

**Executive Summary – Enforcement Matter – Case No. 60869
AQUA UTILITIES, INC.
RN102673894
Docket No. 2021-0752-PWS-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

Brentwood Subdivision, 303 Cambridge Street, Victoria, Victoria County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2022-0297-PWS-E

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: June 24, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,710

Amount Deferred for Expedited Settlement: \$2,742

Total Paid to General Revenue: \$10,968

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): May 26, 2021

Complaint Information: Alleged concerns about the water quality and frequent boil water notices.

Date(s) of Investigation: February 11, 2021 through May 6, 2021

Date(s) of NOE(s): May 27, 2021

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RN102673894
Docket No. 2021-0752-PWS-E

Violation Information

1. Failed to notify the Executive Director (“ED”) prior to making any significant change or addition where the change in the existing distribution system results in an increase or decrease in production, treatment, storage, or pressure maintenance capacity. Specifically, the Respondent demolished its 43,000-gallon bolted steel ground storage tank (“GST”) and replaced it with a new 42,578-gallon bolted fiberboard GST without notifying the ED [30 TEX. ADMIN. CODE § 290.39(j)(1)(A) and TEX. HEALTH & SAFETY CODE § 341.0351].
2. Failed to provide continuous and effective disinfection that can be secured under all conditions. Specifically, the Respondent stated that there was no disinfection equipment installed during the February 11, 2021 in-house investigation. After the disinfection equipment was installed, the Respondent could not maintain a free chlorine residual of at least 0.2 milligrams per liter (“mg/L”) throughout the distribution system. Free chlorine residual concentrations of 0.0 mg/L were measured on March 4, 2021, and May 5, 2021. During the March 4, 2021 and March 5, 2021 on-site investigation, the Respondent was disinfecting with a slurry of high-test hypochlorite powder in lieu of gaseous chlorine. During the May 5, 2021 and May 6, 2021 on-site investigation, it was noted that the chlorine injection lines were old and possibly corroded [30 TEX. ADMIN. CODE § 290.42(b)(1) and (e)(3)].
3. Failed to provide a minimum pressure of 35 pounds per square inch (“psi”) throughout the distribution system under normal operating conditions and 20 psi during emergencies such as firefighting. Specifically, the data collected from a pressure recorder deployed between March 24, 2021 through April 8, 2021 documented 11 pressure drops below 35 psi, with a minimum recorded pressure of 25 psi. On March 24, 2021, a pressure case study was done and pressures as low as 5.6 psi and 26 psi were recorded at 505 Trent Street and 108 Stratford Street, respectively. In addition, there were two water outages on April 7, 2021 and April 12, 2021 [30 TEX. ADMIN. CODE §§ 290.44(d) and 290.46(r)].
4. Failed to provide a total storage capacity of 200 gallons per connection. Specifically, the Facility had 151 connections requiring a total storage capacity of 30,200 gallons. However, storage capacity provided was not operational, indicating a 100% deficiency [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

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RN102673894
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- a. On March 24, 2021, placed the new GST into service providing 42,578 gallons of total storage capacity; and
- b. On April 13, 2021, installed a new well pump and began providing a minimum pressure of 35 psi throughout distribution.

Technical Requirements:

The Respondent shall undertake the following technical requirements:

- a. Within 60 days, provide continuous and effective disinfection that can be secured under all conditions;
- b. Within 75 days, submit written certification as described in f below to demonstrate compliance with a.;
- c. Within 180 days, submit accurate, up-to-date, and detailed as-built plans, specifications, and engineering reports for the significant changes made to the Facility's production and treatment, including but not limited to the as-built plans for the 42,578-gallon fiberboard GST;
- d. Within 195 days, submit written certification to demonstrate compliance with c.;
- e. Within 270 days, obtain approval of the as-built plans and specifications for the significant changes made to the Facility from the ED; and
- f. Within 285 days, submit written certification to demonstrate compliance with e.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Carlos Molina, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-2557; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Craig Blanchette, President, Aqua Utilities, Inc., 1106 Clayton Lane, Suite 400, Austin, Texas 78723

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	1-Jun-2021			
	PCW	11-Jun-2021	Screening	9-Jun-2021	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Aqua Utilities, Inc.
Reg. Ent. Ref. No.	RN102673894
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	60869	No. of Violations	4
Docket No.	2021-0752-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Carlos Molina
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,500
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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	29.0% Adjustment	Subtotals 2, 3, & 7	\$3,335
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Notes: Enhancement for two NOVs with dissimilar violations and one agreed order without a denial of liability.

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	-\$1,125
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$595
 Estimated Cost of Compliance: \$66,130
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,710
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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	\$13,710
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,710
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,742
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$10,968
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Screening Date 9-Jun-2021

Docket No. 2021-0752-PWS-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 60869

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102673894

Media Public Water Supply

Enf. Coordinator Carlos Molina

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	0	0%
	Other written NOVs	2	4%
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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments 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%
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) 29%

>> 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 two NOVs with dissimilar violations and one agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 29%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 29%

Screening Date 9-Jun-2021

Docket No. 2021-0752-PWS-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 60869

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102673894

Media Public Water Supply

Enf. Coordinator Carlos Molina

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.39(j)(1)(A) and Tex. Health & Safety Code § 341.0351

Violation Description Failed to notify the Executive Director prior to making any significant change or addition where the change in the existing distribution system results in an increase or decrease in production, treatment, storage, or pressure maintenance capacity. Specifically, the Respondent demolished its 43,000-gallon bolted steel ground storage tank ("GST") and replaced it with a new 42,578-gallon bolted fiberboard GST without notifying the Executive Director.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (20.0%).

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$4,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 118

Table with frequency options: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with X).

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with X).

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$54

Violation Final Penalty Total \$1,290

This violation Final Assessed Penalty (adjusted for limits) \$1,290

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 60869
Reg. Ent. Reference No. RN102673894
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$500	11-Feb-2021	27-Aug-2022	1.54	\$3	\$51	\$54
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 notify and obtain approval from the Executive Director for the Facility's changes, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$54

Screening Date 9-Jun-2021 **Docket No.** 2021-0752-PWS-E **PCW**
Respondent Aqua Utilities, Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 60869 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN102673894
Media Public Water Supply
Enf. Coordinator Carlos Molina

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 290.42(b)(1) and (e)(3)
Violation Description Failed to provide continuous and effective disinfection that can be secured under all conditions. Specifically, the Respondent stated that there was no disinfection equipment installed during the February 11, 2021 in-house investigation. After the disinfection equipment was installed, the Respondent could not maintain a free chlorine residual of at least 0.2 milligrams per liter ("mg/L") throughout the distribution system. Free chlorine residual concentrations of 0.0 mg/L were measured on March 4, 2021, and May 5, 2021. During the March 4, 2021 and March 5, 2021 on-site investigation, the Respondent was disinfecting with a slurry of high-test hypochlorite powder in lieu of gaseous chlorine. During the May 5, 2021 and May 6, 2021 on-site investigation, it was noted that the chlorine injection lines were old and possibly corroded.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent 30.0%
		Major	Moderate	Minor	
	Actual				
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0.0%

Matrix Notes Failure to provide continuous and effective disinfection that can be secured under all conditions could expose persons served by the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$3,500

\$1,500

Violation Events

Number of Violation Events 4 118 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$6,000

Four monthly events are recommended, calculated from the investigation date, February 11, 2021 to the screening date, June 9, 2021.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$30 **Violation Final Penalty Total** \$7,740

This violation Final Assessed Penalty (adjusted for limits) \$7,740

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 60869
Reg. Ent. Reference No. RN102673894
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)	\$500	11-Feb-2021	27-Apr-2022	1.21	\$30	n/a	\$30

Notes for DELAYED costs The delayed cost includes the estimated amount to provide continuous and effective disinfection that can be secured under all conditions, calculated from the investigation date to the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$500	TOTAL	\$30
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Screening Date 9-Jun-2021 **Docket No.** 2021-0752-PWS-E **PCW**
Respondent Aqua Utilities, Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 60869 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN102673894
Media Public Water Supply
Enf. Coordinator Carlos Molina

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code §§ 290.44(d) and 290.46(r)
Violation Description Failed to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions and 20 psi during emergencies such as firefighting. Specifically, the data collected from a pressure recorder deployed between March 24, 2021 through April 8, 2021 documented 11 pressure drops below 35 psi, with a minimum recorded pressure of 25 psi. On March 24, 2021, a pressure case study was done and pressures as low as 5.6 psi and 26 psi were recorded at 505 Trent Street and 108 Stratford Street, respectively. In addition, there were two water outages on April 7, 2021 and April 12, 2021.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	Percent 30.0%
	Actual				
Potential	x				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0.0%

Matrix Notes Failure to maintain adequate pressure throughout the distribution system at all times may result in backflow or siphonage and expose persons served by the Facility to contaminants that would exceed levels protective of human health.

Adjustment \$3,500

\$1,500

Violation Events

Number of Violation Events 1 20 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,500

One monthly event is recommended, calculated from the first documented date of noncompliance, March 24, 2021 to the compliance date, April 13, 2021.

Good Faith Efforts to Comply 25.0% Reduction \$375

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent achieved compliance on April 13, 2021.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$1 **Violation Final Penalty Total** \$1,560

This violation Final Assessed Penalty (adjusted for limits) \$1,560

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 60869
Reg. Ent. Reference No. RN102673894
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)	\$200	24-Mar-2021	13-Apr-2021	0.05	\$1	n/a	\$1

Notes for DELAYED costs

The delayed cost includes the estimated amount to determine the cause of noncompliance, make any necessary repairs or adjustments to the Facility, and maintain minimum pressure of 35 psi throughout the distribution system under normal operating conditions and 20 psi during emergencies such as firefighting, calculated from the first documented date of noncompliance to the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$200

TOTAL \$1

Screening Date 9-Jun-2021

Docket No. 2021-0752-PWS-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 60869

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102673894

Media Public Water Supply

Enf. Coordinator Carlos Molina

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(C)(ii) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide a total storage capacity of 200 gallons per connection. Specifically, the Facility had 151 connections requiring a total storage capacity of 30,200 gallons. However, storage capacity provided was not operational, indicating a 100% deficiency.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	x			30.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Failure to provide adequate storage capacity could expose persons served by the Facility to contaminants that would exceed levels that are protective of human health.

Adjustment \$3,500

\$1,500

Violation Events

Number of Violation Events 2 Number of violation days 41

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Two monthly events are recommended, calculated from the investigation date, February 11, 2021 to the compliance date, March 24, 2021.

Good Faith Efforts to Comply

25.0%

Reduction \$750

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent achieved compliance on March 24, 2021.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$510

Violation Final Penalty Total \$3,120

This violation Final Assessed Penalty (adjusted for limits) \$3,120

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 60869
Reg. Ent. Reference No. RN102673894
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$64,930	11-Feb-2021	24-Mar-2021	0.11	\$24	\$486	\$510
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 provide a total storage capacity of at least 200 gallons per connection (\$2.15 x 30,200 gallons), calculated from the date of the investigation to the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$64,930

TOTAL \$510



Compliance History Report

Compliance History Report for CN602787509, RN102673894, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator:	CN602787509, Aqua Utilities, Inc.	Classification:	SATISFACTORY	Rating:	36.73
Regulated Entity:	RN102673894, BRENTWOOD SUBDIVISION	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	303 CAMBRIDGE STREET NEAR VICTORIA, VICTORIA COUNTY, TEXAS				
TCEQ Region:	REGION 14 - CORPUS CHRISTI				
ID Number(s):					
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION	2350005	WATER LICENSING LICENSE	2350005		

Compliance History Period:	September 01, 2015 to August 31, 2020	Rating Year:	2020	Rating Date:	09/01/2020
Date Compliance History Report Prepared:	August 18, 2021				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	August 18, 2016 to August 18, 2021				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Carlos Molina	Phone:	(512) 239-2557		

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 |

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

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

- Effective Date: 03/03/2021 ADMINORDER 2020-0665-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(f)(2)
Description: Failed to encase the waterline in a separate watertight pipe encasement and provide valves on each side of the crossing when waterlines are laid under any flowing or intermittent stream. Specifically, the waterline crossing Marcado Creek was not in a separate watertight pipe encasement with valves on each side, nor had the Facility obtained permission from the Executive Director to omit the watertight pipe encasement.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. Specifically, a hole was observed on the roof of the 0.043 million-gallon ("MG") ground storage tank ("GST").
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)(1)(A)
5A THSC Chapter 341, SubChapter A 341.0351
Description: Failed to notify the Commission prior to making any significant change or addition where the change in the existing distribution system results in an increase or decrease in production, treatment, storage, or pressure maintenance capacity. Specifically, the Respondent did not notify the Executive Director prior to replacing the well pump rated at 150 gallons per minute ("gpm") and the 15-horsepower motor at Well No. 3 with a well pump rated at 95 gpm and a 7.5-horsepower motor.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
Description: Failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids. Specifically, water samples collected from the distribution system on January 16, 2020 were discolored due to elevated levels of suspended solids.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AQUA UTILITIES, INC.
RN102673894**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-0752-PWS-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. (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 together stipulate that:

1. The Respondent owns and operates a public water supply located at 303 Cambridge Street near Victoria, Victoria County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 151 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE § 7.002 and TEX. HEALTH & SAFETY CODE § 341.049, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$13,710 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$10,968 of the penalty and \$2,742 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

5. 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). 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.
6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. On March 24, 2021, placed the new ground storage tank ("GST") into service providing 42,578 gallons of total storage capacity; and
 - b. On April 13, 2021, installed a new well pump and began providing a minimum pressure of 35 pounds per square inch ("psi") throughout distribution.

II. ALLEGATIONS

During an investigation conducted from February 11, 2021 through May 6, 2021, an investigator documented that the Respondent:

1. Failed to notify the Executive Director prior to making any significant change or addition where the change in the existing distribution system results in an increase or decrease in production, treatment, storage, or pressure maintenance capacity, in violation of 30 TEX. ADMIN. CODE § 290.39(j)(1)(A) and TEX. HEALTH & SAFETY CODE § 341.0351. Specifically, the Respondent demolished its 43,000-gallon bolted steel GST and replaced it with a new 42,578-gallon bolted GST without notifying the Executive Director.
2. Failed to provide continuous and effective disinfection that can be secured under all conditions, in violation of 30 TEX. ADMIN. CODE § 290.42(b)(1) and (e)(3). Specifically, the Respondent stated that there was no disinfection equipment installed during the February 11, 2021 in-house investigation. After the disinfection equipment was installed, the Respondent could not maintain a free chlorine residual of at least 0.2 milligrams per liter ("mg/L") throughout the distribution system. Free chlorine residual concentrations of 0.0 mg/L were measured on March 4, 2021, and May 5, 2021. During the March 4, 2021 and March 5, 2021 on-site investigation, the Respondent was disinfecting with a slurry of high-test hypochlorite powder in lieu of gaseous chlorine. During the May 5,

2021 and May 6, 2021 on-site investigation, it was noted that the chlorine injection lines were old and possibly corroded.

3. Failed to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions and 20 psi during emergencies such as firefighting, in violation of 30 TEX. ADMIN. CODE §§ 290.44(d) and 290.46(r). Specifically, the data collected from a pressure recorder deployed between March 24, 2021 through April 8, 2021 documented 11 pressure drops below 35 psi, with a minimum recorded pressure of 25 psi. On March 24, 2021, a pressure case study was done and pressures as low as 5.6 psi and 26 psi were recorded at 505 Trent Street and 108 Stratford Street, respectively. In addition, there were two water outages on April 7, 2021 and April 12, 2021.
4. Failed to provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the Facility had 151 connections requiring a total storage capacity of 30,200 gallons. However, storage capacity provided was not operational, indicating a 100% deficiency.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Utilities, Inc., Docket No. 2021-0752-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 60 days after the effective date of this Order, provide continuous and effective disinfection that can be secured under all conditions, in accordance with 30 TEX. ADMIN. CODE § 290.42.
 - b. Within 75 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.f below to demonstrate compliance with Ordering Provision No. 2.a.

- c. Within 180 days after the effective date of this Order, submit accurate, up-to-date, and detailed as-built plans, specifications, and engineering reports for the significant changes made to the Facility's production and treatment, including but not limited to the as-built plans for the 42,578-gallon fiberboard GST, in accordance with 30 TEX. ADMIN. CODE § 290.39. The plans, specifications, and reports shall be submitted to:

Plan Review Team
Water Supply Division, MC 159
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning plans and specifications within 15 days after the date of such requests, or by any other deadline specified in writing.

- d. Within 195 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.f below to demonstrate compliance with Ordering Provision No. 2.c.
- e. Within 270 days after the effective date of this Order, obtain approval of the as-built plans and specifications for the significant changes made to the Facility from the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.39.
- f. Within 285 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
500 North Shoreline Boulevard, Suite 500
Corpus Christi, Texas 78401-0318

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. This 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 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 Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



9/28/2022

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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:

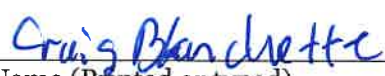
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement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



Signature

8/26/22
Date



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

President
Title

If mailing address has changed, please check this box and provide the new address below: