

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1533-PWS-E **TCEQ ID:** RN102673274 **CASE NO.:** 38396

**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> Barton Creek Lakeside, 100 Lauren Drive, Spicewood, Travis County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 1, 2010. 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. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Stephen Blackhurst, Environmental Compliance Manager, Aqua Texas, Inc., 1106 Clayton Lane, Suite 400W, Austin, Texas 78723-1066                      Mr. Robert L. Laughman, President, Aqua Texas, Inc., 1106 Clayton Lane, Suite 400W, 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 type="checkbox"/> Complaint  <input checked="" 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> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 17, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 4, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to provide a pressure tank capacity of 20 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iv) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to provide Well No. 1 with a flow measuring device [30 TEX. ADMIN. CODE § 290.41(c)(3)(N)].</p> <p>3) Failure to issue a boil water notification to customers of the Facility within 24 hours using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e) [30 TEX. ADMIN. CODE § 290.46(q)(1)].</p> <p>4) Failure to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.2 milligrams per liter ("mg/L") free chlorine. Specifically, at the time of the investigation, a field test conducted at a fire hydrant on Majestic Hills Drive revealed a free chlorine residual of 0.14 mg/L [30 TEX. ADMIN. CODE § 290.110(b)(4) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p>	<p><b>Total Assessed:</b> \$1,975</p> <p><b>Total Deferred:</b> \$395  <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> \$1,580</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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the following corrective actions have been implemented at the Facility:</p> <p>a. As of August 26, 2009, the Respondent began maintaining a free chlorine residual concentration of at least 0.2 mg/L throughout the distribution system; and</p> <p>b. As of September 25, 2009, the Respondent installed an operable flow measuring device on Well No. 1.</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 begin maintaining a written protocol that is to be followed to ensure that proper notification and boil water notices are provided to the customers of the Facility in the event of low distribution system pressure below 20 pounds per square inch, water outages, positive microbiological samples, low chlorine residuals, or other conditions which indicate that the water supply may be compromised;</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> <p>c. Within 180 days after the effective date of this Agreed Order, provide a pressure tank capacity of 20 gallons per connection for the upper pressure plane; and</p> <p>d. Within 195 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 c.</p>

Additional ID No(s): PWS ID NO. 2270282



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	8-Sep-2009	Screening	16-Sep-2009	EPA Due	
	PCW	6-Oct-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Aqua Texas, Inc.		
Reg. Ent. Ref. No.	RN102673274		
Facility/Site Region	11-Austin	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38396	No. of Violations	4
Docket No.	2009-1533-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeodur
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$1,600**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **Subtotals 2, 3, & 7** **\$192**

12.0% Enhancement

Notes: Enhancement is due to two Notices of Violations ("NOV") containing the same violations as those in the current enforcement action and one dissimilar NOV.

**Culpability** **Subtotal 4** **\$0**

0.0% Enhancement

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$87**

**Economic Benefit** **Subtotal 6** **\$0**

0.0% Enhancement

Total EB Amounts	\$299
Approx. Cost of Compliance	\$1,245

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$1,705**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment** **\$270**

15.8%

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for the recovery of avoided costs.

**Final Penalty Amount** **\$1,975**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$1,975**

**DEFERRAL** **Adjustment** **-\$395**

20.0%

Reduction

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$1,580**

Screening Date 16-Sep-2009

Docket No. 2009-1533-PWS-E

PCW

Respondent Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38396

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102673274

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

### 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)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 12%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement is due to two Notices of Violations ("NOV") containing the same violations as those in the current enforcement action and one dissimilar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date 18-Sep-2009

Docket No. 2009-1533-PWS-E

PCW

Respondent Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38396

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102673274

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 290.45(b)(1)(C)(iv) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a pressure tank capacity of 20 gallons per connection. Specifically, at the time of the investigation, it was documented that the 52 residents of the upper pressure plane received water pressure from a 1,000 gallon pressure tank whereas 1,040 gallons are required, indicating a 4% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to meet the minimum pressure tank capacity of 20 gallons per connection could result in low pressure, outages, and exposure to an insignificant amount of pollutants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

30 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	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 for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

# Economic Benefit Worksheet

**Respondent** Aqua Texas, Inc.  
**Case ID No.** 38396  
**Reg. Ent. Reference No.** RN102673274  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost:**    **Date Required:**    **Final Date:**    **Yrs:**    **Interest Saved:**    **Onetime Costs:**    **EB Amount:**  
 Item Description: 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	\$300	17-Aug-2009	30-Sep-2010	1.12	\$1	\$22
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)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to provide a pressure tank capacity of 20 gallons per connection. The date required is the date of the investigation. The final date is the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$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

\$300

**TOTAL**

\$24

Screening Date 16-Sep-2009

Docket No. 2009-1533-PWS-E

PCW

Respondent Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38396

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102673274

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(3)(N)

Violation Description

Failed to provide Well No. 1 with a flow measuring device. Specifically, at the time of the investigation, it was documented that the flow measuring device on Well No. 1 was inoperable.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to provide a flow measuring device could contribute to an inadequate water supply because the operator cannot make the necessary production and usage calculations, which could expose customers to a significant amount of pollutants that would not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the date of the investigation, August 17, 2009 to the date of screening, September 16, 2009.

Good Faith Efforts to Comply

10.0% Reduction

\$25

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

Notes

The Respondent achieved compliance as of September 25, 2009.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$295

This violation Final Assessed Penalty (adjusted for limits) \$295

# Economic Benefit Worksheet

**Respondent** Aqua Texas, Inc.

**Case ID No.** 38396

**Reg. Ent. Reference No.** RM102673274

**Media** Public Water Supply

**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)	\$675	17-Aug-2009	25-Sep-2009	0.11	\$0	\$5	\$5
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the actual amount necessary to install a properly functioning flow meter on Well No. 1. The date required is the investigation date. The 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

Approx. Cost of Compliance

\$675

**TOTAL**

\$5

Screening Date 16-Sep-2009

Docket No. 2009-1533-PWS-E

PCW

Respondent Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38396

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102673274

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.46(q)(1)

Violation Description

Failed to issue a boil water notification to customers of the Facility within 24 hours using the prescribed notification format as specified in 30 Tex. Admin. Code § 290.47(e). Specifically, a boil water notice was not issued within 24 hours of water outages that occurred on August 14 and August 15, 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	x			

>> Programmatic Matrix

Matrix Notes	Harm			Percent
	Major	Moderate	Minor	
Failure to issue a boil water notice may not allow the public to take appropriate measures in response to low water pressure and low chlorine residuals which would potentially expose the public to significant amounts of contaminants which would exceed levels protective of human health.				0%

Adjustment \$500

\$500

Violation Events

Number of Violation Events 2 Number of violation days 2

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

Violation Base Penalty \$1,000

Two single events are recommended, based on the dates the water outages occurred, August 14 and 15, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$220

Violation Final Penalty Total \$1,297

This violation Final Assessed Penalty (adjusted for limits) \$1,297

# Economic Benefit Worksheet

**Respondent** Aqua Texas, Inc.  
**Case ID No.** 38396  
**Reg. Ent. Reference No.** RN102673274  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

**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)				0.00	\$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				0.00	\$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]	\$220	14-Aug-2009	16-Aug-2009	0.00	\$0	\$220	\$220
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary to provide all customers of the effected area with a proper boil water notification (220 connections x (0.44 per stamp + 0.06 administrative) x 2 events). The date required is the date the boil water notice should have been issued. The final date is the end of the 24 hour period in which the boil water notice was not issued.

Approx. Cost of Compliance

\$220

**TOTAL**

\$220

Screening Date: 16-Sep-2009

Docket No. 2009-1533-PWS-E

PCW

Respondent: Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38396

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102673274

Media [Statute]: Public Water Supply

Enf. Coordinator: Andrea Linson-Mgbeoduru

Violation Number: 4

Rule Cite(s):

30 Tex. Admin. Code § 290.110(b)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description:

Failed to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.2 milligrams per liter ("mg/L") free chlorine. Specifically, at the time of the investigation, a field test conducted at a fire hydrant on Majestic Hill's Drive revealed a free chlorine residual of 0.14 mg/L.

Base Penalty: \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent: 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent: 0%

Matrix Notes

Failure to maintain an adequate disinfectant concentration within the distribution system may allow bacteria to form in the water and could result in the delivery of water to the public containing a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment: \$750

\$250

Violation Events

Number of Violation Events: 1

Number of violation days: 1

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty: \$250

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$62

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

Notes

The Respondent achieved compliance as of August 26, 2009.

Violation Subtotal: \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$50

Violation Final Penalty Total: \$253

This violation Final Assessed Penalty (adjusted for limits): \$253

# Economic Benefit Worksheet

**Respondent** Aqua Texas, Inc.  
**Case ID No.** 38398  
**Reg. Ent. Reference No.** RN102673274  
**Media** Public Water Supply  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

**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)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

**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]	\$50	17-Aug-2009	26-Aug-2009	0.00	\$0	\$50
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost includes the amount for additional maintenance, oversight and in increase in the chlorine dosage that could have precluded the low disinfectant residual levels, calculated from the investigation date to the date of compliance.

Approx. Cost of Compliance

\$50

**TOTAL**

\$50

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601570773 Aqua Texas, Inc. Classification: AVERAGE Rating: 2.91  
Regulated Entity: RN102673274 BARTON CREEK LAKESIDE Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2270282  
Location: 100 LAUREN DR, SPICEWOOD, TRAVIS COUNTY, TX  
TCEQ Region: REGION 11 - AUSTIN  
Date Compliance History Prepared: September 15, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: September 15, 2004 to September 15, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site :

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

N/A

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1 02/20/2008 (617323)  
2 06/06/2008 (671685)

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

Date: 02/22/2008 (617323)

CN601570773

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)

Description: The water system failed to install a floor-level, screened vent in the chlorination room, where a cylinder of chlorine gas is in use. Both high-level and floor-level vents are required.

Self Report? NO

Classification: Minor

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

Description: The sealing block around Well A has cracks extending from the edge of the cement slab to the well casing. Additionally, the well casing (above the sealing block) is heavily corroded.

Self Report? NO

Classification: Minor

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

Description: An opening was present in the vault that encloses Well B. The opening is at ground level and is large enough to allow access by large rodents. Additionally, debris was present inside the vault (on and around the sealing block) which should be removed.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(I)  
Description: The vault enclosing Well B is not provided with suitable drainage. The vault is constructed in such a manner so as to contribute to ponding of water around the well sealing block.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)  
Description: The residences that make up the upper pressure plane receive water pressure from a 1,000 gallon pressure tank. The minimum required pressure tank capacity is 20 gallons per connection or 1,040 gallons.

Date: 06/09/2008 (671685) CN601570773

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(I)  
Description: The vault enclosing Well B is not provided with suitable drainage. The vault is constructed in such a manner so as to contribute to ponding of water around the well sealing block.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)  
Description: The residences that make up the upper pressure plane receive water pressure from a 1,000 gallon pressure tank. The minimum required pressure tank capacity is 20 gallons per connection or 1,040 gallons.

Date: 06/13/2008 (646676) CN601570773

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(b)  
30 TAC Chapter 290, SubChapter D 290.46(q)  
30 TAC Chapter 290, SubChapter D 290.46(q)(2)  
30 TAC Chapter 290, SubChapter D 290.47(h)  
Description: Failure to collect bacteriological samples following a loss of distribution system pressure at a public water system.

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.  
RN102673274

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-1533-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 100 Lauren Drive in Spicewood, Travis County, Texas (the "Facility") that has approximately 220 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 September 9, 2009.
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 One Thousand Nine Hundred Seventy-Five Dollars (\$1,975) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Five Hundred Eighty Dollars (\$1,580) of the administrative penalty and Three Hundred Ninety-Five Dollars (\$395) 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 recognizes that the following corrective actions have been implemented at the Facility:
    - a. As of August 26, 2009, the Respondent began maintaining a free chlorine residual concentration of at least 0.2 milligrams per liter ("mg/L") throughout the distribution system; and
    - b. As of September 25, 2009, the Respondent installed an operable flow measuring device on Well No. 1.
  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 provide a pressure tank capacity of 20 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on August 17, 2009.
2. Failed to provide Well No. 1 with a flow measuring device, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N), as documented during an investigation conducted on August 17, 2009.
3. Failed to issue a boil water notification to customers of the Facility within 24 hours using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e), in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1), as documented during an investigation conducted on August 17, 2009.

4. Failed to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.2 mg/L free chlorine. Specifically, at the time of the investigation, a field test conducted at a fire hydrant on Majestic Hills Drive revealed a free chlorine residual of 0.14 mg/L, in violation of 30 TEX. ADMIN. CODE § 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on August 17, 2009.

### 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. 2009-1533-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 begin maintaining a written protocol that is to be followed to ensure that proper notification and boil water notices are provided to the customers of the Facility in the event of low distribution system pressure below 20 pounds per square inch, water outages, positive microbiological samples, low chlorine residuals, or other conditions which indicate that the water supply may be compromised, as required by 30 TEX. ADMIN. CODE § 290.46;
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a;
  - c. Within 180 days after the effective date of this Agreed Order, provide a pressure tank capacity of 20 gallons per connection for the upper pressure plane, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
  - d. Within 195 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.c. 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 fines 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. 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

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.

Aqua Texas, Inc.  
DOCKET NO. 2009-1533-PWS-E  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John S. Miller  
For the Executive Director

2/25/2010  
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.

RM

Robert L. Laughman  
Signature

February 24, 2010  
Date

Robert L. 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.