

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0787-MWD-E **TCEQ ID:** RN101516268 **CASE NO.:** 39703  
**RESPONDENT NAME:** Aqua Utilities, Inc.

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input 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> Brittmore Utility, located approximately 2,000 feet southeast of the intersection of Fisher and Brittmooore Roads, Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility and an associated collection system</p> <p><b>SMALL BUSINESS:</b>    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 13, 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> Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Robert L. Laughman, President, Aqua Utilities, Inc., 2211 Louetta Road, Spring, Texas 77388  <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 checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 20, 2010, January 28, 2010 and May 18, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 12, 2010 (NOE)</p> <p><b>Background Facts:</b> These were routine investigations and a records review.</p> <p><b>WATER</b></p> <p>1) Failed to prevent the unauthorized discharges of wastewater. Specifically, during the period of October 2008 through April 2009, the Respondent reported two unauthorized discharges [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011193001, Permit Conditions No. 2.g].</p> <p>2) Failed to prevent the unauthorized discharges of wastewater. Specifically, during the period of June 2009 to January 2010, the Respondent experienced a recurring issue that resulted in aeration foam discharging over the aeration tank and onto the ground, totaling an estimated 26,450 gallons [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011193001, Permit Conditions No. 2.g].</p> <p>3) Failed to prevent the discharge of excessive solids and foam into the receiving stream. Specifically, on January 20, 2010, the investigator documented that there were floating solids and small pieces of plastic in the chlorine contact chamber, the aeration basin thirty-minute settled solids level was 90%, the freeboard in the aeration</p>	<p><b>Total Assessed:</b> \$86,860</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$86,860</p> <p><b>Compliance History Classification:</b>                      Person/CN – Average                      Site/RN – Average</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>Findings Orders Justification:</b>                      Human health or the environment has been exposed to pollutants which exceed levels that are protective.</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 January 26, 2010, cleaned up all noted discharges from the collection system and aeration tank;</p> <p>b. On January 29, 2010, replaced the chlorine fan in the chlorine storage room;</p> <p>c. On February 16, 2010, returned the aeration basin thirty-minute settled solids level to 30% and returned the sludge blanket level to 1.5 feet; and</p> <p>d. Implemented the following corrective measures at the Facility:</p> <p>i. At 5701 Brittmoore Road, repaired the sewer line on October 29, 2008; and</p> <p>ii. At 6600-6500 Brittmoore Road, reset the overload on lift station pump no. 2 on April 28, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 15 days after the effective date of this Agreed Order:</p> <p>i. Develop and implement procedures to ensure that accurate flow measurements conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C. or methods that are equivalent as approved by the Executive Director; and</p> <p>ii. Begin maintaining the SCBA in good working order.</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Remove and properly dispose of all</p>

<p>basin was only three to eight inches from the top depending on the thickness of the foam, the sludge blanket in the clarifier was 9 foot in a 13-foot water depth, and that there were excessive floating solids and foam in the receiving stream. Sample results indicated elevated levels of total suspended solids with a result of 1,080 milligrams per liter ("mg/L") downstream of the outfall and only 7 mg/L upstream of the outfall. On January 28, 2010, the investigator documented floating solids and foam in the receiving stream. Sample results indicated elevated levels of ammonia nitrogen and Escherichia coli ("E.coli") with an ammonia nitrogen level of 24.5 mg/L at the outfall and E.coli levels of 480 Most Probable Number ("MPN") at the outfall, 3,000 MPN 300 feet downstream, and only 160 MPN upstream of the outfall. Also, sludge was observed on the outside walls of the aeration basin and on the ground around the aeration basin [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE §§ 305.125(1) and (5), and 317.4(g)(2), and TPDES Permit No. WQ001193001, Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions No. 2.d, and Operational Requirements No. 1].</p> <p>4) Failed to comply with the permitted effluent limits for E.coli and ammonia nitrogen [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ001193001, Interim Effluent Limitations and Monitoring Requirements No. 1].</p> <p>5) Failed to provide forced mechanical ventilation in the chlorine storage room and to maintain the self-contained breathing apparatus ("SCBA"). Specifically, on January 28, 2010, the investigator documented that the chlorine fan and the SCBA were inoperable [30 TEX. ADMIN. CODE §§ 305.125(1) and (5) and 317.6(b)(1)(D) and (b)(1)(E) and TPDES Permit No. WQ001193001, Operational Requirements No. 1].</p> <p>6) Failed to provide accurate flow measurements that conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C. or methods that are equivalent as approved by the Executive Director. Specifically, on</p>		<p>sludge, foam, plastics, and solids from the receiving stream and from the chlorine contact chamber; and</p> <p>ii. Develop and implement procedures to ensure that the required 18 inches of freeboard in the aeration basin is being maintained.</p> <p>c. Within 60 days after the effective date of this Agreed Order, conduct an engineering evaluation of the Facility and the associated collection system to evaluate the cause of and necessary corrective actions designed to maintain compliance with the permitted effluent limitations of TPDES Permit No. WQ001193001, and to prevent the accumulation of plastics in the chlorine contact chamber, the discharges from the aeration tank, and the discharge of excessive solids and foam into the receiving stream. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of necessary corrective actions within 270 days after the effective date of this Agreed Order;</p> <p>d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a.i, a.ii, b.i, b.ii, and c;</p> <p>e. Within 285 days after the effective date of this Agreed Order, submit written certification of completion of the corrective actions designed to maintain compliance with the permitted effluent limitations of TPDES Permit No. WQ001193001, and to prevent the accumulation of plastics in the chlorine contact chamber, the discharges from the aeration tank, and the discharge of excessive solids and foam into the receiving stream, as prescribed by the engineering evaluation required by Ordering Provision c;</p> <p>f. Within 365 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ001193001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance</p>
---	--	---

<p>January 28, 2010, the investigator documented that the effluent head measurement was not taken at the proper location and that the ultra-sonic device was too close (less than four times the maximum expected head measurement) to the weir plate [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(d) and TPDES Permit No. WQ001193001, Monitoring and Reporting Requirements No. 2.a].</p>		<p>with all permitted effluent limitations; and g. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.</p>
--	--	---

Additional ID No(s): WQ001193001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	4-May-2010	Screening	18-May-2010	EPA Due	20-Apr-2010
	PCW	1-Jun-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Aqua Utilities, Inc.
Reg. Ent. Ref. No.	RN101516268
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	39703	No. of Violations	6
Docket No.	2010-0787-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Samuel Short
Admin. Penalty \$	Limit Minimum \$0	EC's Team	Enforcement Team 3
	Maximum		\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$45,500</b>
---	-------------------	-----------------

### 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>	<b>92.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$41,860</b>
---------------------------	--------------------------	--------------------------------	-----------------

Notes: Enhancement recommended for having 11 NOVs for self-reported effluent violations, two NOVs for the same or similar violations, one NOV for non-similar violations, and one Agreed Order without denial language within the last five years.

<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
--------------------	----	-------------------------	-------------------	------------

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$500</b>
--	-------------------	--------------

<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
-------------------------	--------------------------	-------------------	------------

Total EB Amounts	\$2,293	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$43,584	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$86,860</b>
-----------------------------	-----------------------	-----------------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
---	-------------	-------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

<b>Final Penalty Amount</b>	<b>\$86,860</b>
-----------------------------	-----------------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$86,860</b>
-----------------------------------	-------------------------------	-----------------

<b>DEFERRAL</b>	<b>0.0%</b> Reduction	<b>Adjustment</b>	<b>\$0</b>
-----------------	-----------------------	-------------------	------------

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

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$86,860</b>
------------------------	-----------------

Screening Date 18-May-2010

Docket No. 2010-0787-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39703

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516268

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

### 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)	13	65%
	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 92%

>> 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

Enhancement recommended for having 11 NOVs for self-reported effluent violations, two NOVs for the same or similar violations, one NOV for non-similar violations, and one Agreed Order without denial language within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 92%

Screening Date 18-May-2010

Docket No. 2010-0787-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39703

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516268

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121, 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011193001, Permit Conditions No. 2.g.

Violation Description Failed to prevent the unauthorized discharges of wastewater. Specifically, during the period of October 2008 through April 2009, the Respondent reported two unauthorized discharges from the collection system as shown in Table No. 1 attached.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

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 2 Number of violation days 2

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended (one for each discharge).

Good Faith Efforts to Comply

25.0% Reduction

\$500

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

Notes The Respondent returned to compliance on April 28, 2009.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$99

Violation Final Penalty Total \$3,340

This violation Final Assessed Penalty (adjusted for limits) \$3,340

## Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc.  
**Case ID No.** 39703  
**Reg. Ent. Reference No.** RN101516268  
**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

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	\$1,500	29-Oct-2008	29-Oct-2008	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	\$4,000	29-Oct-2008	28-Apr-2009	0.50	\$99	n/a	\$99
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	28-Apr-2009	28-Apr-2009	0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The estimated cost to repair the force main. Date required is the date that the discharge occurred and the final date is the date the force main was repaired. The estimated costs to disinfect and clean up the unauthorized discharges (\$2,000 per discharge). Date required is the date of the first discharge and the final date is the date the last discharge was cleaned up. The estimated cost to reset the overloads on the lift station pump. Date required is the date that the discharge occurred and the final date is the date the overloads were reset.

### 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 \$6,000

**TOTAL** \$99

Screening Date 18-May-2010

Docket No. 2010-0787-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39703

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516268

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121, 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0011193001, Permit Conditions No. 2.g.

Violation Description Failed to prevent the unauthorized discharges of wastewater. Specifically, during the period of June 2009 to January 2010, the Respondent experienced a recurring issue that resulted in aeration foam discharging over the aeration tank and onto the ground, totaling an estimated 26,450 gallons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	10%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.				0%

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 224

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,000

Three quarterly events are recommended from the date the discharges began, June 16, 2009, to the date of the last discharge "clean up", January 26, 2010.

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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$245

Violation Final Penalty Total \$5,760

This violation Final Assessed Penalty (adjusted for limits) \$5,760

## Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc.  
**Case ID No.** 39703  
**Reg. Ent. Reference No.** RN101516268  
**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				0.00	\$0	n/a	\$0
Remediation/Disposal	\$8,000	16-Jun-2009	26-Jan-2010	0.61	\$245	n/a	\$245
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to clean up the aeration foam discharges. Date required is the date the first discharge occurred and the final date is the date the last discharge was cleaned up. The estimated cost to conduct an engineering evaluation of the Facility and the associated collection system to evaluate the cause of and necessary corrective actions designed to prevent the discharges from the aeration tank and the cost to implement the corrective actions is included in the economic benefit for violation no. 3.

### 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

\$8,000

**TOTAL**

\$245

Screening Date 18-May-2010

Docket No. 2010-0787-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39703

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516268

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121, 30 Tex. Admin. Code §§ 305.125(1) and (5) and 317.4(g)(2), and TPDES Permit No. WQ0011193001, Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions No. 2.d, and Operational Requirements No. 1

Violation Description Failed to prevent the discharge of excessive solids and foam into the receiving stream. Specifically, on January 20, 2010, the investigator documented that there were floating solids and small pieces of plastic in the chlorine contact chamber, the aeration basin thirty minute settled solids level was 90%, the freeboard in the aeration basin was only three to eight inches from the top depending on the thickness of the foam, the sludge blanket in the clarifier was 9 foot in a 13-foot water depth, and that there were excessive floating solids and foam in the receiving stream. Sample results indicated elevated levels of total suspended solids ("TSS") with a result of 1,080 milligrams per liter ("mg/L") downstream of the outfall and only 7 mg/L upstream of the outfall. On January 28, 2010, the investigator documented floating solids and foam in the receiving stream. Sample results indicated elevated levels of ammonia nitrogen and Escherichia coli ("E.coli") with an ammonia nitrogen level of 24.5 mg/L at the outfall and E.coli levels of 480 Most Probable Number ("MPN") at the outfall, 3,000 MPN 300 feet downstream, and only 160 MPN upstream of the outfall. Also, sludge was observed on the outside walls of the aeration basin and on the ground around the aeration basin.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4 Number of violation days 118

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Four monthly events are recommended from the January 20, 2010 investigation date to the date of screening, May 18, 2010.

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 \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,758

Violation Final Penalty Total \$19,200

This violation Final Assessed Penalty (adjusted for limits) \$19,200

## Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc.  
**Case ID No.** 39703  
**Reg. Ent. Reference No.** RN101516268  
**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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	20-Jan-2010	3-Jan-2011	0.95	\$3	\$64	\$67
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	\$10,000	20-Jan-2010	3-Jan-2011	0.95	\$477	n/a	\$477
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$15,000	20-Jan-2010	3-Sep-2011	1.62	\$1,214	n/a	\$1,214

Notes for DELAYED costs

The estimated cost to return the aeration basin thirty-minute settled solids level to 30%, to develop and implement procedures to ensure that the required 18-inches of freeboard in the aeration basin is being maintained, and return the sludge blanket level to 1.5 feet. Date required is the investigation date and the final date is the estimated date of compliance. The estimated cost to remove and properly dispose of all sludge, foam, plastics, and solids from the chlorine contact chamber and receiving stream. Date required is the investigation date the violation was first documented and the final date is the estimated date of compliance. The estimated cost to conduct an engineering evaluation of the Facility and the associated collection system to evaluate the cause of and necessary corrective actions designed to maintain compliance with the permitted effluent limitations, and to prevent the accumulation of plastics in the chlorine contact chamber, the discharges from the aeration tank, and the discharge of excessive solids and foam into the receiving stream and the cost to implement the corrective actions. Date required is the investigation date the violations was first documented and 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

\$26,000

**TOTAL**

\$1,758

Screening Date 18-May-2010

Docket No. 2010-0787-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39703

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516268

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 4

Rule Cite(s) Tex. Water Code § 26.121, 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0011193001, Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limits, as documented during a record review conducted on May 18, 2010 and shown in Table No. 2 attached.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 4 Number of violation days 123

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$20,000

Four monthly events are recommended.

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 \$20,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$38,400

This violation Final Assessed Penalty (adjusted for limits) \$38,400

## Economic Benefit Worksheet

**Respondent:** Aqua Utilities, Inc.  
**Case ID No.:** 39703  
**Reg. Ent. Reference No.:** RN101516268  
**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				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 estimated cost to conduct an engineering evaluation of the Facility and the associated collection system to evaluate the cause of and necessary corrective actions designed to maintain compliance with the permitted effluent limitations and the cost to implement the corrective actions is included in the economic benefit for violation no. 3.

### 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 \$0

TOTAL \$0

Screening Date 18-May-2010

Docket No. 2010-0787-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39703

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516268

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (5) and 317.6(b)(1)(D) and (b)(1)(E) and TPDES Permit No. WQ0011193001, Operational Requirements No. 1

Violation Description Failed to provide forced mechanical ventilation in the chlorine storage room and to maintain the self-contained breathing apparatus ("SCBA"). Specifically, on January 28, 2010, the investigator documented that the chlorine fan and the SCBA were inoperable.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4 Number of violation days 110

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Four monthly events are recommended from the January 28, 2010 investigation to the date of screening, May 18, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	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 \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$124

Violation Final Penalty Total \$19,200

This violation Final Assessed Penalty (adjusted for limits) \$19,200

## Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc.  
**Case ID No.** 39703  
**Reg. Ent. Reference No.** RN101516268  
**Media** Water Quality  
**Violation No.** 5

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	\$84	28-Jan-2010	29-Jan-2010	0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,000	28-Jan-2010	17-Dec-2010	0.88	\$6	\$118	\$124
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 actual cost to replace the chlorine fan in the chlorine storage room. Date required is the date the investigator documented the fan was inoperable and the final date is the date the fan was replaced. The estimated cost to maintain a SCBA. Date required is the date the investigator documented the SCBA was not operable and 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

\$2,084

TOTAL

\$124

Screening Date 18-May-2010

Docket No. 2010-0787-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39703

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101516268

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.11(d) and TPDES Permit No. WQ0011193001, Monitoring and Reporting Requirements No. 2.a

Violation Description Failed to provide accurate flow measurements that conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C. or methods that are equivalent as approved by the Executive Director. Specifically, on January 28, 2010, the investigator documented that the effluent head measurement was not taken at the proper location and that the ultra-sonic device was too close (less than four times the maximum expected head measurement) to the weir plate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential		X	5%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					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 the violation.

Adjustment \$9,500

\$500

Violation Events

1

110 Number of violation days

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

Violation Base Penalty \$500

One single event is recommended.

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$66

Violation Final Penalty Total \$960

This violation Final Assessed Penalty (adjusted for limits) \$960

# Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc.  
**Case ID No.** 39703  
**Reg. Ent. Reference No.** RN101516268  
**Media** Water Quality  
**Violation No.** 6

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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	28-Jan-2010	17-Dec-2010	0.88	\$66	n/a	\$66

Notes for DELAYED costs

The estimated cost to provide accurate flow measurements that conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C. or methods that are equivalent as approved by the Executive Director. Date required is the date the investigator documented the violation and 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

\$1,500

**TOTAL**

\$66

Aqua Utilities, Inc.  
Docket No. 2010-0787-MWD-E; RN101516268  
TPDES Permit No. WQ0011193001; Case No. 39703

<b>TABLE No. 1</b>			
<b>Date</b>	<b>Location</b>	<b>Amount Discharged</b>	<b>Description</b>
10/29/2008	5701 Brittmooore Road	5,000 gallons	Outside contractor cut the force main 10-inch sewer line and sewage was discharged into the storm sewer.
04/28/2009	6600-6500 Brittmooore Road	1,000 gallons	Overload tripped for lift station pump no. 2 causing the pump to stop working. Sewage was discharged from the manhole and into the storm sewer.

Table No. 2

Table rev.

Respondent	Aqua Utilities, Inc.
ID Number(s)	WQ0011193001; Enforcement Case No. 39703
Docket Number	2010-0787-MWD-E
Enf. Coordinator	Samuel Short

Corresponds to Violation Number: 4

**EFFLUENT PARAMETER**  
**Permit Limit**

	E.coli Daily Average	E.coli Daily Maximum	Ammonia Nitrogen Daily Average Concentration	Ammonia Nitrogen Daily Maximum	Ammonia Nitrogen Daily Average Loading								
<b>Month/Year</b>	126 CFU/100 ml	394 CFU/100 ml	5 mg/L	10 mg/L	33 lbs/dy								
8/31/2009	c	2,419.60	c	c	c								
11/30/2009	c	2,419.60	c	c	c								
12/31/2009	>1,210	>2,420	c	c	c								
1/31/2010	>890	>2,420	22.9	33.6	104.94								

Name	Abbreviation
pounds per day	lbs/dy
milligrams per liter	mg/L
Escherichia coli	E.coli
Colonies per 100 milliliter	CFU/100 ml

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602787509 Aqua Utilities, Inc.	Classification: AVERAGE	Rating: 1.94
Regulated Entity:	RN101516268 BRITTMORE UTILITY	Classification: AVERAGE	Site Rating: 2.81
ID Number(s):	WASTEWATER PERMIT		WQ0011193001
	WASTEWATER PERMIT		TPDES0075434
	WASTEWATER PERMIT		TX0075434
	WASTEWATER LICENSING LICENSE		WQ0011193001
Location:	located approximately 2,000 feet southeast of the intersection of Fisher and Brittmore Roads, Harris County, Texas		

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 12, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 12, 2005 to May 12, 2010

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

Name: Samuel Short Phone: (512) 239-5363

### 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
- 6.

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
- Effective Date: 02/18/2007 ADMINORDER 2006-0775-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.

Classification: Major

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

Rqmt Prov: TPDES#1193-001, Eff Lmt & Mon Req #1. ORDER

Description: Failed to meet quarterly WET limits of at least 100%.
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |
|---|------------|----------|
| 1 | 05/23/2005 | (423961) |
| 2 | 06/23/2005 | (423962) |
| 3 | 06/24/2005 | (423963) |
| 4 | 09/02/2005 | (444762) |
| 5 | 09/23/2005 | (444763) |
| 6 | 10/24/2005 | (444764) |

7	11/29/2005	(475594)
8	12/20/2005	(475595)
9	01/23/2006	(475596)
10	02/22/2006	(475591)
11	03/07/2006	(452272)
12	03/20/2006	(502997)
13	03/30/2006	(475592)
14	03/30/2006	(475593)
15	05/22/2006	(465018)
16	05/22/2006	(508635)
17	05/23/2006	(502998)
18	06/08/2006	(481744)
19	06/16/2006	(502999)
20	07/06/2006	(479776)
21	07/17/2006	(486637)
22	08/25/2006	(525332)
23	08/29/2006	(525334)
24	08/29/2006	(525335)
25	09/19/2006	(525333)
26	11/20/2006	(550058)
27	12/18/2006	(550059)
28	02/13/2007	(550057)
29	03/19/2007	(584978)
30	04/26/2007	(584979)
31	04/26/2007	(584982)
32	05/14/2007	(584980)
33	06/18/2007	(584981)
34	08/20/2007	(608523)
35	08/22/2007	(608520)
36	09/11/2007	(608521)
37	10/15/2007	(608522)
38	10/24/2007	(598893)
39	11/12/2007	(623450)
40	12/14/2007	(623451)
41	02/18/2008	(674765)
42	03/19/2008	(674766)
43	04/17/2008	(674767)
44	04/17/2008	(674768)
45	05/05/2008	(637676)
46	05/19/2008	(693090)
47	06/16/2008	(693091)
48	08/26/2008	(714319)
49	09/26/2008	(714320)
50	11/04/2008	(714321)
51	11/04/2008	(714322)
52	11/17/2008	(730301)
53	12/18/2008	(730302)
54	02/20/2009	(753512)
55	03/04/2009	(726820)
56	03/12/2009	(753514)
57	03/17/2009	(753513)
58	04/24/2009	(753515)
59	05/14/2009	(770981)
60	06/12/2009	(770982)

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

Date: 09/30/2005 (444764) CN602787509  
 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 (475596) CN602787509  
 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	01/31/2006 (475591)	CN602787509	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/28/2006 (502997)	CN602787509	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/07/2006 (452272)	CN602787509	
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(d)		
Description:	Failure to properly operate and maintain the clarifier.		
Self Report?	NO	Classification	Major
Citation:	30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(1)		
Description:	Failure to prevent the unauthorized discharge of wastewater from the collection system.		
Date	05/22/2006 (508635)	CN602787509	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date	02/29/2008 (674766)	CN602787509	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/05/2008 (637676)	CN602787509	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.126(a)		
Description:	Failure to initiate engineering and financial planning for expansion of the domestic wastewater plant and/or collection system. The flow was greater than 75% of the permit limit in Janaury 2007, March - July 2007, and November 2007. In addition, the flows for May and July 2007 were greater than 90% of the permit limit.		
Self Report?	NO	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d) 2D TWC Chapter 26, SubChapter A 26.121(e) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(2)		
Description:	Failure to prevent the unauthorized discharge of untreated or partially treated wastewater.		
Date	09/30/2008 (714321)	CN602787509	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2008 (730301)	CN602787509	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date 08/31/2009 CN602787509  
Self Report? YES Classification Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date 11/31/2009 CN602787509  
Self Report? YES Classification Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2009 CN602787509  
Self Report? YES Classification Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date 01/31/2010 CN602787509  
Self Report? YES Classification Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>AQUA UTILITIES, INC.</b>	<b>§</b>	
<b>RN101516268</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

## **AGREED ORDER DOCKET NO. 2010-0787-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Aqua Utilities, Inc. (“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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

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

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

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater treatment facility and an associated collection system located approximately 2,000 feet southeast of the intersection of Fisher and Brittmoores Roads in Harris County, Texas (the “Facility”).
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. During an investigation on January 20, 2010, TCEQ staff documented that during the period of October 2008 through April 2009, the Respondent reported two unauthorized discharges from the collection system as shown in the table below.

<b>TABLE No. 1</b>			
Date	Location	Amount Discharged	Description
10/29/2008	5701 Brittmooore Road	5,000 gallons	Outside contractor cut the force main 10-inch sewer line and sewage was discharged into the storm sewer.
04/28/2009	6600-6500 Brittmooore Road	1,000 gallons	Overload tripped for lift station pump no. 2 causing the pump to stop working. Sewage was discharged from the manhole and into the storm sewer.

4. During an investigation on January 20, 2010, TCEQ staff documented that beginning in June 2009, the Respondent experienced a recurring issue that resulted in aeration foam discharging over the aeration tank and onto the ground, totaling an estimated 26,450 gallons.
5. During investigations on January 20, 2010 and January 28, 2010, TCEQ staff documented discharges of excessive solids and foam into the receiving stream. Specifically, on January 20, 2010, there were floating solids and small pieces of plastic in the chlorine contact chamber, the aeration basin thirty-minute settled solids level was 90%, the freeboard in the aeration basin was only three to eight inches from the top depending on the thickness of the foam, the sludge blanket in the clarifier was 9 foot in a 13-foot water depth, and that there were excessive floating solids and foam in the receiving stream. Sample results indicated elevated levels of total suspended solids ("TSS") with a result of 1,080 milligrams per liter ("mg/L") downstream of the outfall and only 7 mg/L upstream of the outfall. On January 28, 2010, floating solids and foam were in the receiving stream. Sample results indicated elevated levels of ammonia nitrogen and Escherichia coli ("E.coli") with an ammonia nitrogen level of 24.5 mg/L at the outfall and E.coli levels of 480 Most Probable Number ("MPN") at the outfall, 3,000 MPN 300 feet downstream, and only 160 MPN upstream of the outfall. Also, sludge was observed on the outside walls of the aeration basin and on the ground around the aeration basin.
6. During a record review on May 18, 2010, TCEQ staff documented the following effluent values based on the self-reported discharge monitoring reports ("DMR").

**EFFLUENT PARAMETER**

**Permit Limit**

	E.coli Daily Average	E.coli Daily Maximum	Ammonia Nitrogen Daily Average Concentration	Ammonia Nitrogen Daily Maximum	Ammonia Nitrogen Daily Average Loading
<b>Month/Year</b>	126 CFU/100 ml	394 CFU/100 ml	5 mg/L	10 mg/L	33 lbs/dy
8/31/2009	c	2,419.6	c	c	c
11/30/2009	c	2,419.6	c	c	c
12/31/2009	>1,210	>2,420	c	c	c
1/31/2010	>890	>2,420	22.9	33.6	104.94

Name	Abbreviation
pounds per day	lbs/dy
milligrams per liter	mg/L
Escherichia coli	E.coli
Colonies per 100 milliliter	CFU/100 ml

7. During an investigation on January 28, 2010, TCEQ staff documented that the chlorine fan was inoperable.
8. During an investigation on January 28, 2010, TCEQ staff documented that the self-contained breathing apparatus ("SCBA") was not operable.
9. During an investigation on January 28, 2010, TCEQ staff documented the effluent head measurement was not taken at the proper location and that the ultra-sonic device was too close (less than four times the maximum expected head measurement) to the weir plate.
10. The Respondent received notice of the violations on April 15, 2010.
11. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. By January 26, 2010, the Respondent cleaned up all noted discharges from the collection system and aeration tank;
  - b. On January 29, 2010, replaced the chlorine fan in the chlorine storage room;
  - c. On February 16, 2010, returned the aeration basin thirty-minute settled solids level to 30% and returned the sludge blanket level to 1.5 feet; and

- d. Implemented the following corrective measures at the Facility as indicated in the table below.

<b>Corrective Action Table</b>			
Date of discharge	Date action was completed	Location	Description
10/29/2008	10/29/2008	5701 Brittmoore Road	Repaired the sewer line.
04/28/2009	04/28/2009	6600-6500 Brittmoore Road	Reset the overload on lift station pump no. 2.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharges of wastewater, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ001193001, Permit Conditions No. 2.g.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent the unauthorized discharges of wastewater, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ001193001, Permit Conditions No. 2.g.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to prevent the discharge of excessive solids and foam into the receiving stream, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE §§ 305.125(1) and (5), and 317.4(g)(2), and TPDES Permit No. WQ001193001, Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions No. 2.d, and Operational Requirements No. 1.
5. As evidenced by Findings of Fact No. 6, the Respondent failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ001193001, Interim Effluent Limitations and Monitoring Requirements No. 1.
6. As evidenced by Findings of Fact Nos. 7 and 8, the Respondent failed to provide forced mechanical ventilation in the chlorine storage room and to maintain the SCBA, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (5) and 317.6(b)(1)(D) and (b)(1)(E) and TPDES Permit No. WQ001193001, Operational Requirements No. 1.
7. As evidenced by Findings of Fact No. 9, the Respondent failed to provide accurate flow measurements that conform to those prescribed in the Water Measurements Manual,

United States Department of the Interior Bureau of Reclamation, Washington, D.C. or methods that are equivalent as approved by the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(d) and TPDES Permit No. WQ0011193001, Monitoring and Reporting Requirements No. 2.a.

8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of Eighty-Six Thousand Eight Hundred Sixty Dollars (\$86,860) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Eighty-Six Thousand Eight Hundred Sixty Dollar (\$86,860) administrative penalty.

### **III. ORDERING PROVISIONS**

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

1. The Respondent is assessed an administrative penalty in the amount of Eighty-Six Thousand Eight Hundred Sixty Dollars (\$86,860) as set forth in Section II, Paragraph 9 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Utilities, Inc., Docket No. 2010-0787-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 Respondent shall undertake the following technical requirements:
  - a. Within 15 days after the effective date of this Agreed Order:
    - i. Develop and implement procedures to ensure that accurate flow measurements conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation,

Washington, D.C. or methods that are equivalent as approved by the Executive Director, in accordance with TPDES Permit No. WQ001193001, Monitoring and Reporting Requirements No. 2; and

- ii. Begin maintaining the SCBA in good working order, in accordance with 30 TEX. ADMIN. CODE 317.6(b)(1)(D).
- b. Within 30 days after the effective date of this Agreed Order:
    - i. Remove and properly dispose of all sludge, foam, plastics, and solids from the receiving stream and from the chlorine contact chamber; and
    - ii. Develop and implement procedures to ensure that the required 18 inches of freeboard in the aeration basin is being maintained, in accordance with 30 TEX. ADMIN. CODE § 317.4(g)(2).
  - c. Within 60 days after the effective date of this Agreed Order, conduct an engineering evaluation of the Facility and the associated collection system to evaluate the cause of and necessary corrective actions designed to maintain compliance with the permitted effluent limitations of TPDES Permit No. WQ001193001, and to prevent the accumulation of plastics in the chlorine contact chamber, the discharges from the aeration tank, and the discharge of excessive solids and foam into the receiving stream. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of necessary corrective actions within 270 days after the effective date of this Agreed Order;
  - d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions Nos. 2.a.i, 2.a.ii, 2.b.i, 2.b.ii, and 2.c, as described in ordering provision 2.g;
  - e. Within 285 days after the effective date of this Agreed Order, submit written certification of completion of the corrective actions designed to maintain compliance with the permitted effluent limitations of TPDES Permit No. WQ001193001, and to prevent the accumulation of plastics in the chlorine contact chamber, the discharges from the aeration tank, and the discharge of excessive solids and foam into the receiving stream, as prescribed by the engineering evaluation required by Ordering Provision No. 2.c, and as described in ordering provision 2.g;
  - f. Within 365 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ001193001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three

consecutive months of compliance with all permitted effluent limitations, as described in ordering provision 2.g;

- g. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

\_\_\_\_\_  
Date 1/21/2011

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

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Robert L. Laughman  
Signature

10/11/2010  
Date

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

President  
Title

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