

Executive Summary – Enforcement Matter – Case No. 62568

Aqua Texas, Inc.

RN101187854

Docket No. 2022-0861-PWS-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

Hidden Forest Estates, 15850 Forest Drive near Montgomery, Montgomery 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: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: February 16, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,120

Amount Deferred for Expedited Settlement: \$1,824

Total Paid to General Revenue: \$7,296

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 3, 2022

Complaint Information: Alleged water was dark brown in color.

Date(s) of Investigation: May 18, 2022

Date(s) of NOE(s): June 16, 2022

Executive Summary – Enforcement Matter – Case No. 62568

Aqua Texas, Inc.

RN101187854

Docket No. 2022-0861-PWS-E

Violation Information

1. Failed to provide a total storage capacity of 200 gallons per connection. Specifically, the Facility had 272 connections requiring a storage capacity of 54,400 gallons. However, 22,000 gallons were provided, indicating a 60% deficiency [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

2. Failed to provide two or more pumps that have a total capacity of 2.0 gallons per minute ("gpm") per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane. Specifically, the Facility had 272 connections requiring a service pump capacity of 544 gpm. However, the Facility only provided 250 gpm, indicating a 54% deficiency [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) 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 180 days:

- i. Provide a total storage capacity of at least 200 gallons per connection; and
- ii. Provide two or more service pumps that have a total capacity of 2.0 gpm per connection or a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane.

b. Within 195 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ronica Rodriguez Scott, Enforcement Division, Enforcement Team 5, MC R-14, (361) 881-6990; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Craig Blanchette, President, Aqua Texas, Inc., 1106 Clayton Lane, Suite 400W, Austin, Texas 78723-2476

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	20-Jun-2022		
	PCW	7-Jul-2022	Screening	29-Jun-2022
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Aqua Texas, Inc.			
Reg. Ent. Ref. No.	RN101187854			
Facility/Site Region	12-Houston	Major/Minor Source	Major	

CASE INFORMATION

Enf./Case ID No.	62568	No. of Violations	2
Docket No.	2022-0861-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ronica Rodriguez
		EC's Team	5
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	2.0%	Adjustment	Subtotals 2, 3, & 7	\$120
---------------------------	-------------	-------------------	--------------------------------	-------

Notes	Enhancement for 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	50.0%	Enhancement*	Subtotal 6	\$3,000
-------------------------	--------------	---------------------	-------------------	---------

Total EB Amounts	\$27,992	<i>*Capped at the Total EB \$ Amount</i>
Estimated Cost of Compliance	\$74,660	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,120
-----------------------------	-----------------------	---------

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
</	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,120
-----------------------------------	-------------------------------	---------

DEFERRAL	20.0%	Reduction	Adjustment	-\$1,824
-----------------	--------------	------------------	-------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.			
--------------	--	--	--	--

PAYABLE PENALTY	\$7,296
------------------------	---------

Screening Date29-Jun-2022

RespondentAqua Texas, Inc.

Case ID No.62568

Reg. Ent. Reference No.RN101187854

MediaPublic Water Supply

Enf. CoordinatorRonica Rodriguez

Docket No.2022-0861-PWS-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of 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)2%

>> 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 one NOV with dissimilar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%2%

Screening Date	29-Jun-2022	Docket No.	2022-0861-PWS-E	PCW
Respondent	Aqua Texas, Inc.	<i>Policy Revision 5 (January 28, 2021)</i>		
Case ID No.	62568	<i>PCW Revision February 11, 2021</i>		
Reg. Ent. Reference No.	RN101187854			
Media	Public Water Supply			
Enf. Coordinator	Ronica Rodriguez			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(D)(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 272 connections requiring a storage capacity of 54,400 gallons. However, 22,000 gallons were provided, indicating a 60% deficiency.			
			Base Penalty	\$5,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential	x		
			Percent	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 which would exceed levels that are protective of human health.			
			Adjustment	\$3,500
				\$1,500
Violation Events				
Number of Violation Events		2	42	Number of violation days
	daily			
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			
			Violation Base Penalty	\$3,000
Two monthly events are recommended, calculated from the May 18, 2022 investigation date to the June 29, 2022 screening date.				
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	\$3,000
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount		\$26,118	Violation Final Penalty Total	\$4,560
			This violation Final Assessed Penalty (adjusted for limits)	\$4,560

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No.

Aqua Texas, Inc. 62568 RN101187854 Public Water Supply 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$69,660	23-Aug-2019	29-Dec-2024	5.36	\$1,244	\$24,874	\$26,118
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 32,400 gallons), calculated from the date of the investigation initially documenting the violation 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	\$69,660	TOTAL	\$26,118
----------------------------	----------	-------	----------

Screening Date 29-Jun-2022 Respondent Aqua Texas, Inc. Case ID No. 62568 Reg. Ent. Reference No. RN101187854 Media Public Water Supply Enf. Coordinator Ronica Rodriguez		Docket No. 2022-0861-PWS-E PCW																		
<i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>																				
Violation Number 2 Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(iii) and Tex. Health & Safety Code § 341.0315(c)		Violation Description <p>Failed to provide two or more pumps that have a total capacity of 2.0 gallons per minute ("gpm") per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane. Specifically, the Facility had 272 connections requiring a service pump capacity of 544 gpm. However, the Facility only provided 250 gpm, indicating a 54% deficiency.</p>																		
		Base Penalty \$5,000																		
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1"> <tr> <td></td> <td colspan="3">Harm</td> </tr> <tr> <td>Release</td> <td>Major</td> <td>Moderate</td> <td>Minor</td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td>x</td> <td></td> <td></td> </tr> </table>				Harm			Release	Major	Moderate	Minor	Actual				Potential	x			Percent 30.0%
		Harm																		
	Release	Major	Moderate	Minor																
Actual																				
Potential	x																			
>> Programmatic Matrix																				
Matrix Notes	<table border="1"> <tr> <td></td> <td>Major</td> <td>Moderate</td> <td>Minor</td> </tr> <tr> <td>Falsification</td> <td></td> <td></td> <td></td> </tr> </table>				Major	Moderate	Minor	Falsification				Percent 0.0%								
		Major	Moderate	Minor																
	Falsification																			
<p>Failure to provide adequate service pump capacity could result in water outages and low pressure problems, exposing persons served by the Facility to a significant amount of contaminants which would exceed levels protective of human health.</p>																				
			Adjustment \$3,500																	
			\$1,500																	
Violation Events																				
Number of Violation Events 2		42 Number of violation days																		
<table border="1"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td>x</td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>		daily		weekly		monthly	x	quarterly		semiannual		annual		single event		Violation Base Penalty \$3,000				
daily																				
weekly																				
monthly	x																			
quarterly																				
semiannual																				
annual																				
single event																				
<p>Two monthly events are recommended, calculated from the May 18, 2022 investigation date to the June 29, 2022 screening date.</p>																				
Good Faith Efforts to Comply 0.0%		Reduction \$0																		
<table border="1"> <tr> <td></td> <td>Before NOE/NOV</td> <td>NOE/NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td>x</td> <td></td> </tr> </table>			Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary			N/A	x								
	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 \$3,000																		
Economic Benefit (EB) for this violation		Statutory Limit Test																		
Estimated EB Amount \$1,874		Violation Final Penalty Total \$4,560																		
		This violation Final Assessed Penalty (adjusted for limits) \$4,560																		

Economic Benefit Worksheet

Respondent Aqua Texas, Inc.
Case ID No. 62568
Reg. Ent. Reference No. RN101187854
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$5,000	23-Aug-2019	29-Dec-2024	5.36	\$89	\$1,785	\$1,874
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 two or more service pumps to meet the minimum service pump capacity of at least 2.0 gpm per connection or have a total capacity of 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, calculated from the date initially documenting the violation 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 \$5,000

TOTAL \$1,874



Compliance History Report

Compliance History Report for CN604062463, RN101187854, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN604062463, Aqua Texas, Inc. **Classification:** SATISFACTORY **Rating:** 3.56

Regulated Entity: RN101187854, HIDDEN FOREST ESTATES **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 15850 FOREST DRIVE NEAR MONTGOMERY, MONTGOMERY COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1700173

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: December 07, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 06, 2018 to December 06, 2023

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

Name: Ronica Rodriguez Scott

Phone: (361) 881-6990

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? YES
- 3) Who is the current owner/operator? Aqua Texas, Inc. OWNER since 7/20/2022
- 4) Who was/were the prior owner(s)/operator(s)? Aqua Utilities, Inc., OWNER, 6/16/2011 to 7/19/2022

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: | 12/09/2022 | (1847004) | |
| | Self Report? | NO | | Classification: Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.46(m)(4) | | |
| | Description: | Failure to maintain all distribution system lines in a watertight condition. | | |
| | Self Report? | NO | | Classification: Minor |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(vi) | | |
| | Description: | Failure to provide the maintenance records for water system equipment and facilities. | | |

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AQUA TEXAS, INC.
RN101187854

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

AGREED ORDER DOCKET NO. 2022-0861-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 Texas, 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 15850 Forest Drive near Montgomery, Montgomery County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 272 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 \$9,120 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,296 of the penalty and \$1,824 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.

II. ALLEGATIONS

During an investigation at the Facility conducted on May 18, 2022, an investigator documented that the Respondent:

1. Failed to provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the Facility had 272 connections requiring a storage capacity of 54,400 gallons. However, 22,000 gallons were provided, indicating a 60% deficiency.
2. Failed to provide two or more pumps that have a total capacity of 2.0 gallons per minute ("gpm") per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the Facility had 272 connections requiring a service pump capacity of 544 gpm. However, the Facility only provided 250 gpm, indicating a 54% 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 Texas, Inc., Docket No. 2022-0861-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 180 days after the effective date of this Order:
 - i. Provide a total storage capacity of at least 200 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Provide two or more service pumps that have a total capacity of 2.0 gpm per connection or a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, at each pump station or pressure plane, in accordance with 30 TEX. ADMIN. CODE § 290.45.
 - b. Within 195 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 Nos. 2.a.i and 2.a.ii. 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:

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

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

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 Enforcement Division 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



For the Executive Director

3/7/2024

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 OAG 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 OAG 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.

smj 

Signature



Date

Craig Blanchette

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

Prosibont

Title

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