

**Executive Summary – Enforcement Matter – Case No. 46819**  
**Aqua Utilities, Inc.**  
**RN101513729**  
**Docket No. 2013-0901-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

GoForth WWTP, located approximately four miles southeast of the intersection of IH-35 and Farm-to-Market Road 2001 and five miles north of the intersection of State Highway 21 and Farm-to-Market Road 272, Hays 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: None

**Texas Register Publication Date:** October 11, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$16,187

**Amount Deferred for Expedited Settlement:** \$3,237

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$12,950

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 46819  
Aqua Utilities, Inc.  
RN101513729  
Docket No. 2013-0901-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** April 5, 2013  
**Date(s) of NOE(s):** April 26, 2013

***Violation Information***

Failed to comply with permitted effluent limits for *E. coli* and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013293001, Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013293001, 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.

***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

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Robert Laughman, President, Aqua Utilities, Inc., 1106 Clayton Lane, Suite 400 West, Austin, Texas 78723  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	29-Apr-2013	<b>Screening</b>	8-May-2013	<b>EPA Due</b>	
	<b>PCW</b>	8-May-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Aqua Utilities, Inc.		
<b>Reg. Ent. Ref. No.</b>	RN101513729		
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46819	<b>No. of Violations</b>	2
<b>Docket No.</b>	2013-0901-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Heather Brister
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$8,750**

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

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

**Compliance History** 85.0% Enhancement **Subtotals 2, 3, & 7** **\$7,437**

**Notes** Enhancement for four months of self-reported effluent violations, one NOV for same/similar violations, and three orders with denial of liability.

**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 \$664  
 Approx. Cost of Compliance \$10,000  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$16,187**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$16,187**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$16,187**

**DEFERRAL** 20.0% Reduction **Adjustment** **-\$3,237**

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

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$12,950**

Screening Date 8-May-2013

Docket No. 2013-0901-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 46819

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101513729

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	3	60%
	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%

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) 85%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for four months of self-reported effluent violations, one NOV for same/similar violations, and three orders with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 85%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 85%

**Screening Date** 8-May-2013  
**Respondent** Aqua Utilities, Inc.  
**Case ID No.** 46819  
**Reg. Ent. Reference No.** RN101513729  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Heather Brister  
**Violation Number** 1

**Docket No.** 2013-0901-MWD-E

**PCW**

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

**Rule Cite(s)** Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013293001, Effluent Limitations and Monitoring Requirements No. 1

**Violation Description** Failed to comply with permitted effluent limits, as documented during a record review conducted on April 5, 2013. See attached table.

**Base Penalty** \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		15.0%
Potential				

**>> Programmatic Matrix**

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				0.0%

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events: 2      62 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

Two monthly events are recommended for the months of December 2012 and January 2013.

**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** \$7,500

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$664

**Violation Final Penalty Total** \$13,875

**This violation Final Assessed Penalty (adjusted for limits)** \$13,875

# Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc.  
**Case ID No.** 46819  
**Reg. Ent. Reference No.** RN101513729  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Oct-2012	28-Feb-2014	1.33	\$664	n/a	\$664

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make necessary adjustments to achieve compliance with the permitted effluent limits. Date required is the initial month of noncompliance. Final date is the anticipated 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

\$10,000

**TOTAL**

\$664

Screening Date 8-May-2013

Docket No. 2013-0901-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 46819

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101513729

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0013293001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on April 5, 2013. See attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

61 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter containing the months of October and November 2012.

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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,313

This violation Final Assessed Penalty (adjusted for limits) \$2,313

# Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc.  
**Case ID No.** 46819  
**Reg. Ent. Reference No.** RN101513729  
**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				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

See Economic Benefit for Violation 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

**Respondent:** Aqua Utilities, Inc.  
**ID Number(s):** TPDES Permit No. WQ0013293001  
**Docket Number:** 2013-0901-MWD-E

<b>EFFLUENT PARAMETER</b>				
<b>Permit Limit</b>				
	<i>E. coli</i> Single Grab Conc. 394 cfu/100 ml	TSS Daily Avg. Conc. 15 mg/L	TSS Single Grab Conc. 60 mg/L	TSS Daily Avg. Loading 5.3 lbs/day
<b>Month/Year</b>				
October 2012	c	19.4	c	c
November 2012	c	31.4	71	7.83
December 2012	2,419	17.25	c	c
January 2013	1,986	18.6	c	c

Conc. - concentration  
 mg/L - milligrams per liter  
 TSS - Total Suspended Solids  
 Avg. - average  
 cfu/100 ml - colony forming units  
 lbs/day - pounds per day  
 c - compliant  
*E. coli* - *Escherichia coli*



The TCEQ is committed to accessibility.  
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN602787509, RN101513729, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN602787509, Aqua Utilities, Inc.      **Classification:** SATISFACTORY      **Rating:** 2.55  
**Regulated Entity:** RN101513729, GOFORTH WWTP      **Classification:** SATISFACTORY      **Rating:** 18.48  
**Complexity Points:** 7      **Repeat Violator:** NO  
**CH Group:** 08 - Sewage Treatment Facilities  
**Location:** APPROX. 4 MILES SE OF THE INTX OF IH 35 AND FM 2001, 5 MILES NORTH OF THE INTX. OF SH21 AND FM 272, HAYS COUNTY, TEXAS  
**TCEQ Region:** REGION 11 - AUSTIN

**ID Number(s):**  
**WASTEWATER PERMIT** WQ0013293001      **WASTEWATER EPA ID** TX0100684  
**Compliance History Period:** September 01, 2007 to August 31, 2012      **Rating Year:** 2012      **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** May 08, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 08, 2008 to May 08, 2013

### **TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Heather Brister

**Phone:** (254) 761-3034

### **Site and Owner/Operator History:**

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

### **Components (Multimedia) for the Site Are Listed in Sections A - J**

#### **A. Final Orders, court judgments, and consent decrees:**

- 1      **Effective Date:** 12/04/2008      **ADMINORDER** 2008-0842-MWD-E (1660 Order-Agreed Order With Denial)  
    **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:** Moderate  
    **Citation:** 30 TAC Chapter 305, SubChapter F 305.125(17)  
    **Rqmt Prov:** Effluent Reporting Requirements PERMIT  
    **Description:** Failure to submit effluent monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

- 2 Effective Date: **07/11/2010** ADMINORDER 2009-1962-MWD-E (1660 Order-Agreed Order With Denial)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Rqmt Prov:Operational Requirements No. 4 PERMIT  
 Description: Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures.
- 3 Effective Date: **06/17/2012** ADMINORDER 2011-2168-MWD-E (1660 Order-Agreed Order With Denial)  
 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.
- Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Rqmt Prov:Sludge Reporting Requirements PERMIT  
 Description: Failure to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2011 by September 30, 2011.
- Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 319, SubChapter A 319.4  
 Rqmt Prov:Effluent Reporting Requirements PERMIT  
 Description: Failed to submit complete monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to include the ammonia nitrogen single grab concentration value in the discharge monitoring report ("DMR") for the monitoring period ending June 30, 2011.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	July 21, 2008	(716079)
Item 2	December 18, 2008	(731641)
Item 3	March 10, 2009	(772174)
Item 4	March 18, 2009	(772175)
Item 5	June 16, 2009	(929267)
Item 6	October 20, 2009	(929270)
Item 7	November 18, 2009	(929272)
Item 8	December 21, 2009	(929273)
Item 9	January 21, 2010	(929274)
Item 10	February 22, 2010	(929262)
Item 11	March 18, 2010	(929263)
Item 12	April 16, 2010	(929264)
Item 13	May 19, 2010	(929266)
Item 14	September 20, 2010	(875386)
Item 15	October 20, 2010	(882941)
Item 16	November 18, 2010	(889358)
Item 17	December 20, 2010	(897727)
Item 18	January 18, 2011	(903616)
Item 19	February 17, 2011	(910508)
Item 20	March 18, 2011	(917747)
Item 21	April 20, 2011	(929265)
Item 22	May 20, 2011	(939462)
Item 23	June 17, 2011	(946867)
Item 24	July 19, 2011	(954135)
Item 25	December 21, 2011	(985754)
Item 26	January 20, 2012	(992093)



**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.  
RN101513729**

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

**AGREED ORDER  
DOCKET NO. 2013-0901-MWD-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Utilities, Inc. ("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 together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately four miles southeast of the intersection of Interstate Highway 35 and Farm-to-Market Road 2001 and five miles north of the intersection of State Highway 21 and Farm-to-Market Road 272 in Hays 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. The Executive Director 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 May 1, 2013.
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 Sixteen Thousand One Hundred Eighty-Seven Dollars (\$16,187) is assessed by the Commission in settlement of the violations

alleged in Section II ("Allegations"). The Respondent has paid Twelve Thousand Nine Hundred Fifty Dollars (\$12,950) of the administrative penalty and Three Thousand Two Hundred Thirty-Seven Dollars (\$3,237) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013293001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on April 5, 2013 and shown in the table below:

<b>EFFLUENT PARAMETER</b>				
<b>Permit Limit</b>				
	<i>E. coli</i> Single Grab Conc. 394 cfu/100 ml	TSS Daily Avg. Conc. 15 mg/L	TSS Single Grab Conc. 60 mg/L	TSS Daily Avg. Loading 5.3 lbs/day
<b>Month/Year</b>				
October 2012	c	19.4	c	c
November 2012	c	31.4	71	7.83
December 2012	2,419	17.25	c	c
January 2013	1,986	18.6	c	c

Conc. - concentration                      cfu/100 ml - colony forming units  
mg/L - milligrams per liter              lbs/day - pounds per day  
TSS - Total Suspended Solids          c - compliant  
Avg. - average                                *E. coli* - *Escherichia coli*

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Utilities, Inc., Docket No. 2013-0901-MWD-E" to:

Financial Administration Division, Revenue Operations 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, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013293001, 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. 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  
Austin Regional Office  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

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. 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.

7. 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.
8. 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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Pam Moran  
For the Executive Director

11/18/13  
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.

AB

R. L. Laughman  
Signature

8/5/2013  
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, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.