" value="2"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(9)(A), Tex. Water Code § 26.039(b), and TPDES Permit No. WQ0012109001, Monitoring and Reporting Requirements No. 7.a		
<b>Violation Description</b>	Failed to submit noncompliance notification within the timeframes specified by the permit, as documented during the May 23, 2008 investigation. Specifically, the Respondent failed to submit a final written report documenting corrective action taken regarding sewage discharges on September 12, 2007, within five days of the incident.		
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Release</b>	<b>Harm</b>	
		Major    Moderate    Minor	
	Actual	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
	Potential	<input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major    Moderate    Minor	
	<input type="text"/>	<input type="text" value="x"/>	<b>Percent</b> <input type="text" value="5%"/>
<b>Matrix Notes</b>	<input type="text" value="At least 50% of the rule requirement was met."/>		
<b>Adjustment</b>		<input type="text" value="\$9,500"/>	
			<input type="text" value="\$500"/>
<b>Violation Events</b>			
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b> <input type="text" value="287"/>
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$500"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text" value="x"/>	
<input type="text" value="One single event is recommended."/>			
<b>Good Faith Efforts to Comply</b>			<input type="text" value="\$50"/>
	<input type="text" value="10.0%"/>	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text" value="x"/>	
N/A	<input type="text"/>	(mark with x)	
<b>Notes</b>	<input type="text" value="The Respondent achieved compliance on August 11, 2008."/>		
<b>Violation Subtotal</b>		<input type="text" value="\$450"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$27"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$735"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$735"/>	

### Economic Benefit Worksheet

**Respondent:** Aqua Utilities, Inc. dba Aqua Texas, Inc.  
**Case ID No.:** 36356  
**Reg. Ent. Reference No.:** RN101524767  
**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
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	\$500	12-Sep-2007	11-Aug-2008	0.92	\$23	n/a	\$23
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	17-Sep-2007	30-Jun-2008	0.79	\$4	n/a	\$4

**Notes for DELAYED costs**

Estimated cost to submit the five day written report and to update the Facility's operation guidance and conduct a training session on reporting requirements. Date Required is the date of the discharge and the date the five day report was due. Final Dates are the dates 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

\$600

**TOTAL**

\$27

<b>Screening Date</b> 4-Aug-2008	<b>Docket No.</b> 2008-1294-MWD-E	<b>PCW</b>		
<b>Respondent</b> Aqua Utilities, Inc. dba Aqua Texas, Inc.	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36356	<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN101524767				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Heather Brister				
<b>Violation Number</b> <input type="text" value="3"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(4), Tex. Water Code § 26.121(a), and TPDES Permit No. WQ0012109001, Permit Conditions No. 2.g			
<b>Violation Description</b>	Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, an unauthorized discharge of approximately 65,000 gallons of sludge occurred from the sludge digester at the Facility. The discharge flowed into a roadside ditch on Armitage Road and into a ditch that runs through a field, as documented during the May 23, 2008 investigation.			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<b>Actual</b>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>
<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<b>Percent</b>		<input type="text" value="25%"/>		
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>		<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>		<input type="text" value="0%"/>		
<b>Matrix Notes</b>	Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.			
<b>Adjustment</b>		<input type="text" value="\$7,500"/>		
		<input type="text" value="\$2,500"/>		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<input type="text" value="6"/> <b>Number of violation days</b>	
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>	
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One monthly event is recommended from the May 21, 2008 date of the discharge to the May 27, 2008 date of compliance.				
<b>Good Faith Efforts to Comply</b>		<b>25.0% Reduction</b>	<input type="text" value="\$625"/>	
		<b>Before NOV</b>	<b>NOV to EDRP/Settlement Offer</b>	
<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>		
<b>Ordinary</b>	<input checked="" type="checkbox"/>	<input type="text"/>		
<b>N/A</b>	<input type="text"/>	<input type="text"/>		
<b>Notes</b>		The Respondent achieved compliance May 27, 2008.		
<b>Violation Subtotal</b>		<input type="text" value="\$1,875"/>		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b> <input type="text" value="\$8"/>		<b>Violation Final Penalty Total</b> <input type="text" value="\$3,300"/>		
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$3,300"/>		

## Economic Benefit Worksheet

**Respondent:** Aqua Utilities, Inc. dba Aqua Texas, Inc.  
**Case ID No.:** 36356  
**Reg. Ent. Reference No.:** RN101524767  
**Media:** Water Quality  
**Violation No.:** 3

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				0.00	\$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	\$10,147	21-May-2008	27-May-2008	0.02	\$8	n/a	\$8
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly remove and dispose of all waste and contaminated surface soils from all affected areas. The Date Required is the date the violation occurred. Final Date is the 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

Approx. Cost of Compliance

\$10,147

TOTAL

\$8

<b>Screening Date</b> 4-Aug-2008	<b>Docket No.</b> 2008-1294-MWD-E	<b>PCW</b>		
<b>Respondent</b> Aqua Utilities, Inc. dba Aqua Texas, Inc.	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 36356	<small>PCW Revision June 12, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN101524767				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Heather Brister				
<b>Violation Number</b> <input type="text" value="4"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 317.7 (e)			
<b>Violation Description</b>	Failed to ensure that the plant area is completely fenced off with lockable gates at all access points. Specifically, the back gate at the Facility was left open and unsecured with no personnel on site, as documented during the May 23, 2008 investigation.			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	Release	Harm		
		Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	
		<b>Percent</b>	<input type="text" value="5%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
Matrix Notes	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.			
	<b>Adjustment</b>	<input type="text" value="\$9,500"/>		
			<input type="text" value="\$500"/>	
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>	
		<input type="text" value="74"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$500"/>	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
	One single event is recommended.			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="10.0%"/> Reduction	<input type="text" value="\$50"/>	
		<small>Before NOV    NOV to EDRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input checked="" type="checkbox"/>		
N/A	<small>(mark with x)</small>			
Notes	The Respondent achieved compliance on August 11, 2008.			
	<b>Violation Subtotal</b>	<input type="text" value="\$450"/>		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
	<b>Estimated EB Amount</b>	<input type="text" value="\$1"/>	<b>Violation Final Penalty Total</b>	
			<input type="text" value="\$735"/>	
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$735"/>	

## Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc. dba Aqua Texas, Inc.  
**Case ID No.** 36356  
**Reg. Ent. Reference No.** RN101524767  
**Media** Water Quality  
**Violation No.** 4

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				0.00	\$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	\$100	23-May-2008	11-Aug-2008	0.22	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to update the Standard Operating Procedures to ensure that the wastewater treatment plant is locked and secured at all times. Date Required is the date of the investigation. Final Date is the 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**  
 (Empty box for notes)

<b>Approx. Cost of Compliance</b>	\$100	<b>TOTAL</b>	\$1
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# Compliance History

Customer/Respondent/Owner-Operator: CN602787509 Aqua Utilities, Inc. dba Aqua Texas, Inc. Classification: AVERAGE Rating: 1.45  
 Regulated Entity: RN101524767 LITTLE CYPRESS BAYOU EST PLA Classification: AVERAGE Site Rating: 0.41

ID Number(s):  
 WASTEWATER PERMIT WQ0012109001  
 WASTEWATER PERMIT TPDES0079251  
 WASTEWATER PERMIT TX0079251  
 WASTEWATER LICENSING LICENSE WQ0012109001

Location: Located approximately 1200 feet east and 1600 feet north of the intersection of State Highway 87 and Farm-to-Market Road 1130 in Orange County, Texas. Rating Date: 9/1/2007  
 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT  
 Date Compliance History Prepared: July 29, 2008  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: July 29, 2003 to July 29, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Heather Brister Phone: 254/761-3034

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Aqua Utilities, Inc.
4. If Yes, who was/were the prior owner(s)? AquaSource Utilites Inc
5. When did the change(s) in ownership occur? 10/13/2005

### 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: 12/20/2007 ADMINORDER 2007-0070-MWD-E  
 Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: Effluent Limits PERMIT  
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

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 09/05/2003 (315155)
- 2 10/03/2003 (315156)
- 3 10/20/2003 (315157)
- 4 12/03/2003 (251733)
- 5 01/20/2004 (315158)
- 6 01/20/2004 (315159)
- 7 02/20/2004 (315160)
- 8 03/18/2004 (315149)
- 9 04/13/2004 (315151)
- 10 04/30/2004 (360283)
- 11 05/27/2004 (360284)
- 12 09/07/2004 (360285)
- 13 10/20/2004 (360286)
- 14 11/22/2004 (360287)
- 15 12/16/2004 (386488)
- 16 01/18/2005 (386489)
- 17 02/14/2005 (386486)
- 18 03/22/2005 (386487)

19 04/19/2005 (424344)  
 20 05/23/2005 (424346)  
 21 06/23/2005 (424345)  
 22 07/22/2005 (445120)  
 23 09/02/2005 (445121)  
 24 09/23/2005 (445122)  
 25 10/24/2005 (476203)  
 26 11/29/2005 (476204)  
 27 12/20/2005 (476205)  
 28 01/23/2006 (476206)  
 29 02/22/2006 (476201)  
 30 03/20/2006 (476202)  
 31 04/24/2006 (503331)  
 32 05/23/2006 (503332)  
 33 06/16/2006 (503333)  
 34 07/12/2006 (503334)  
 35 08/23/2006 (525708)  
 36 09/20/2006 (525709)  
 37 10/19/2006 (525710)  
 38 11/17/2006 (585774)  
 39 12/14/2006 (585775)  
 40 12/29/2006 (534830)  
 41 01/19/2007 (585776)  
 42 02/12/2007 (585768)  
 43 03/19/2007 (585769)  
 44 04/19/2007 (585770)  
 45 05/09/2007 (585771)  
 46 06/11/2007 (585772)  
 47 07/19/2007 (585773)  
 48 08/20/2007 (623878)  
 49 09/05/2007 (573980)  
 50 09/12/2007 (623879)  
 51 10/15/2007 (623880)  
 52 11/13/2007 (623881)  
 53 12/14/2007 (623882)  
 54 01/14/2008 (611915)  
 55 01/17/2008 (623883)  
 56 02/18/2008 (675036)  
 57 03/17/2008 (675037)  
 58 04/17/2008 (675038)

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

Date: **10/31/2003** (315158)

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: **12/05/2003** (251733)

Self Report? NO

Classification: Moderate

Rqmt Prov: PERMIT WQ 12109-001

Description: Failure to employ a licensed operator. On 10/08/03, Mr. Frank Gennusa was introduced as the WWTP operator for the Cypress Bayou WWTP and the Countryside Estates WWTP (WQ11249-001), also owned by AquaSource. Mr. Gennusa does not possess a valid wastewater operator's license.

Self Report? NO

Classification: Minor

Rqmt Prov: PERMIT WQ 12109-001

Description: Failure by AquaSource Utility to discharge a compliant effluent. The chlorine residual concentration was measured to be 0.75 mg/l during the investigation.

Self Report? NO Classification: Minor  
 Rqmt Prov: PERMIT WQ 12109-001  
 Description: Failure by AquaSource Utility to accurately complete the July 2003 Discharge Monitoring Report (DMR).

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 312, SubChapter G 312.145(b)(1)(E)  
 Rqmt Prov: PERMIT WQ 12109-001  
 Description: Failure by AquaSource Utility to maintain completed sludge disposal records at the wastewater treatment plant. Sludge disposal records reviewed on 10/8/03 revealed that the WWTP did not have properly completed disposal manifests on file. The permittee uses Envirogenics (TCEQ Sludge Transporter Registration No. 21466)

Date: 09/30/2004 (360286)  
 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: 12/31/2005 (476206)  
 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 (503332)  
 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: 09/30/2006 (525710)  
 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: 09/05/2007 (573980)  
 Self Report? NO Classification: Minor  
 Rqmt Prov: PERMIT WQ 12109-001  
 Description: Failure by AquaSource Utility to accurately complete the July 2003 Discharge Monitoring Report (DMR).

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 312, SubChapter G 312.145(b)(1)(E)  
 Rqmt Prov: PERMIT WQ 12109-001  
 Description: Failure by AquaSource Utility to maintain completed sludge disposal records at the wastewater treatment plant. Sludge disposal records reviewed on 10/8/03 revealed that the WWTP did not have properly completed disposal manifests on file. The permittee uses Envirogenics (TCEQ Sludge Transporter Registration No. 21466)

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 317 317.4(a)(8)  
 30 TAC Chapter 317 317.7(i)  
 Description: Failure by Aqua Utilities, Inc. to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate  
 Rqmt Prov: PERMIT OpR 1  
 Description: Failure by Aqua Utilities, Inc. to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
Rqmt Prov: PERMIT OpR 1  
Description: Failure by Aqua Utilities, Inc. to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor  
Rqmt Prov: PERMIT M&RR 2  
Description: Failure by Aqua Utilities, Inc. to conduct chlorine residual analysis according to the colorimeter manufacturer specifications.

Self Report? NO Classification: Minor  
Rqmt Prov: PERMIT M&RR 7c  
Description: Failure by Aqua Utilities, Inc. to submit noncompliance notifications for each effluent violation that exceeds the permit limitation by greater than 40%.

Date: 12/11/2007 (610862)

Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
Rqmt Prov: PERMIT PC 2g  
Description: Failure by Aqua Utilities to prevent unauthorized discharges from the Cypress-Bayou collection system.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)(A)  
Rqmt Prov: PERMIT M&RR 7 a  
Description: Failure by Aqua Utilities to provide noncompliance notification within time frames specified by the permit.

- F. Environmental audits. N/A
- G. Type of environmental management systems (EMSs). N/A
- H. Voluntary on-site compliance assessment dates. N/A
- I. Participation in a voluntary pollution reduction program. N/A
- J. Early compliance. N/A

Sites Outside of Texas  
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AQUA UTILITIES, INC. DBA AQUA  
TEXAS, INC.  
RN101524767

§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1294-MWD-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Utilities, Inc. dba Aqua Texas, Inc. ("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 domestic wastewater system located approximately 1,200 feet east and 1,600 feet north of the intersection of State Highway 87 and Farm-to-Market Road 1130 in Orange County, Texas (the "Facility").
2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
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 July 6, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Four Hundred Ten Dollars (\$7,410) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Five Thousand Nine Hundred Twenty-Eight Dollars (\$5,928) of the administrative penalty and One Thousand Four Hundred Eighty-Two Dollars (\$1,482) 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 recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. By September 15, 2007, cleaned and disinfected the affected areas along Rosewood Drive and Hazelwood Drive;
  - b. By January 1, 2008, replaced the 2-inch force main line along Rosewood Drive and Hazelwood Drive with 1,200 feet of 4-inch force main line;
  - c. By May 27, 2008, removed and properly disposed of the sludge from the roadside ditches;
  - d. On June 30, 2008, submitted the final written report documenting corrective actions taken regarding the September 12, 2007, unauthorized discharge; and
  - e. By August 11, 2008 updated the Facility's operational guidance and conducted employee training to ensure the following:
    - i. Reporting requirements for unauthorized discharges are properly accomplished, in accordance with 30 TEX. WATER CODE § 26.039(b) and TPDES Permit No. WQ0012109001, Monitoring and Reporting Requirements No. 7.a; and
    - ii. All gates at the Facility are locked and secured at all times.
10. 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.
11. 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.
12. 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 prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(4), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012109001, Permit Conditions No. 2.g., as documented by a review of the Facility's records during the May 23, 2008 investigation. Specifically, an unauthorized discharge of an unknown amount of wastewater occurred from the collection system on Rosewood Drive on September 12, 2007, due to the 2-inch force main not having the capacity required for high flows pumped from the lift station. This resulted in high water levels at the lift station and along the Rosewood and Hazelwood collection lines. The discharge flowed from residential clean out valves on Rosewood Drive.
2. Failed to submit noncompliance notification within the timeframes specified by the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(9)(A), TEX. WATER CODE § 26.039(b), and TPDES Permit No. WQ0012109001, Monitoring and Reporting Requirements No. 7.a., as documented during the May 23, 2008 investigation. Specifically, the Respondent failed to submit a final written report documenting corrective action taken regarding sewage discharges on September 12, 2007, within five days of the incident.
3. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(4), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0012109001, Permit Conditions No. 2.g., as documented during the May 23, 2008 investigation. Specifically, an unauthorized discharge of approximately 65,000 gallons of sludge occurred from the sludge digester at the Facility. The discharge flowed into a roadside ditch on Armitage Road and into a ditch that runs through a field.
4. Failed to ensure that the plant area is completely fenced off with lockable gates at all access points, in violation of 30 TEX. ADMIN. CODE § 317.7(e), as documented during an investigation conducted on May 23, 2008. Specifically, the back gate at the Facility was left open and unsecured with no personnel on site.

## 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. dba Aqua Texas, Inc., Docket No. 2008-1294-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. 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.
3. 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.
4. 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.
5. 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 S. [Signature]  
For the Executive Director

4/3/2009  
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.

WB  
[Handwritten initials]

Robert L. Laughman  
Signature

Dec. 19, 2008  
Date

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

President  
Title

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

