Executive Summary – Enforcement Matter – Case No. 47982
Aqua Utilities, Inc.
RN102671880
Docket No. 2013-2123-PWS-E

Order Type:
Findings Agreed Order
Findings Order Justification:
Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).
Media:
PWS
Small Business:
No
Location(s) Where Violation(s) Occurred:
Golden Acres Water, 779 County Road 77, Nueces County
Type of Operation:
Public water supply
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: April 11, 2014
Comments Received: No

Penalty Information

Total Penalty Assessed: $366
Amount Deferred for Expedited Settlement: $366
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $0
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 - N/A
Major Source: Yes
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: October 28, 2103
Date(s) of NOE(s): November 13, 2013

Executive Summary – Enforcement Matter – Case No. 47982
Aqua Utilities, Inc.
RN102671880
Docket No. 2013-2123-PWS-E

Violation Information

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM") based on the locational running annual average [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 90 days, begin negotiating a water purchase contract that will enable the Facility to comply with the MCL for TTHM within 1,095 days of the effective date of this Agreed Order;

b. Within 105 days, submit written certification to demonstrate compliance with Ordering Provision a.;

c. Within 1,095 days, return to compliance with the MCL for TTHM; and

d. Within 1,110 days, submit written certification to demonstrate compliance with Ordering Provision c.

In lieu of Ordering Provisions a. through d.:

e. Within 120 days, complete a feasibility study, or update an existing feasibility study, and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the MCL for TTHM. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days. If the Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study;

f. Within 135 days, submit written certification to demonstrate compliance with Ordering Provision e.;

g. Within 180 days, submit an acceptable written plan, including a proposed schedule, to the Executive Director that provides for the completion of an alternate water source or treatment technology;

h. Within 180 days, and on a semi-annual basis thereafter, submit progress reports. These reports shall include information regarding actions taken to provide water which meets the MCL for TTHM;

i. Within 195 days, submit written certification to demonstrate compliance with Ordering Provision g.;

j. Within 1,095 days, return to compliance with the MCL for TTHM; and

k. Within 1,110 days, submit written certification to demonstrate compliance with Ordering Provision j.

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: Jim Fisher, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2537; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Robert L. Laughman, President, Aqua Utilities, Inc., 1106 Clayton Lane, Suite 400W, Austin, Texas 78723
Larry Mitchell, Compliance Manager, Aqua Utilities, Inc., 1106 Clayton Lane, Suite 400W, Austin, Texas 78723
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES **Assigned** 18-Nov-2013 **PCW** 4-Dec-2013 **Screening** 26-Nov-2013 **EPA Due** 30-Sep-2013

RESPONDENT/FACILITY INFORMATION

Respondent Aqua Utilities, Inc.
Reg. Ent. Ref. No. RN102671880
Facility/Site Region 14-Corpus Christi **Major/Minor Source** Major

CASE INFORMATION

Enf./Case ID No. 47982
Docket No. 2013-2123-PWS-E
Media Program(s) Public Water Supply
Multi-Media
No. of Violations 1
Order Type Findings
Government/Non-Profit No
Enf. Coordinator Jim Fisher
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*** **$300**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **22.0%** Enhancement ***Subtotals 2, 3, & 7*** **$66**

Notes: Enhancement for four NOVs with same/similar violations and one NOV 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 $6,183
Approx. Cost of Compliance $20,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 ***Final Subtotal*** **$366**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$366**

STATUTORY LIMIT ADJUSTMENT ***Final Assessed Penalty*** **$366**

DEFERRAL **0.0%** Reduction ***Adjustment*** **$0**

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 **$366**

Screening Date 26-Nov-2013 **Docket No.** 2013-2123-PWS-E **PCW**

Respondent Aqua Utilities, Inc.

Case ID No. 47982

Reg. Ent. Reference No. RN102671880

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

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*)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

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

Adjustment Percentage (Subtotal 2) 22%

>> Repeat Violator (Subtotal 3)

N/A

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 NOVs with same/similar violations and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 22%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 22%

Screening Date 26-Nov-2013 **Docket No.** 2013-2123-PWS-E **PCW**

Respondent Aqua Utilities, Inc. *Policy Revision 3 (September 2011)*

Case ID No. 47982 *PCW Revision August 3, 2011*

Reg. Ent. Reference No. RN102671880

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average. Specifically, the locational running annual average concentrations of TTHM for Stage 2 Disinfectant Byproducts at Site 1 were 0.107 mg/L for the fourth quarter of 2012, 0.148 mg/L for the first quarter of 2013, 0.135 mg/L for the second quarter of 2013, and 0.117 mg/L for the third quarter of 2013.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

OR

Percent 30.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Exceeding the MCL for TTHM caused the customers of the Facility to be exposed to a significant amount of pollutants which do not exceed levels protective of human health.

Adjustment $700

$300

Violation Events

Number of Violation Events 1 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $300

One annual event is recommended.

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 $300

Economic Benefit (EB) for this violation

Estimated EB Amount $6,183

Statutory Limit Test

Violation Final Penalty Total $366

This violation Final Assessed Penalty (adjusted for limits) $366

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 47982
Reg. Ent. Reference No. RN102671880
Media Public Water Supply
Violation No. 1

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)	$20,000	31-Dec-2012	31-May-2017	4.42	$294	$5,889	$6,183
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: The delayed cost includes the estimated amount to investigate, identify, and implement corrective actions to return to compliance with MCL for TTHM, calculated from the last date of the first quarter of noncompliance 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 $20,000

TOTAL $6,183

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, RN102671880, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Respondent: CN602787509, AQUA UTILITIES, INC. **Classification:** SATISFACTORY **Rating:** 5.91

Regulated Entity: RN102671880, GOLDEN ACRES WATER **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 779 COUNTY ROAD 77, NUECES COUNTY, TEXAS

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s): **PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 1780019

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: November 26, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 26, 2008 to November 26, 2013

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

Name: Jim Fisher **Phone:** (512) 239-2537

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: N/A

B. Criminal convictions: N/A

C. Chronic excessive emissions events: N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.): N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 **Date:** **11/29/2012 (1129008)** **CN602787509**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)

Description: TTHM LRAA MCL 4Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2012 with a LRAA of 0.107 mg/L at 5140 Althesis (DBP2-01).

2 **Date: 03/14/2013 (1129008)** **CN602787509**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)

Description: TTHM LRAA MCL 1Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 1st quarter of 2013 with a LRAA of 0.148 mg/L at 5140 Althesis (DBP2-01).

3 **Date: 06/25/2013 (1129008)** **CN602787509**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)

Description: TTHM LRAA MCL 2Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 2nd quarter of 2013 with a LRAA of 0.135 mg/L at 5140 Althesis (DBP2-01).

4 **Date: 07/19/2013 (1099790)** **CN602787509**

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(2)

Description: Failure to secure a written contract, a signed document of specific terms, or a memorandum or letter of understanding between the purchaser and wholesaler which authorizes the purchase of enough water to meet the monthly or annual needs of the purchaser.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.39(l)
30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)

Description: Failed to obtain an exception to use disinfectants other than chlorine.

Self Report? NO Classification: Minor

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

Description: Failed to provide a full-face self-contained breathing apparatus (SCBA) or supplied air respirator that meets OSHA standards for construction and operation which is readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failed to compile a thorough plant operations manual and keep up-to-date for operator review and reference.

Self Report? NO Classification: Moderate

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

Description: Failed to perform a customer service inspection prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities.

5 **Date: 09/09/2013 (1129008)** **CN602787509**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)

Description: TTHM LRAA MCL 3Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2013 with a LRAA of 0.117 mg/L at 5140 Althesis (DBP2-01).

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

Respondent: CN602787509, AQUA UTILITIES, INC.
Regulated Entity: RN102671880, GOLDEN ACRES WATER

Component Appendices

Appendix A
All NOVs Issued During Component Period 11/26/2008 and 11/26/2013

1 Date: 02/19/2010 (791733) CN602787509
Classification: Minor

Self Report? NO
Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(2)
Description: Failure to secure a written contract, a signed document of specific terms, or a memorandum or letter of understanding between the purchaser and wholesaler which authorizes the purchase of enough water to meet the monthly or annual needs of the purchaser.

2* Date: 11/29/2012 (1129008) CN602787509
Classification: Moderate

Self Report? NO
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 4Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2012 with a LRAA of 0.107 mg/L at 5140 Althesis (DBP2-01).

3* Date: 03/14/2013 (1129008) CN602787509
Classification: Moderate

Self Report? NO
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 1Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 1st quarter of 2013 with a LRAA of 0.148 mg/L at 5140 Althesis (DBP2-01).

4* Date: 06/25/2013 (1129008) CN602787509
Classification: Moderate

Self Report? NO
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 2Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 2nd quarter of 2013 with a LRAA of 0.135 mg/L at 5140 Althesis (DBP2-01).

5* Date: 07/19/2013 (1099790) CN602787509
Classification: Minor

Self Report? NO
Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(2)
Description: Failure to secure a written contract, a signed document of specific terms, or a memorandum or letter of understanding between the purchaser and wholesaler which authorizes the purchase of enough water to meet the monthly or annual needs of the purchaser.

Classification: Minor

Self Report? NO
Citation: 30 TAC Chapter 290, SubChapter D 290.39(l)
30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)
Description: Failed to obtain an exception to use disinfectants other than chlorine.

Classification: Minor

Self Report? NO
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)
Description: Failed to provide a full-face self-contained breathing apparatus (SCBA) or supplied air respirator that meets OSHA standards for construction and operation which is readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency.

Classification: Moderate

For Informational Purposes Only

Self Report? NO
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failed to compile a thorough plant operations manual and keep up-to-date for operator review and reference.
Classification: Moderate

Self Report? NO
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
Description: Failed to perform a customer service inspection prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities.

6 Date: 09/09/2013 (1129008) CN602787509
Classification: Moderate

Self Report? NO
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 3Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2013 with a LRAA of 0.117 mg/L at 5140 Althesis (DBP2-01).

* NOVs applicable for the Compliance History rating period 9/1/2008 to 8/31/2013

Appendix B
All Investigations Conducted During Component Period November 26, 2008 and November 26, 2013

Item 1	February 16, 2010**	(791733)
Item 2	July 25, 2011**	(942341)
Item 3	July 19, 2013**	(1099790)
Item 4	November 06, 2013	(1129008)
Item 5	November 15, 2013	(1129196)

* No violations documented during this investigation
**Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
AQUA UTILITIES, INC.	**§**	
RN102671880	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2013-2123-PWS-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. HEALTH & SAFETY CODE ch. 341. 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 public water supply at 779 County Road 77 in Nueces County, Texas (the "Facility") that has approximately 60 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on October 28, 2013, TCEQ staff documented that the locational running annual average concentrations of total trihalomethanes ("TTHM") for Stage 2 Disinfectant Byproducts at Site 1 were 0.107 milligrams per liter ("mg/L") for the fourth quarter of 2012, 0.148 mg/L for the first quarter of 2013, 0.135 mg/L for the second quarter of 2013, and 0.117 mg/L for the third quarter of 2013.

3. The Respondent received notice of the violations on or about November 19, 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.080 mg/L for TTHM, based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).

3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, 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 Three Hundred Sixty-Six Dollars ($366) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Three Hundred Sixty-Six Dollars ($366) of the administrative penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, the deferred amount of the administrative penalty shall become immediately due and payable without demand or notice, and the Executive Director may require the Respondent to pay all or part of the deferred 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 Three Hundred Sixty-Six Dollars ($366) 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. 2013-2123-PWS-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. The Respondent shall undertake the following technical requirements:

a. Within 90 days after the effective date of this Agreed Order, begin negotiating a water purchase contract that will enable the Facility to comply with the MCL for TTHM within 1,095 days of the effective date of this Agreed Order, in accordance with 30 TEX. ADMIN. CODE § 290.45;

b. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.k. below to demonstrate compliance with Ordering Provision No. 2.a.;

c. Within 1,095 days after the effective date of this Agreed Order, return to compliance with the MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.115; and

d. Within 1,110 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.k. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.

In lieu of Ordering Provision Nos. 2.a. through 2.d:

e. Within 120 days after the effective date of this Agreed Order, complete a feasibility study, or update an existing feasibility study, and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the MCL for TTHM. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days after the effective date of this Agreed Order. If the Respondent purchases or sells water, a copy of the puchase water contract must be submitted with the feasibility study report or engineering study. The evaluation shall be sent to the addresses listed in Ordering Provision No. 2.k.;

f. Within 135 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.k. below to demonstrate compliance with Ordering Provision No. 2.e.;

g. Within 180 days after the effective date of this Agreed Order, submit an acceptable written plan, including a proposed schedule, to the Executive Director that provides for the completion of an alternate water source or treatment technology to the addresses listed in Ordering Provision No. 2.k.;

h. Within 180 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit progress reports to the addresses listed in Ordering Provision No. 2.k. below. These reports shall include information regarding actions taken to provide water which meets the MCL for TTHM;

i. Within 195 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.k. below to demonstrate compliance with Ordering Provision No. 2.g.;

j. Within 1,095 days after the effective date of this Agreed Order, return to compliance with the MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.115; and

k. Within 1,110 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.j. 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:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and to:

Technical Review and Oversight Team
Water Supply Division, MC 159
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. 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. 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.

6. 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.

7. 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.

8. 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.

9. 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

For the Executive Director

6/4/14
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.

Signature

1/7/2014
Date

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

President
Title

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