

Executive Summary – Enforcement Matter – Case No. 60027

Aqua Texas, Inc.

RN101213411

Docket No. 2024-0661-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

A violation of a commission issued enforcement order or court order.

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

Canyon Creek Addition, 2406 Christine Drive, Granbury, Hood County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 6, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,000

Total Paid to General Revenue: \$9,000

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): N/A

Complaint Information: N/A

Date(s) of Investigation: March 7, 2024

Date(s) of NOE(s): April 11, 2024

Violation Information

Failed to provide the minimum well capacity [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2020-1434-PWS-E, Ordering Provision No. 2.a.i].

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Aqua Texas, Inc.

RN101213411

Docket No. 2024-0661-PWS-E

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 180 days, provide a capacity of at least 0.55 gallons per minute per connection; and
- b. Within 195 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Mason DeMasi, Enforcement Division, Enforcement Team 5, MC R-13, (210) 657-8425; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Craig Blanchette, President, Aqua Texas, Inc., 1106 Clayton Lane, Suite 400 West, 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	15-Apr-2024	Screening	16-Apr-2024	EPA Due	
	PCW	16-Apr-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	Aqua Texas, Inc.				
Reg. Ent. Ref. No.	RN101213411				
Facility/Site Region	4-Dallas/Fort Worth		Major/Minor Source	Major	

CASE INFORMATION

Enf./Case ID No.	60027	No. of Violations	1
Docket No.	2024-0661-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mason DeMasi
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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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	20.0%	Adjustment	Subtotals 2, 3, & 7	\$1,500
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Notes Enhancement for one agreed order containing 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	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,387
Estimated Cost of Compliance	\$5,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,000
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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	\$9,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$9,000
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Screening Date	16-Apr-2024	Docket No.	2024-0661-PWS-E	PCW
Respondent	Aqua Texas, Inc.			
Case ID No.	60027			
Reg. Ent. Reference No.	RN101213411			
Media	Public Water Supply			
Enf. Coordinator	Mason DeMasi			

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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) 20%

>> Repeat Violator (Subtotal 3)

N/A	Adjustment Percentage (Subtotal 3)	0%
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>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer	Adjustment Percentage (Subtotal 7)	0%
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>> Compliance History Summary

Compliance History Notes	Enhancement for one agreed order containing a denial of liability.
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Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date	16-Apr-2024	Docket No.	2024-0661-PWS-E	PCW	
Respondent	Aqua Texas, Inc.	Policy Revision 5 (January 28, 2021)			
Case ID No.	60027	PCW Revision February 11, 2021			
Reg. Ent. Reference No.	RN101213411				
Media	Public Water Supply				
Enf. Coordinator	Mason DeMasi				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(D)(i), Tex. Health & Safety Code § 341.0315(c), and TCEQ Agreed Order Docket No. 2020-1434-PWS-E, Ordering Provision No. 2.a.i				
Violation Description	Failed to provide the minimum well capacity. Specifically, in a letter dated August 22, 2023, the Facility was granted an alternate capacity requirement for total well capacity of 0.55 gallon per minute ("gpm") per connection. The Facility had 965 connections requiring a total well capacity of 531 gpm. However, only 295 gpm of total well capacity were provided, indicating a 44% deficiency.				
Base Penalty			\$5,000		
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			
		Major	Moderate	Minor	
	Actual				
	Potential		x		Percent 15.0%
>> 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 a significant amount of contaminants which would not exceed levels protective of human health.				
Adjustment			\$4,250		
			\$750		
>> Violation Events					
Number of Violation Events		10	896	Number of violation days	
	daily				
	weekly				
	monthly				
	quarterly	x			
	semiannual				
	annual				
	single event				
Violation Base Penalty			\$7,500		
Ten quarterly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2020-1434-PWS-E, November 2, 2021, to the date of screening, April 16, 2024.					
Good Faith Efforts to Comply		0.0%	Reduction	\$0	
	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer			
	Extraordinary				
	Ordinary				
	N/A	x			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal			\$7,500		
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$1,387	Violation Final Penalty Total	\$9,000	
This violation Final Assessed Penalty (adjusted for limits)			\$9,000		

Economic Benefit Worksheet

Respondent Aqua Texas, Inc.
Case ID No. 60027
Reg. Ent. Reference No. RN101213411
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)	\$5,000	2-Nov-2021	19-Oct-2025	3.96	\$66	\$1,321	\$1,387
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 provide a total well capacity of at least 0.55 gpm per connection, calculated from the effective date of TCEQ Agreed Order Docket No. 2020-1434-PWS-E 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

\$1,387



Compliance History Report

Compliance History Report for CN604062463, RN101213411, Rating Year 2024 which includes Compliance History (CH) components from September 1, 2019, through August 31, 2024.

Customer, Respondent, or Owner/Operator: CN604062463, Aqua Texas, Inc.		Classification: SATISFACTORY	Rating: 2.73
Regulated Entity:	RN101213411, CANYON CREEK ADDITION	Classification: NOT APPLICABLE	Rating: N/A
Complexity Points:	N/A	Repeat Violator:	N/A
CH Group:	14 - Other		
Location:	2406 CHRISTINE DRIVE IN GRANBURY, HOOD COUNTY, TEXAS		
TCEQ Region:	REGION 04 - DFW METROPLEX		
ID Number(s):			
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION 1110070		
Compliance History Period:	September 01, 2019 to August 31, 2024	Rating Year:	2024
Date Compliance History Report Prepared:	October 09, 2024	Rating Date:	09/01/2024
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	October 09, 2019 to October 09, 2024		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Mason DeMasi	Phone:	(210) 657-8425

Site and Owner/Operator History:

- | | |
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| 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:

1	Effective Date: 11/02/2021	ADMINORDER 2020-1434-PWS-E (1660 Order-Agreed Order With Denial)
	Classification: Minor	
	Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i) 5A THSC Chapter 341, SubChapter A 341.0315(c)	
	Description: Failed to provide two or more wells having a total capacity of 0.6 gallon 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 656 service connections requiring a well capacity of 393.6 gpm. However, the Facility only provided 210 gpm, indicating a 47% deficiency.	
	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv) 5A THSC Chapter 341, SubChapter A 341.0315(c)	
	Description: Failed to provide a pressure tank capacity of 20 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 656 connections requiring a pressure tank capacity of 13,120 gallons. However, the Facility only provided 2,500 gallons, indicating an 81% deficiency.	
	Classification: Minor	
	Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(ii) 5A THSC Chapter 341, SubChapter A 341.0315(c)	
	Description: 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 656 connections, requiring a total storage capacity of 131,200 gallons. However, only 125,000 gallons were provided, indicating a 5% deficiency.	

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.

N/A

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.
RN101213411

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

AGREED ORDER DOCKET NO. 2024-0661-PWS-E

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 presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated 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. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 2406 Christine Drive in Granbury, Hood County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 965 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. During a record review for the Facility conducted on March 7, 2024, an investigator documented that, in a letter dated August 22, 2023, the Facility was granted an alternate capacity requirement for total well capacity of 0.55 gallon per minute ("gpm") per connection. The Facility had 965 connections requiring a total well capacity of 531 gpm. However, only 295 gpm of total well capacity were provided, indicating a 44% deficiency.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to provide the minimum well capacity, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2020-1434-PWS-E, Ordering Provision No. 2.a.i.
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$9,000 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid the \$9,000 penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that 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. 2024-0661-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, provide a capacity of at least 0.55 gpm 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 No. 2.a. 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. 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 in this Order.
7. 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.
8. 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.

9. 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.
10. 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

12/12/2024

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

11-1-24

Date

Craig Blanchette

President

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

Title

☐ 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.