

Executive Summary – Enforcement Matter – Case No. 62891

Aqua Texas, Inc.

RN102681079

Docket No. 2022-1205-PWS-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

Old Egyptian Subdivision, located at the intersection of 6555 Farm-to-Market Road
1488 and 33119 1/2 Egypt Lane, Magnolia, 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: April 12, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,939

Amount Deferred for Expedited Settlement: \$1,987

Total Paid to General Revenue: \$7,952

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): July 26, 2022 through August 26, 2022

Complaint Information: Alleged that the Respondent failed to drill a well to meet new
demand and there was low water pressure.

Date(s) of Investigation: August 4, 2022 through August 10, 2022

Date(s) of NOE(s): September 2, 2022

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Violation Information

1. Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request. Specifically, the dates the dead-end mains were flushed and maintenance records for water system equipment and facilities were not available for review [30 TEX. ADMIN. CODE § 290.46(f)(2), (f)(3)(A)(iv), and (f)(3)(A)(vi)].
2. Failed to meet the maximum secondary constituent level ("MSCL") for color of 15 color units ("CU"). Specifically, the water color at the hydrant at Silver Dapple and Belgian Court was 30 CU and the water color at the hydrant on Connemara Drive was 50 CU [30 TEX. ADMIN. CODE § 290.118(a) and (b)].
3. Failed to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements. Specifically, the monitoring plan schematic listed inaccurate information regarding ground storage tanks, services pumps, and pressure tanks at Plant Nos. 3 and 4 [30 TEX. ADMIN. CODE § 290.121(a) and (b)].
4. Failed to provide a well capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, the Facility had 2,802 connections requiring a well capacity of 1,681 gpm. However, the Facility only provided 1,515 gpm of well capacity, indicating a 10% deficiency [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
5. Failed to provide an elevated storage capacity of 100 gallons per connection. Specifically, the Facility had 2,802 connections requiring an elevated storage capacity of 280,200 gallons. However, no elevated storage capacity was provided, indicating a 100% deficiency [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
6. 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, between August 4, 2022, and August 10, 2022, three pressure recorders in the distribution system of the Del Webb Community documented pressures below 35 psi. Additionally, on August 10, 2022, the pressure recorder on Dartmoor Lane documented a pressure of 17.7 psi [30 TEX. ADMIN. CODE §§ 290.44(d) and 290.46(r)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

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- a. By August 10, 2022, provided water that met the MSCL for color;
- b. On January 10, 2023:
 - i. Submitted pressure data that shows a minimum pressure of 35 psi throughout the distribution system;
 - ii. Provided a chemical and microbiological monitoring plan that had been updated; and
- c. On April 4, 2023, provided records showing the dates the dead-end mains were flushed and maintenance records for water system equipment and facilities.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 180 days:
 - i. Provide a well capacity of 0.6 gpm per unit; and
 - ii. Provide an elevated storage capacity of 100 gallons per connection.
- b. Within 195 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ashley Lemke, Enforcement Division, Enforcement Team 4, MC R-12, (512) 239-1118; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Scot Foltz, Compliance Manager, Aqua Texas, Inc., 1106 Clayton Lane Suite 400W, Austin, Texas 78723
Craig Blanchette, President, Aqua Texas, Inc., 1106 Clayton Lane Suite 400W, 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	6-Sep-2022			
	PCW	23-Sep-2022	Screening	14-Sep-2022	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Aqua Texas, Inc.				
Reg. Ent. Ref. No.	RN102681079				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

CASE INFORMATION					
Enf./Case ID No.	62891	No. of Violations	6		
Docket No.	2022-1205-PWS-E	Order Type	1660		
Media Program(s)	Public Water Supply	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Ashley Lemke		
		EC's Team	Enforcement Team 4		
Admin. Penalty \$ Limit	Minimum	\$50	Maximum	\$5,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,800
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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	2.0%	Adjustment	Subtotals 2, 3, & 7	\$136
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Notes	Enhancement for one NOV with dissimilar violations.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$397
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Economic Benefit	50.0%	Enhancement*	Subtotal 6	\$3,400
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Total EB Amounts	\$79,084	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$617,720	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,939
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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	
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Final Penalty Amount	\$9,939
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,939
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,987
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$7,952
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Screening Date 14-Sep-2022

Docket No. 2022-1205-PWS-E

PCW

Respondent Aqua Texas, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 62891

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102681079

Media Public Water Supply

Enf. Coordinator Ashley Lemke

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 14-Sep-2022
Respondent Aqua Texas, Inc.
Case ID No. 62891
Reg. Ent. Reference No. RN102681079
Media Public Water Supply
Enf. Coordinator Ashley Lemke

Docket No. 2022-1205-PWS-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2), (f)(3)(A)(iv), and (f)(3)(A)(vi)

Violation Description Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request. Specifically, the dates the dead-end mains were flushed and maintenance records for water system equipment and facilities were not available for review.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				x	1.0%

Matrix Notes Less than 30% of the rule requirements were not met.

Adjustment \$4,950

\$50

Violation Events

Number of Violation Events 1 40 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$5

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

Notes The Respondent achieved compliance on April 4, 2023.

Violation Subtotal \$45

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$71

This violation Final Assessed Penalty (adjusted for limits) \$71

Economic Benefit Worksheet

Respondent Aqua Texas, Inc.
Case ID No. 62891
Reg. Ent. Reference No. RN102681079
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)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	4-Aug-2022	4-Apr-2023	0.67	\$1	n/a	\$1
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 maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request, calculated from the investigation date 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 \$45

TOTAL \$1

Screening Date 14-Sep-2022

Docket No. 2022-1205-PWS-E

PCW

Respondent Aqua Texas, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 62891

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102681079

Media Public Water Supply

Enf. Coordinator Ashley Lemke

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.118(a) and (b)

Violation Description

Failed to meet the maximum secondary constituent level ("MSCL") for color of 15 color units ("CU"). Specifically, the water color at the hydrant at Silver Dapple and Belgian Court was 30 CU and the water color at the hydrant on Connemara Drive was 50 CU.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to comply with the MSCL for color could expose persons served by the Facility to an insignificant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,650

\$350

Violation Events

Number of Violation Events 1

6 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$350

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$87

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	

Notes

The Respondent achieved compliance on August 10, 2022.

Violation Subtotal \$263

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$445

This violation Final Assessed Penalty (adjusted for limits) \$445

Economic Benefit Worksheet

Respondent Aqua Texas, Inc.
Case ID No. 62891
Reg. Ent. Reference No. RN102681079
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)	\$10,000	4-Aug-2022	10-Aug-2022	0.02	\$8	n/a	\$8

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to provide water that meets the MSCL for color and/or obtain a written approval from the Executive Director to use the water source for public drinking water, 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

\$10,000

TOTAL

\$8

Screening Date 14-Sep-2022
Respondent Aqua Texas, Inc.
Case ID No. 62891
Reg. Ent. Reference No. RN102681079
Media Public Water Supply
Enf. Coordinator Ashley Lemke

Docket No. 2022-1205-PWS-E

PCW

Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 2021

Violation Number

Rule Cite(s)

Violation Description

Failed to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements. Specifically, the monitoring plan schematic listed inaccurate information regarding ground storage tanks, service pumps, and pressure tanks at Plant Nos. 3 and 4.

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="1.0%"/>

Matrix Notes

At least 70% of the rule requirements were met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text" value="x"/>
N/A	<input type="text"/>	<input type="text"/>

Notes

The Respondent achieved compliance on January 10, 2023.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Aqua Texas, Inc.
Case ID No. 62891
Reg. Ent. Reference No. RN102681079
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)	\$45	4-Aug-2022	10-Jan-2023	0.44	\$1	n/a	\$1

Notes for DELAYED costs

The delayed cost includes the estimated amount to update and maintain a chemical and microbiological plan, 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

\$45

TOTAL

\$1

Screening Date 14-Sep-2022
Respondent Aqua Texas, Inc.
Case ID No. 62891
Reg. Ent. Reference No. RN102681079
Media Public Water Supply
Enf. Coordinator Ashley Lemke

Docket No. 2022-1205-PWS-E

PCW

Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 2021

Violation Number 4

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

Violation Description Failed to provide a well capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, the Facility had 2,802 connections requiring a well capacity of 1,681 gpm. However, the Facility only provided 1,515 gpm of well capacity, indicating a 10% deficiency.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				7.0%
	Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Failure to provide adequate well capacity could expose persons served by the Facility to an insignificant amount of contaminants that would not exceed levels that are protective of human health.

Adjustment \$4,650

\$350

Violation Events

Number of Violation Events 1 40 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$350

One single event is recommended.

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 \$350

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$738

Violation Final Penalty Total \$532

This violation Final Assessed Penalty (adjusted for limits) \$532

Economic Benefit Worksheet

Respondent Aqua Texas, Inc.
Case ID No. 62891
Reg. Ent. Reference No. RN102681079
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	4-Aug-2022	12-Sep-2024	2.11	\$35	\$703	\$738
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 well capacity of at least 0.6 gpm per connection, 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

\$5,000

TOTAL

\$738

Screening Date 14-Sep-2022

Docket No. 2022-1205-PWS-E

PCW

Respondent Aqua Texas, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 62891

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN102681079

Media Public Water Supply

Enf. Coordinator Ashley Lemke

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health and Safety Code § 341.0315(c)

Violation Description

Failed to provide an elevated storage capacity of 100 gallons per connection. Specifically, the Facility had 2,802 connections requiring an elevated storage capacity of 280,200 gallons. However, no elevated storage capacity was provided, indicating a 100% deficiency.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				30.0%
Potential	x			

>> 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 40 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 August 4, 2022 investigation date to the September 13, 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 \$78,332

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. 62891
Reg. Ent. Reference No. RN102681079
Media Public Water Supply
Violation No. 5

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	\$602,430	4-Aug-2022	12-Jun-2024	1.86	\$3,730	\$74,602	\$78,332
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 an elevated storage capacity of at least 100 gallons per connection (\$2.15 x 280,200), 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

\$602,430

TOTAL

\$78,332

Screening Date 14-Sep-2022
Respondent Aqua Texas, Inc.
Case ID No. 62891
Reg. Ent. Reference No. RN102681079
Media Public Water Supply
Enf. Coordinator Ashley Lemke

Docket No. 2022-1205-PWS-E

PCW

Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 2021

Violation Number

Rule Cite(s)

Violation Description

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, between August 4, 2022, and August 10, 2022, three pressure recorders in the distribution system of the Del Webb Community documented pressures below 35 psi. Additionally, on August 10, 2022, the pressure recorder on Dartmoor Lane documented a pressure of 17.7 psi.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

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 of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Two monthly events are recommended, calculated from the August 4, 2022 investigation date to the September 13, 2022 screening date.

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text" value="x"/>
N/A	<input type="text"/>	<input type="text"/>

Notes

Violation Subtotal

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

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Aqua Texas, Inc.
Case ID No. 62891
Reg. Ent. Reference No. RN102681079
Media Public Water Supply
Violation No. 6

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	4-Aug-2022	10-Jan-2023	0.44	\$4	n/a	\$4

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 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 \$200

TOTAL \$4



Compliance History Report

Compliance History Report for CN604062463, RN102681079, 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: RN102681079, OLD EGYPT SUBDIVISION **Classification:** NOT APPLICABLE **Rating:** N/A
Complexity Points: N/A **Repeat Violator:** N/A
CH Group: 14 - Other
Location: at the intersection of 6555 Farm-to-Market Road 1488 & 33119 1/2 Egypt Lane in Magnolia, Montgomery County, Texas
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1700666
Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: January 11, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 11, 2019 to January 11, 2024

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

Name: Ashley Lemke

Phone: (512) 239-1118

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

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: 08/24/2023 (1917065)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)
Description: Failure to notify the executive director prior to making any significant change or addition to a public water system's production, treatment, storage, pressure maintenance, or distribution facilities.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)
Description: Failure to obtain approval before placing a new well into service.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)
Description: Failure to provide containment facilities for all liquid chemical storage tanks.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to ensure the general appearance of the system's facilities and equipment.

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.
RN102681079

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-1205-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 the intersection of 6555 Farm-to-Market Road 1488 and 33119 1/2 Egypt Lane in Magnolia, Montgomery County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 2,802 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(73).
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 \$9,939 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,952 of the penalty and \$1,987 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) By August 10, 2022, provided water that met the maximum secondary constituent level ("MSCL") for color;
 - b) On January 10, 2023:
 - i. Submitted pressure data that shows a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system;
 - ii. Provided a chemical and microbiological monitoring plan that had been updated; and
 - c) On April 4, 2023, provided records showing the dates the dead-end mains were flushed and maintenance records for water system equipment and facilities.

II. ALLEGATIONS

During an investigation at the Facility conducted on August 4, 2022, through August 10, 2022, an investigator documented that the Respondent:

1. Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2), (f)(3)(A)(iv), and (f)(3)(A)(vi). Specifically, the dates the dead-end mains were flushed and maintenance records for water system equipment and facilities were not available for review.
2. Failed to meet the MSCL for color of 15 color units ("CU"), in violation of 30 TEX. ADMIN. CODE § 290.118(a) and (b). Specifically, the water color at the hydrant at Silver Dapple and Belgian Court was 30 CU and the water color at the hydrant on Connemara Drive was 50 CU.
3. Failed to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the

monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b). Specifically, the monitoring plan schematic listed inaccurate information regarding ground storage tanks, services pumps, and pressure tanks at Plant Nos. 3 and 4.

4. Failed to provide a well capacity of 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the Facility had 2,802 connections requiring a well capacity of 1,681 gpm. However, the Facility only provided 1,515 gpm of well capacity, indicating a 10% deficiency.
5. Failed to provide an elevated storage capacity of 100 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the Facility had 2,802 connections requiring an elevated storage capacity of 280,200 gallons. However, no elevated storage capacity was provided, indicating a 100% deficiency.
6. 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, between August 4, 2022, and August 10, 2022, three pressure recorders in the distribution system of the Del Webb Community documented pressures below 35 psi. Additionally, on August 10, 2022, the pressure recorder on Dartmoor Lane documented a pressure of 17.7 psi.

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. 2022-1205-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 well capacity of 0.6 gpm per unit, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Provide an elevated storage capacity of 100 gallons per connection, 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

5/3/2024

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.



Signature

3-7-24

Date

CRAIG

Name (Printed or typed)

Title

Authorized Representative of
Aqua Texas, Inc.

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

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