

Executive Summary – Enforcement Matter – Case No. 42921
Aqua Utilities, Inc.
RN101513109
Docket No. 2011-2070-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Buffalo Creek WWTP, located approximately 400 feet south of Rockwall Lake Dam and approximately 400 feet northwest of the point where the Farm-to-Market Road 3097 crosses Buffalo Creek, Rockwall County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: March 23, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$19,800

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$19,800

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

**Executive Summary – Enforcement Matter – Case No. 42921
Aqua Utilities, Inc.
RN101513109
Docket No. 2011-2070-MWD-E**

Investigation Information

Complaint Date(s): September 28, 2011

Complaint Information: Persistent odor coming from the Facility

Date(s) of Investigation: September 30, 2011 and October 24, 2011

Date(s) of NOE(s): November 7, 2011

Violation Information

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained which resulted in the discharge and accumulation of sludge in the receiving stream [Texas Pollutant Discharge Elimination System Permit No. WQ0011974001, Operational Requirements No. 1, Effluent Limitations and Monitoring Requirements No. 4, and Permit Conditions No. 2.d., 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Facility:

- a. By October 31, 2011, removed the floating solids from the clarifier and chlorine contact chamber and removed and properly disposed of the sludge in the receiving stream; and
- b. By December 17, 2012, entered into an agreement with the City of Rockwall to interconnect the Facility's collection system to the City's collection system.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 120 days, submit written certification that construction of the tie-in has been initiated;
- b. Within 270 days, submit written certification and a final report that the interconnect for the Facility to the City of Rockwall has been completed and all wastewater flows into the interconnect.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 42921
Aqua Utilities, Inc.
RN101513109
Docket No. 2011-2070-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division,
Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Nicholas Debenedictis, Director, Aqua Utilities, Inc., 762 West
Lancaster Avenue, Bryn Mawr, Pennsylvania 19010
Robert Laughman, President, Aqua Utilities, Inc., 762 West Lancaster Avenue, Bryn
Mawr, Pennsylvania 19010

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	7-Nov-2011	Screening	7-Nov-2011	EPA Due	
	PCW	11-Apr-2013				

RESPONDENT/FACILITY INFORMATION			
Respondent	Aqua Utilities, Inc.		
Reg. Ent. Ref. No.	RN101513109		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42921	No. of Violations	1
Docket No.	2011-2070-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	32.0% Enhancement	Subtotals 2, 3, & 7
		\$4,800

Notes: Enhancement for one NOV with same/similar violations, one NOV with dissimilar violations, and five months of self-reported effluent violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$11,730	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$107,500		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$19,800
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$19,800
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$19,800
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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.

PAYABLE PENALTY	\$19,800
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Screening Date 7-Nov-2011

Docket No. 2011-2070-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 42921

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101513109

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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 (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 32%

>> 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 for one NOV with same/similar violations, one NOV with dissimilar violations, and five months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 32%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 32%

Screening Date 7-Nov-2011
Respondent Aqua Utilities, Inc.
Case ID No. 42921

Docket No. 2011-2070-MWD-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101513109
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.
Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System Permit No. WQ0011974001, Operational Requirements No. 1, Effluent Limitations and Monitoring Requirements No. 4, and Permit Conditions No. 2.d., 30 Tex. Admin. Code § 305.125(1) and (5) and Tex. Water Code § 26.121(a)

Violation Description Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained which resulted in the discharge and accumulation of sludge in the receiving stream. Specifically, during the September 30, 2011 investigation, the blowers in the aeration basin were not functioning and there was an excessive amount of foam on the surface, the skimmer in the clarifier was not functioning and there were excessive floating solids throughout the clarifier. Floating solids were also in the chlorine contact chamber and the water was turbid, resulting in the discharge of fresh sludge accumulation in the receiving stream for approximately 100 feet downstream of the outfall. Samples collected approximately 100 feet downstream indicated fecal coliform levels of 2,800 colonies/100 milliliters.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			30.0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
Human health or the environment has been exposed to significant amounts of pollutants which exceeded levels that are protective of human health or environmental receptors.				0.0%

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two monthly events are recommended from the investigation date of September 30, 2011 to the screening date of November 7, 2011.

Good Faith Efforts to Comply

	<input type="text" value="0.0%"/>	Reduction	<input type="text" value="\$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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11,730

Violation Final Penalty Total \$19,800

This violation Final Assessed Penalty (adjusted for limits) \$19,800

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 42921
Reg. Ent. Reference No. RN101513109
Media Water Quality
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	\$7,500	30-Sep-2011	31-Oct-2011	0.08	\$32	n/a	\$32
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100,000	30-Sep-2011	31-Jan-2014	2.34	\$11,699	n/a	\$11,699

Notes for DELAYED costs

Estimated cost to remove the floating solids from the clarifier and chlorine contact chamber, to properly remove and dispose of all accumulations of sludge in the receiving stream. Date required is the investigation date and the final date is the date of compliance. Estimated cost to interconnect the collection system with the City of Rockwall collection system. Date required is the investigation date and the final date is the expected 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

\$107,500

TOTAL

\$11,730

Compliance History

Customer/Respondent/Owner-Operator:	CN602787509 Aqua Utilities, Inc.	Classification: AVERAGE	Rating: 1.88
Regulated Entity:	RN101513109 BUFFALO CREEK WWTP	Classification: AVERAGE	Site Rating: 0.32
ID Number(s):	WASTEWATER	PERMIT	WQ0011974001
	WASTEWATER	EPA ID	TX0066401
	WASTEWATER LICENSING	LICENSE	WQ0011974001
Location:	LOCATED APPROX 400 FT S OF ROCKWALL LAKE DAM AND APPROX 400 FT NW OF THE POINT WHERE THE FM RD 3097 CROSSES BUFFALO CREEK IN ROCKWALL COUNTY		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	November 07, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 07, 2006 to November 07, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Jorge Ibarra, P.E.	Phone:	(817) 588-5890

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. Rating Date: 9/1/2011 Repeat Violator: NO

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	11/08/2006	(518478)
2	02/26/2007	(583420)
3	03/20/2007	(583421)
4	04/24/2007	(583422)
5	05/24/2007	(583423)
6	06/21/2007	(583424)
7	11/21/2006	(583426)
8	12/27/2006	(583427)
9	01/22/2007	(583428)
10	11/30/2007	(600890)
11	07/20/2007	(603929)
12	08/29/2007	(603930)
13	09/24/2007	(603931)
14	10/22/2007	(622746)
15	11/19/2007	(622747)
16	12/28/2007	(622748)
17	04/29/2008	(654162)
18	02/20/2008	(674260)
19	01/23/2008	(674261)
20	03/26/2008	(692590)
21	04/28/2008	(692591)
22	05/21/2008	(692592)
23	06/23/2008	(713720)
24	07/23/2008	(713721)

25 08/22/2008 (713722)
 26 12/12/2008 (720975)
 27 10/23/2008 (729726)
 28 11/25/2008 (729727)
 29 11/30/2008 (729728)
 30 02/24/2009 (752963)
 31 09/25/2008 (752964)
 32 01/20/2009 (752965)
 33 08/07/2009 (764872)
 34 03/25/2009 (770554)
 35 04/16/2009 (770555)
 36 05/26/2009 (770556)
 37 02/22/2010 (811383)
 38 06/23/2009 (811384)
 39 07/30/2009 (811385)
 40 09/01/2009 (811386)
 41 09/21/2009 (811387)
 42 10/21/2009 (811388)
 43 11/23/2009 (811389)
 44 12/28/2009 (811390)
 45 01/26/2010 (811391)
 46 03/29/2010 (833195)
 47 04/21/2010 (833196)
 48 05/24/2010 (833197)
 49 06/23/2010 (846995)
 50 09/28/2010 (867756)
 51 08/23/2010 (867757)
 52 09/23/2010 (874717)
 53 10/22/2010 (882305)
 54 11/29/2010 (888769)
 55 12/22/2010 (897119)
 56 01/24/2011 (903034)
 57 02/22/2011 (909903)
 58 03/21/2011 (917142)
 59 04/18/2011 (927472)
 60 05/20/2011 (938837)
 61 06/22/2011 (946205)
 62 07/22/2011 (953475)
 63 08/25/2011 (960108)

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

Date:	06/30/2007 (603929)	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:	07/31/2007 (603930)	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:	10/31/2007 (600890)	CN602787509
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 wastewater.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to comply with the total chlorine residual maximum permit limit of 4.0 mg/l.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to comply with the effluent permit limits.

Date: 02/29/2008 (692590) 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: 03/31/2008 (692591) 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: 11/30/2008 (729728) 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: 07/13/2009 (747468) CN602787509
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.3(e)(5)
Description: Failure to provide an adequate audio-visual alarm system at the lift station.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AQUA UTILITIES, INC.
RN101513109

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-2070-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 plant located approximately 400 feet south of Rockwall Lake Dam and approximately 400 feet northwest of the point where the Farm-to-Market Road 3097 crosses Buffalo Creek in Rockwall 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 September 30, 2011 and a follow-up investigation on October 24, 2011, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the blowers in the aeration basin were not functioning and there was an excessive amount of foam in the surface, the skimmer in the clarifier was not functioning and there were excessive floating solids throughout the clarifier, floating solids were also in the chlorine contact chamber ("CCC") and the water was turbid, resulting in the discharge of fresh sludge accumulation in the receiving stream for approximately 100 feet downstream of the outfall. Samples collected approximately 100 feet downstream indicated fecal coliform levels of 2,800 colonies/100 milliliters.
4. The Respondent received notice of the violations on November 12, 2011.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - i. By October 31, 2011, removed the floating solids from the clarifier and CCC and removed and properly disposed of the sludge in the receiving stream; and
 - ii. By December 17, 2012, entered into an agreement with the City of Rockwall (the "City") to interconnect the Facility's collection system to the City's collection system.

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 ensure that all systems of collection, treatment, and disposal are properly operated and maintained which resulted in the discharge and accumulation of sludge in the receiving stream, in violation of Texas Pollutant Discharge Elimination System Permit No. WQ0011974001, Operational Requirements No. 1, Effluent Limitations and Monitoring Requirements No. 4, and Permit Conditions No. 2.d., 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TEX. WATER CODE § 26.121(a).
3. 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.

4. An administrative penalty in the amount of Nineteen Thousand Eight Hundred Dollars (\$19,800) 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 Nineteen Thousand Eight Hundred Dollar (\$19,800) 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 Nineteen Thousand Eight Hundred Dollars (\$19,800) as set forth in Section II, Paragraph 4 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. 2011-2070-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 120 days after the effective date of this order, submit written certification that construction of the tie-in has been initiated;
 - b. Within 270 days after the effective date of this Agreed Order, submit written certification and a final report that the interconnect for the Facility to the City of Rockwall has been completed and all wastewater flows into the interconnect, as described in Ordering Provision No. 2.c. below; and
 - c. All certifications shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information

submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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 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.
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

Ramona
For the Executive Director

5/9/13
Date

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.

SB
DSW

Robert Laughman
Signature

4/11/2013
Date

Robert 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.