

**Executive Summary – Enforcement Matter – Case No. 41330**  
**Krebs Utilities d/b/a Padok Timbers Subdivision WS**  
**RN101267177**  
**Docket No. 2011-0416-UTL-E**

**Order Type:**  
Default Order

**Findings Order Justification:**  
N/A

**Media:**  
UTL

**Small Business:**  
Yes

**Location(s) Where Violation(s) Occurred:**  
Harris County Appraisal District KEY MAP 418N, Harris County

**Type of Operation:**  
Retail public utility - Public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions:	2011-0417-UTL-E, K Estates WS
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** June 24, 2011

**Comments Received:** None

***Penalty Information***

<b>Total Penalty Assessed:</b>	\$735
<b>Amount Deferred for Expedited Settlement:</b>	N/A
<b>Amount Deferred for Financial Inability to Pay:</b>	N/A
<b>Total Paid to General Revenue:</b>	\$0
<b>Total Due to General Revenue:</b>	\$735

**Compliance History Classifications:**

Person/CN – N/A  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** February 22, 2011  
**Date(s) of NOV(s):** November 15, 2010  
**Date(s) of NOE(s):** February 22, 2011

***Violation Information***

Failed to adopt and submit to the Executive Director for approval by March 1, 2010, an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations [TEX. WATER CODE § 13.1395(b)(2) and 30 TEX. ADMIN. CODE §§ 290.39(o)(1), 291.162(a), and 291.162(j)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. Within 30 days, adopt and submit to the Executive Director for approval an emergency preparedness plan. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the emergency preparedness plan within 30 days after the date of such requests, or by any other deadline specified in writing.
2. Within 45 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** May 4, 2011  
**Date(s) Green Card(s) Signed:** May 6, 2011  
**Date(s) Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A

***Contact Information***

**TCEQ Attorneys:** Peipey Tang, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400

**TCEQ SEP Coordinator:** N/A

**TCEQ Enforcement Coordinator:** Roshondra Lowe, Air Enforcement Section, (713) 767- 3553

**TCEQ Regional Contact:** Stephen Smith, Houston Regional Office, (713) 767-3581

**Respondent:** Stephen P. Krebs, Chief Executive Officer, Krebs Utilities, Inc., 11700 Padok Rd., Houston, Texas 77044

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	28-Feb-2011	<b>Screening</b>	17-Mar-2011	<b>EPA Due</b>	
	<b>PCW</b>	22-Mar-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>						
<b>Respondent</b>	Krebs Utilities, Inc. dba Padok Timbers Subdivision WS					
<b>Reg. Ent. Ref. No.</b>	RN101267177					
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor			

<b>CASE INFORMATION</b>						
<b>Enf./Case ID No.</b>	41330	<b>No. of Violations</b>	1			
<b>Docket No.</b>	2011-0416-UTL-E	<b>Order Type</b>	1660			
<b>Media Program(s)</b>	Public Water Utilities	<b>Government/Non-Profit</b>	No			
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Roshondra Lowe			
		<b>EC's Team</b>	Enforcement Team 5			
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$500		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$650
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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.

<b>Compliance History</b>	13.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$85
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Notes: Enhancement for one NOV with a same/similar violation and four NOVs with dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$28  
 Approx. Cost of Compliance: \$328  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$735
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$735
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$735
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$735
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**Screening Date** 17-Mar-2011

**Docket No.** 2011-0416-UTL-E

**PCW**

**Respondent** Krebs Utilities, Inc. dba Padok Timbers Subdivisio

Policy Revision 2 (September 2002)

**Case ID No.** 41330

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101267177

**Media [Statute]** Public Water Utilities

**Enf. Coordinator** Roshondra Lowe

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	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> )	1	5%
	Other written NOVs	4	8%
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 judgements 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%
<i>Please Enter Yes or No</i>			
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)** 13%

**>> Repeat Violator (Subtotal 3)**

N/A

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

N/A

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with a same/similar violation and four NOVs with dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 13%

Screening Date 17-Mar-2011

Docket No. 2011-0416-UTL-E

PCW

Respondent Krebs Utilities, Inc. dba Padok Timbers Subdivision WS

Policy Revision 2 (September 2002)

Case ID No. 41330

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101267177

Media [Statute] Public Water Utilities

Enf. Coordinator Roshondra Lowe

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.39(o)(1), 291.162(a) and (j), and Tex. Water Code § 13.1395(b)(2)

Violation Description Failed to adopt and submit to the Executive Director for approval by March 1, 2010, an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations.

Base Penalty \$500

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$450

\$50

Violation Events

Number of Violation Events 13 Number of violation days 381

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

Violation Base Penalty \$650

Thirteen monthly events are recommended, calculated from the date the plan was due, March 1, 2010, to the date of screening, March 17, 2011

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$650

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$735

This violation Final Assessed Penalty (adjusted for limits) \$735

## Economic Benefit Worksheet

**Respondent** Krebs Utilities, Inc. dba Padok Timbers Subdivision WS  
**Case ID No.** 41330  
**Req. Ent. Reference No.** RN101267177  
**Media** Public Water Utilities  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### 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)	\$328	1-Mar-2010	21-Nov-2011	1.73	\$28	n/a	\$28

Notes for DELAYED costs

The delayed cost includes the estimated amount (\$41/hr labor and administrative cost x 8 hours) to develop an submit an emergency preparedness plan. Date required is the deadline the plan was due. Final date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$328

**TOTAL**

\$28

# Compliance History

Customer/Respondent/Owner-Operator:	CN600655302    Krebs Utilities, Inc.	Classification:	Rating:
Regulated Entity:	RN101267177    PADOK TIMBERS SUBDIVISION WS	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012130
Location:	KEY MAP 418N		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	March 17, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 17, 2006 to March 17, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Roshondra Lowe	Phone:	(713) 767-3553

## Site Compliance History Components

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
3. If Yes, who is the current owner/operator?    N/A
4. If Yes, who was/were the prior owner(s)/operator(s)?    N/A
5. When did the change(s) in owner or operator occur?    N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
  - 1 04/15/2008 (639615)
  - 2 11/15/2010 (876921)
  - 3 02/24/2011 (884817)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

**DISSIM-1**    Date: 03/14/2008    (639615)    CN600655302  
 Self Report? NO    Classification: Moderate  
 Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)  
 Description: Failure, by a retail public utility that possesses a CCN that has reached 85% of its pressure tank capacity to submit a planning report that clearly explains how the utility will provide the expected service demands to the remaining areas within its boundaries.

**DISSIM-2**    Date: 09/09/2009    (749541)    CN600655302  
 Self Report? NO    Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(2)  
 Description: Manganese concentration exceeds the Maximum Contaminant Level (MCL) of 0.05 mg/L of manganese and is not being treated on wells # 2 & 3.  
 Self Report? NO    Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)  
 Description: Failure to compile Monthly Reports of Water Works Operations regularly each month and kept on file for commission review.

**DISSIM-3** Date: 01/27/2010 (786037) CN600655302  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(a)(1)  
 Description: Failure to provide all newly installed pipes and related products to conform to American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standards 61 and must be certified by an organization accredited by ANSI.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)  
 Description: Failure to locate ground water sources so there will be no danger of pollution from insanitary surroundings. Specifically, well number 1 must not be located within 50 feet of a septic tank.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)  
 Description: Failure to design and maintain a water distribution system to provide at all points within the distribution network a minimum pressure of 35 pounds per square inch (psi) at flow rates of at least 1.5 gallons per minute per connection at each service outlet or connection.

**SIM-1** Date: 11/15/2010 (876921) CN600655302  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(o)(1)  
**Description: Failure to submit an Emergency Preparedness Plan by the required deadline.**

**DISSIM-4** Date: 01/28/2011 (803167) CN600655302  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(2)  
 Description: Manganese concentration exceeds the Maximum Contaminant Level (MCL) of 0.05 mg/L of manganese and is not being treated on wells # 2 & 3.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)  
 Description: Failure to locate ground water sources so there will be no danger of pollution from insanitary surroundings. Specifically, well number 1 must not be located within 50 feet of a septic tank.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
 Description: Failure to maintain all water storage facilities, distribution system lines and related appurtenances in a watertight condition and free of excessive solids.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)  
 30 TAC Chapter 290, SubChapter D 290.38(34)  
 Description: Failure to provide an intruder-resistant fence in order to protect the wells and treatment equipment.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  
 Description: Failure to properly screen the well casing vent with 16-mesh or finer corrosion-resistant screening material.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)  
 Description: Failure to install all water system electrical wiring in compliance with a local or national electrical code.

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  
KREBS UTILITIES, INC. D/B/A  
PADOK TIMBERS  
SUBDIVISION WS;  
RN101267177**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

### **DOCKET NO. 2011-0416-UTL-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 13, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Krebs Utilities, Inc. d/b/a Padok Timbers Subdivision WS ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates for compensation a public water system located at Harris County Appraisal District KEY MAP 418N, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 47 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(66). The Facility involves equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use. Therefore, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 13 and TEX. HEALTH & SAFETY CODE ch. 341.
2. During a record review conducted on February 22, 2011, a TCEQ Central Office investigator documented that Respondent failed to adopt and submit to the Executive Director for approval by March 1, 2010, an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations.
3. Respondent received notices of the violation on or about November 20, 2010 and February 27, 2011.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring

Certain Actions of Krebs Utilities, Inc. d/b/a Padok Timbers Subdivision WS" (the "EDPRP") in the TCEQ Chief Clerk's office on May 4, 2011.

5. By letter dated May 4, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on May 6, 2011, as evidenced by the signature on the card.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP provided by the Executive Director. Respondent failed to file an answer and failed to request a hearing.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 13, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to adopt and submit to the Executive Director for approval by March 1, 2010, an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations, in violation of TEX. WATER CODE § 13.1395(b)(2), and 30 TEX. ADMIN. CODE §§ 290.39(o)(1), 291.162(a), and 291.162(j).
3. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 13.4151, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 13.4151, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 13.4151, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 13.4151, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of seven hundred thirty-five dollars (\$735.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 13.4151.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of seven hundred thirty-five dollars (\$735.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve 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 other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Krebs Utilities, Inc. d/b/a Padok Timbers Subdivision WS; Docket No. 2011-0416-UTL-E" to:

Financial Administration Division, Revenues Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

3. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Respondent shall adopt and submit to the Executive Director for approval an emergency preparedness plan in accordance with 30 TEX. ADMIN. CODE § 290.39(o) using the template in 30 TEX. ADMIN. CODE § 290.47 or another emergency preparedness plan that meets the requirements of 30 TEX. ADMIN. CODE § 290.45. Respondent shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the emergency preparedness plan within 30 days after the date of such requests, or by any other deadline specified in writing. The emergency preparedness plan shall be submitted to:

Technical Review and Oversight Team, MC 159  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Order, Respondent shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately

responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Stephen Smith, Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. 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.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
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 Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF PEIPEY TANG**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

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"My name is Peipey Tang. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Krebs Utilities, Inc. d/b/a Padok Timbers Subdivision WS" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on May 4, 2011.

The EDPRP was mailed to Respondent's last known address on May 4, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on May 6, 2011, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."

Peipey Tang  
Peipey Tang, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Peipey Tang, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 31<sup>st</sup> day of May, A.D. 2011.

Margaret Jackson  
Notary Signature

