

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of  
the Securities Exchange Act of 1934

Date of report (Date of earliest event reported): February 19, 2021

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**AQUA METALS, INC.**

(Exact Name of Registrant as Specified in Its Charter)

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**Delaware**  
(State or Other Jurisdiction of  
Incorporation)

**001-37515**  
(Commission File Number)

**47-1169572**  
(I.R.S. Employer Identification  
Number)

**2500 Peru Dr.**  
**McCarran, Nevada 89437**  
(Address of principal executive offices)

**(775) 525-1936**  
(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligations of the registrant under any of the following provisions.

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

**Securities registered pursuant to Section 12(b) of the Act:**

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock: Par value \$.001	AQMS	Nasdaq Capital Market

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### Item 1.01 Entry into a Material Definitive Agreement

On June 5, 2020, Aqua Metals, Inc. (“Company”) entered into an At The Market Issuance Sales Agreement (“Sales Agreement”) with B. Riley Securities, Inc., formerly known as B. Riley FBR, Inc (“Agent”), under which the Company may offer and sell, from time to time at its sole discretion, shares of its \$0.001 par value common stock (“Common Stock”), to or through the Agent as its sales agent. On February 19, 2021, the Company filed a prospectus supplement pursuant to the Sales Agreement for the offer and sale of its Common Stock having an aggregate offering price of up to \$30,000,000.

Pursuant to the Sales Agreement, sales of the Common Stock, if any, will be made under the Company’s previously filed and effective Registration Statement on Form S-3 (File No. 333-235238) and an applicable prospectus supplement, by any method that is deemed to be an “at the market offering” as defined in Rule 415(a)(4) under the Securities Act of 1933, as amended (“Act”). Subject to the terms and conditions of the Sales Agreement, the Agent may sell the Common Stock by any method permitted by law deemed to be an “at the market offering” as defined in Rule 415(a)(4) under the Act. The Agent will use commercially reasonable efforts to sell the Common Stock from time to time, based upon instructions from the Company (including any price, time or size limits or other customary parameters or conditions the Company may impose). The Company will pay the Agent a commission of three percent (3%) of the gross sales proceeds of any Common Stock sold through the Agent under the Sales Agreement, and also has provided the Agent with certain indemnification rights. The Company will also reimburse the Agent for certain specified expenses in connection with entering into the Sales Agreement up to a maximum of \$50,000.

The foregoing description of the Sales Agreement is not complete and is qualified in its entirety by reference to the full text of the Sales Agreement, a copy of which is filed herewith as Exhibit 1.1 to this Current Report on Form 8-K and is incorporated herein by reference.

This Current Report on Form 8-K shall not constitute an offer to sell or the solicitation of an offer to buy the securities discussed herein, nor shall there be any offer, solicitation, or sale of the securities in any state in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state.

### Item 9.01 Financial Statements and Exhibits

#### (d) Exhibits

The following exhibits are filed with this report:

Exhibit Number	Exhibit Description	Method of Filing
1.1	<a href="#">At The Market Issuance Sales Agreement dated June 5, 2020 between B. Riley Securities, Inc. and the Company.</a>	Incorporated by reference from the Company’s Current Report on Form 8-K filed on June 5, 2020
5.1	<a href="#">Opinion of Greenberg Traurig, LLP</a>	Filed Electronically herewith
23.1	<a href="#">Consent of Greenberg Traurig, LLP (included in Exhibit 5.1)</a>	Filed Electronically herewith
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)	

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**AQUA METALS, INC.**

Dated: February 19, 2021

*/s/ Stephen Cotton*

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Stephen Cotton,  
President and Chief Executive Officer

**GREENBERG TRAURIG, LLP**  
**18565 Jamboree Road, Suite 500**  
**Irvine, CA 92612**

February 19, 2021

Aqua Metals, Inc.  
2500 Peru Dr.  
McCarran, NV 89437

Re: Prospectus Supplement to Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Aqua Metals, Inc., a Delaware corporation (the “**Company**”), in connection with (i) the Registration Statement on Form S-3 (SEC File No. 333-235238) (the “**Registration Statement**”) filed with the Securities and Exchange Commission (“**Commission**”) under the Securities Act of 1933, as amended, relating to the registration by the Company of, among other things, common stock, par value \$0.001 per share (the “**Common Stock**”), which may be issued from time to time as set forth in the Registration Statement and the prospectus contained therein; and (ii) the prospectus supplement dated February 19, 2021 (the “**Prospectus Supplement**”) relating to the issue and sale pursuant to the Registration Statement of up to \$30,000,000 shares (the “**Shares**”) of Common Stock. The Shares are to be sold by the Company in accordance with the At The Market Issuance Sales Agreement (“**Sales Agreement**”) dated June 5, 2020 between the Company and B. Riley Securities, Inc., formerly known as B. Riley FBR, Inc. (“**Agent**”).

You have requested our opinion as to the matters set forth below in connection with the issuance of the Shares. For purposes of rendering this opinion, we have examined the Registration Statements, the Prospectus Supplement, forms of the First Amended and Restated Certificate of Incorporation, as amended to date (“**Certificate of Incorporation**”), and the Second Amended and Restated Bylaws of the Company currently in effect, the Sales Agreement, and the resolutions of the Board of Directors of the Company relating to the authorization and issuance of the Shares, and the authorization and approval of the Sales Agreement and the transactions contemplated thereby (the “**Resolutions**”), and we have made such other investigations as we have deemed appropriate. We have examined and relied upon certificates of public officials and, as to certain matters of fact that are material to our opinion, we have also relied on a certificate of an officer of the Company. We have not independently verified the matters set forth in such certificates.

We have assumed (i) that the specific sale of the Shares will be duly authorized by the Board of Directors of the Company, a duly authorized committee thereof or a person or body pursuant to an authorization granted in accordance with Section 152 of the General Corporation Law of the State of Delaware (the “**DGCL**”) and (ii) that that the sale and issuance of the Shares will not exceed (a) the authorized number of shares of Common Stock set forth in the Certificate of Incorporation, and (b) the aggregate amount of Shares authorized for offer, sale, and issuance by the Resolutions.

We express no opinion herein as to the laws of any state or jurisdiction other than the DGCL.

Based upon and subject to the foregoing, we are of the opinion that the Shares, when issued and paid for in accordance with the Sales Agreement and as provided in the Prospectus Supplement, will be validly issued, fully paid and nonassessable.

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We consent to the reference to our firm under the caption "Legal Matters" in the Prospectus Supplement and to the filing of this opinion as an exhibit to a Current Report on Form 8-K to be filed with the Commission for incorporation by reference into the Registration Statement. This opinion is expressed as of the date hereof, and we disclaim any responsibility to advise you of any changes in the facts stated or assumed herein or any changes in applicable law.

Very truly yours,

*/s/ Greenberg Traurig, LLP*