EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1957-MLM-E **TCEQ ID:** RN100843143 **CASE NO.:** 40812

RESPONDENT NAME: Aqua Texas, Inc.

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	X MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	X UTILITIES

SITE WHERE VIOLATION(S) OCCURRED: Sandy Creek Ranches Subdivision, off Round Mountain Road and Farm-to-Market Road 2243, six miles west of Leander, Travis County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ___ **Yes** X **No**

OTHER SIGNIFICANT MATTERS: A complaint was received on June 30, 2010 alleging prolonged water outages. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 16, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Stephen Thompson, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2558; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: Mr. Robert L. Laughman, President, Aqua Texas, Inc., 1106 Clayton Lane, Suite 400 West, Austin, Texas 78723

Mr. Steve Blackhurst, P.E., Regulatory and Compliance Manager, Aqua Texas, Inc., 1106 Clayton Lane, Suite 400 West, Austin, Texas 78723

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: X Complaint __ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** June 30, 2010 **Date of Investigation Relating to this Case:** July 6, 2010 **Date of NOV/NOE Relating to this Case:** November 12, 2010 (NOE) **Background Facts:** This was a complaint investigation. **WATER** 1) Failed to provide all water supply wells with a flow measuring device [30 TEX. ADMIN. CODE § 290.41(c)(3)(N)]. 2) Failed to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system at all times [30 TEX. ADMIN. CODE § 290.46(r)]. 3) Failed to furnish, operate and maintain production, storage, transmission and distribution facilities of sufficient size and capacity to provide a continuous and adequate supply of water for all consumer demands [30 TEX. ADMIN. CODE § 291.93].	**Total Assessed:** $2,987 **Total Deferred:** $597 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $2,390 **Compliance History Classifications:** Person/CN - Average Site/RN – N/A **Major Source:** X **Yes** __ **No** **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that on December 8, 2010, the Respondent installed flow measuring devices on Summit View Well No. 2 and Live Oak Well No. 7. **Ordering Provisions:** The Order will require the Respondent to: a. Immediately upon the effective date of this Agreed Order, provide notification via phone call or e-mail to the TCEQ Austin Regional Office of an outage in the distribution system as soon as possible but no later than 24 hours after the outage began. Notification shall also be made in the event of low distribution pressures (below 35 psi) sustained longer than 24 hours. Within 5 days of the initial notification, submit a written report to the TCEQ Austin Regional Office which shall include the cause of the outage, date, time, duration, location, approximate number of customers affected, any special precautions taken, a detailed description of the corrective actions taken, and the steps taken to prevent recurrence. The notification must also include the contact information for a responsible official; b. Within 30 days after the effective date of this Agreed Order, submit a copy of the Facility's plant operation manual that includes detailed emergency procedures to be taken in the event of a water outage or a sustained low pressure event. The emergency procedures must include provisions which will be taken to ensure that water service is restored to the affected customers within the shortest possible timeframe. The emergency operating procedures shall be submitted to the TCEQ Austin Regional Office for review and approval; c. Within 90 days after the effective date of this Agreed Order, and on a quarterly basis thereafter, submit a

		report to the TCEQ that describes the progress that has been made toward the completion of Ordering Provision d. The progress report shall also contain copies of water outage or low water pressure compliants and maintenance activities that occurred within the 90-day period prior to the compilation of the report; d. Within 730 days after the effective date of this Agreed Order, make modifications to the Facility's distribution system in order to reduce the likelihood of the occurrence of prolonged water outages so that a minimum pressure of 35 psi can be maintained throughout the distribution system under normal operating conditions and a continuous and adequate supply of water can be provided to all customers; and e. Within 745 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.

Additional ID No(s).: PWS ID No. 2270054

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES						
Assigned	15-Nov-2010					
PCW	18-Feb-2011	**Screening**	6-Dec-2010	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	Aqua Texas, Inc.		
Reg. Ent. Ref. No.	RN100843143		
Facility/Site Region	11-Austin	**Major/Minor Source**	Major

CASE INFORMATION

Enf./Case ID No.	40812	**No. of Violations**	3
Docket No.	2010-1957-MLM-E	**Order Type**	1660
Media Program(s)	Public Water Supply	**Government/Non-Profit**	No
Multi-Media	Public Water Utilities	**Enf. Coordinator**	Stephen Thompson
		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* **$1,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **11.0%** Enhancement — *Subtotals 2, 3, & 7* **$192**

Notes: Enhancement for one NOV with same/similar violations and three NOVs with dissimilar violations.

Culpability No **0.0%** Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* **$100**

Economic Benefit **50.0%** Enhancement* — *Subtotal 6* **$875**

Total EB Amounts $16,875
Approx. Cost of Compliance $100,600
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$2,717**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$2,717**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$2,717**

DEFERRAL **20.0%** Reduction — *Adjustment* **-$543**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$2,174**

Screening Date 6-Dec-2010 **Docket No.** 2010-1957-MLM-E **PCW**

Respondent Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40812

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100843143

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	1	5%
	Other written NOVs	3	6%
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) 11%

>> 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 for one NOV with same/similar violations and three NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 11%

Screening Date 6-Dec-2010 **Docket No.** 2010-1957-MLM-E **PCW**

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

Case ID No. 40812 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN100843143

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(N)

Violation Description Failed to provide all water supply wells with a flow measuring device. Specifically, at the time of the investigation, it was documented that Summit View Well No. 2 and Live Oak Well No. 7 did not have well meters installed.

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 for the well could lead to incorrect water usage calculations and prevent the operator from obtaining accurate well production data and determining proper amounts of disinfection of raw water, thereby exposing consumers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events: 4 — 153 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

Four quarterly events (two for each well) are recommended, calculated from the date of the investigation, July 6, 2010, to the date of screening, December 6, 2010.

Good Faith Efforts to Comply

10.0% Reduction — $100

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

Notes: The Respondent achieved compliance on December 8, 2010.

Violation Subtotal $900

Economic Benefit (EB) for this violation

Estimated EB Amount $18

Statutory Limit Test

Violation Final Penalty Total $1,510

This violation Final Assessed Penalty (adjusted for limits) $1,510

Economic Benefit Worksheet

Respondent Aqua Texas, Inc.
Case ID No. 40812
Req. Ent. Reference No. RN100843143
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	$600	6-Jul-2010	8-Dec-2010	0.42	$1	$17	$18
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 delayed costs include the estimated amount to install well meters, calculated from the date of the investigation to 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 $600

TOTAL $18

Screening Date 6-Dec-2010 **Docket No.** 2010-1957-MLM-E **PCW**

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

Case ID No. 40812 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN100843143

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.46(r)

Violation Description Failed to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system at all times. Specifically, data retrieved from a pressure recorder that was installed on July 6, 2010 revealed that the Facility's water pressure remained below 20 psi from 2:35 p.m. on July 6, 2010 to 11:35 a.m. on July 8, 2010.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to maintain adequate pressure throughout the distribution system at all times may result in backflow or siphonage and expose consumers to a significant amount of contaminants which would exceed levels protective of human health.

Adjustment $500

$500

Violation Events

Number of Violation Events: 1 — 2 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $500

One monthly event is recommended based on the number of days that customers experienced low water pressure.

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 $500

Economic Benefit (EB) for this violation

Estimated EB Amount $16,858

Statutory Limit Test

Violation Final Penalty Total $805

This violation Final Assessed Penalty (adjusted for limits) $805

Economic Benefit Worksheet

Respondent Aqua Texas, Inc.
Case ID No. 40812
Reg. Ent. Reference No. RN100843143
Media Public Water Supply
Violation No. 2

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	$100,000	6-Jul-2010	1-Dec-2012	2.41	$803	$16,055	$16,858
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 delayed costs include the estimated amount necessary to make modifications to the distribution system to prevent the occurrence of prolonged water outages, calculated from the date of the investigation to 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 $100,000

TOTAL $16,858

Screening Date 6-Dec-2010 **Docket No.** 2010-1957-MLM-E **PCW**

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

Case ID No. 40812 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN100843143

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(r)

Violation Description Failed to maintain a minimum pressure of 35 psi throughout the distribution system at all times. Specifically, data retrieved from a pressure recorder that was installed on July 6, 2010 revealed that the Facility's water pressure dropped to between 29 and 31 psi on July 11, 2010 from 7:05 p.m. to 8:35 p.m.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to maintain adequate pressure throughout the distribution system at all times may result in the distribution of poor-quality water and expose consumers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 1 — 1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $250

One single event is recommended for the date of the low pressure occurrence.

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 $250

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $403

This violation Final Assessed Penalty (adjusted for limits) $403

Economic Benefit Worksheet

Respondent Aqua Texas, Inc.
Case ID No. 40812
Req. Ent. Reference No. RN100843143
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							
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 delayed costs for this violation are associated to with violation no. 2.						
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

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES						
Assigned	15-Nov-2010					
PCW	28-Dec-2010	**Screening**	6-Dec-2010	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	Aqua Texas, Inc.		
Reg. Ent. Ref. No.	RN100843143		
Facility/Site Region	11-Austin	**Major/Minor Source**	Major

CASE INFORMATION

Enf./Case ID No.	40812	**No. of Violations**	1
Docket No.	2010-1957-MLM-E	**Order Type**	1660
Media Program(s)	Public Water Utilities	**Government/Non-Profit**	No
Multi-Media	Public Water Supply	**Enf. Coordinator**	Stephen Thompson
		EC's Team	Enforcement Team 2

Admin. Penalty $ Limit Minimum $0 Maximum $500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 8.0% Enhancement — *Subtotals 2, 3, & 7* $20

Notes: Enhancement for four NOVs with dissimilar violations.

Culpability No — 0.0% Enhancement — *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* $0

Economic Benefit — 0.0% Enhancement* — *Subtotal 6* $0

Total EB Amounts $0
Approx. Cost of Compliance $0

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $270

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $270

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $270

DEFERRAL 20.0% Reduction — *Adjustment* -$54

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $216

Screening Date 6-Dec-2010 **Docket No.** 2010-1957-MLM-E **PCW**

Respondent Aqua Texas, Inc.

Case ID No. 40812

Reg. Ent. Reference No. RN100843143

Media [Statute] Public Water Utilities

Enf. Coordinator Stephen Thompson

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	4	8%
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) 8%

>> 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 for four NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 8%

Screening Date 6-Dec-2010 **Docket No.** 2010-1957-MLM-E **PCW**

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

Case ID No. 40812 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN100843143

Media [Statute] Public Water Utilities

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 291.93

Violation Description Failed to furnish, operate and maintain production, storage, transmission and distribution facilities of sufficient size and capacity to provide a continuous and adequate supply of water for all consumer demands. Specifically, at the time of the investigation, it was documented that the Live Oak standpipe was out of water. Additionally, a review of Facility records showed that the utility received 48 complaints of water outages between June 18 and July 6, 2010. During previous investigations, it was noted that the Facility had a history of water outages due to line breaks during which time a recommendation was made to replace distribution lines to ensure adequate and continuous service in the future.

Base Penalty $500

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to provide a continuous and adequate supply of water could result in consumers being exposed to a significant amount of contaminants which would exceed levels protective of human health.

Adjustment $250

$250

Violation Events

Number of Violation Events: 1 — 18 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $250

One monthly event is recommended, calculated for the period during which complaints were received due to water outages.

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 $250

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $270

This violation Final Assessed Penalty (adjusted for limits) $270

Economic Benefit Worksheet

Respondent Aqua Texas, Inc.
Case ID No. 40812
Reg. Ent. Reference No. RN100843143
Media Public Water Utilities
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				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 costs for this violation are associated with violation no. 2 on PCW no. 1.						
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

Compliance History

Customer/Respondent/Owner-Operator:	CN601570773	Aqua Texas, Inc.	Classification: AVERAGE	Rating: 1.70
Regulated Entity:	RN100843143	SANDY CREEK RANCHES SUBDIVISION	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		2270054

Location: Off Round Mountain Rd and FM 2243 six miles west of Leander, Travis County, TX

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: November 24, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 24, 2005 to November 24, 2010

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

Name: Stephen Thompson Phone: (512) 239-2558

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 judgments, 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 07/14/2008 (680614)

2 12/23/2008 (722018)

3 04/02/2010 (797804)

4 07/20/2010 (841665)

5 11/10/2010 (873429)

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

Date: 11/18/2008 (706599) CN601570773

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to ensure that all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances shall be maintained in a watertight condition and be free of excessive solids. [30 TAC 290.46 (m)(4)].

Date: 09/23/2009 (775186) CN601570773

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)
30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: The system failed to maintain an adequate disinfectant residual throughout the distribution system.

Date: 12/10/2009 (776499) CN601570773

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
30 TAC Chapter 290, SubChapter D 290.46(r)

Description: Sandy Creek Ranches failed to maintain a minimum pressure of 35 PSI at all points within the distribution system under normal operating conditions.

Date: 07/19/2010 (841665) CN601570773

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)

Description: Failure to submit requested documentation which is required by 30 TAC Chapter 290, Subchapter D.

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. RN100843143	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1957-MLM-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 and TEX. WATER CODE ch. 13. 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 off Round Mountain Road and Farm-to-Market Road 2243, six miles west of Leander in Travis County, Texas (the "Facility") that has approximately 624 service connections and serves at least 25 people per day for at least 60 days per year.

2. The Respondent owns and operates, in Texas and for compensation, equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use. The Respondent is not exempt from regulation under TEX. WATER. CODE ch. 13 or the rules of the Commission.

3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 17, 2010.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Nine Hundred Eighty-Seven Dollars ($2,987) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Three Hundred Ninety Dollars ($2,390) of the administrative penalty and Five Hundred Ninety-Seven Dollars ($597) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that on December 8, 2010, the Respondent installed flow measuring devices on Summit View Well No. 2 and Live Oak Well No. 7.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide all water supply wells with a flow measuring device, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N), as documented during an investigation conducted on July 6, 2010.

2. Failed to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE § 290.46(r), as documented during an investigation conducted on July 6, 2010.

3. Failed to furnish, operate and maintain production, storage, transmission and distribution facilities of sufficient size and capacity to provide a continuous and adequate supply of water for all consumer demands, in violation of 30 TEX. ADMIN. CODE § 291.93, as documented during an investigation conducted on July 6, 2010.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Texas, Inc., Docket No. 2010-1957-MLM-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. Immediately upon the effective date of this Agreed Order, provide notification via phone call or e-mail to the TCEQ Austin Regional Office of an outage in the distribution system as soon as possible but no later than 24 hours after the outage began. Notification shall also be made in the event of low distribution pressures (below 35 psi) sustained longer than 24 hours. Within 5 days of the initial notification, submit a written report to the TCEQ Austin Regional Office which shall include the cause of the outage, date, time, duration, location, approximate number of customers affected, any special precautions taken, a detailed description of the corrective actions taken, and the steps taken to prevent recurrence. The notification must also include the contact information for a responsible official. All notifications shall be submitted to:

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

   b. Within 30 days after the effective date of this Agreed Order, submit a copy of the Facility's plant operation manual that includes detailed emergency procedures to be taken in the event of a water outage or a sustained low pressure event. The emergency procedures must include provisions which will be taken to ensure that water service is restored to the affected customers within the shortest possible timeframe. The emergency operating procedures shall be submitted to the TCEQ

Austin Regional Office for review and approval. Copies of the approved emergency operating procedures shall be submitted to the addresses listed in Ordering Provision No. 2.e;

c. Within 90 days after the effective date of this Agreed Order, and on a quarterly basis thereafter, submit a report to the TCEQ that describes the progress that has been made toward the completion of Ordering Provision No 2.d. The progress report shall also contain copies of water outage or low water pressure compliants and maintenance activities that occurred within the 90-day period prior to the compilation of the report. Copies of the progress reports shall be submitted to the addresses listed in Ordering Provision No. 2.e;

d. Within 730 days after the effective date of this Agreed Order, make modifications to the Facility's distribution system in order to reduce the likelihood of the occurrence of prolonged water outages so that a minimum pressure of 35 psi can be maintained throughout the distribution system under normal operating conditions and a continuous and adequate supply of water can be provided to all customers, in accordance with 30 TEX. ADMIN. CODE §§ 290.46 and 291.93; and

e. Within 745 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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 4/26/2011
For the Executive Director 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.

_____ March 2, 2011
Signature Date

DER BAR LEM

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

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.