

# Texas Commission on Environmental Quality

## INTEROFFICE MEMORANDUM

**DATE:** January 11, 2013

**TO:** Les Trobman,  
General Counsel

**FROM:** Peipey Tang, Staff Attorney *pt*  
Litigation Division

**THRU:** Kathleen Decker, Director *KCD*  
Litigation Division

**SUBJECT:** **Request for Setting on the January 30, 2013, Commission Agenda Sua Sponte Order Vacating Default Orders - Krebs Utilities, Inc.**  
Docket Nos. 2010-1752-UTL-E (Estates Water Corp);  
2010-1835-UTL-E (Roving Meadows Water System); and  
2010-1753-UTL-E (K Lake Terrace)

### **Background**

Krebs Utilities, Inc. ("Respondent") owns and operates, for compensation, three public water systems in Crosby, Harris County located at:

1. 2144 Lakeside Dr. (Estates Water Corp; RN101196897);
2. 4006 Farm-to-Market 1942 Road A (Roving Meadows Water System; RN101268977);  
and
3. Two miles east of Beltway 8 on Garrett Road (K Lake Terrace; RN101261568).

The Executive Director filed an Executive Director's Preliminary Report and Petition ("EDPRP") for each water system on the following dates:

1. Estates Water Corp - March 11, 2011
2. Roving Meadows Water System - March 14, 2011
3. K Lake Terrace - March 17, 2011

Pursuant to 30 TEX. ADMIN. CODE § 70.105, TEX. HEALTH & SAFETY CODE § 341.049(e), and TEX. WATER CODE § 13.4151(e), Respondent's written hearing requests were due "not later than 20 days after the date on which Respondent receives notice" of the EDPRP. In the cover letter of each EDPRP, Respondent was instructed to file hearing requests with the TCEQ Chief Clerk and to send copies of any hearing requests to the assigned Litigation Division ("LD") Attorney no later than 20 days after the date on which Respondent received notice of the EDPRPs. Thus, Respondent's written hearing requests were due on the following dates:

1. Estates Water Corp - April 4, 2011
2. Roving Meadows Water System - April 6, 2011
3. K Lake Terrace - April 11, 2011

On April 22, 2011, and May 4, 2011, after the 20-day deadlines to file hearing requests had passed, the LD Attorney had not received any hearing requests from Respondent for any of the three water systems. The LD Attorney checked the Chief Clerk's website on April 22<sup>nd</sup> and on May 4<sup>th</sup> and found that no hearing requests had been filed with the Chief Clerk for any of the three water systems. Thus, the LD Attorney mailed Respondent proposed Default Orders with "last chance" letters on April 25, 2011, for Estates Water Corp and Roving Meadows Water System, and on May 4, 2011 for K Lake Terrace. The "last chance" letters stated that the Executive Director would recommend that the Commission issue the enclosed Default Orders unless Respondent filed an answer requesting a hearing in each case. Unbeknownst to the LD Attorney, Respondent filed a single hearing request for all three systems on May 4, 2011. The May 4, 2011, hearing request was filed by Respondent at 4:45 p.m., which was after the LD Attorney checked the Chief Clerk's website earlier that same day. Respondent failed to provide the LD Attorney with a copy of the hearing request when it was filed.

By letters dated July 1, 2011 (one for each system/docket) Respondent was provided notice that the three Default Orders were scheduled for consideration at the July 20, 2011, commission agenda meeting. Respondent did not contact the LD Attorney upon receipt of the agenda setting letters to inform her that hearing requests had been filed, and did not appear at the July 20, 2011, agenda meeting to inform the commission that hearing requests had been filed. Thus, the Commission approved the three Default Orders at the July 20, 2011, agenda meeting. A signed copy of each Default Order was mailed to Respondent on July 28, 2011, and presumed to be received by Respondent on or about July 31, 2011.

On October 13, 2011, Respondent contacted the LD Attorney and provided a copy of the hearing request it had filed with the Chief Clerk on May 4, 2011, for the three systems (attached).

On October 11, 2012, Respondent entered into Agreed Orders for each of the three systems that were defaulted at the July 20, 2011, agenda meeting. The Executive Director requests that the attached Sua Sponte Order Vacating Default Orders and the three substitute Agreed Orders be considered at the January 30, 2013, agenda meeting.

11015 Sheldon Rd  
Ste. 102  
Houston, Tx 77044  
Phone (281) 456-0883  
Emergency (281) 236-9914

5-1-2011

LaDonna Castanuela, Chief Clerk  
TCEQ

Re: Dockets 2010-1752-UTL-E; 2010-1835-UTL-E; 2010-1753-UTL-E

To Whom It May Concern,

I would like to formally request a hearing in these matters.

Sincerely,



Stephen P. Krebs

CHIEF CLERKS OFFICE

2011 MAY -4 PM 4: 45

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
KREBS UTILITES, INC.  
DBA ESTATES WATER CORP,  
DBA K LAKE TERRAC E; AND  
DBA ROVING MEADOWS  
WATER SYSTEM;  
RN101196897, RN101261568,  
RN101268977**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**SUA SPONTE ORDER VACATING DEFAULT ORDERS**

**DOCKET NOS. 2010-1752-UTL-E, 2010-1753-UTL-E, AND 2010-1835-UTL-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission"), sua sponte, considered whether to vacate the Default Orders issued against Krebs Utilities, Inc. d/b/a Estates Water Corp, d/b/a K Lake Terrace, and d/b/a Roving Meadows Water System ("Respondent") and approved by the Commission on July 20, 2011.

On May 4, 2011, and June 15, 2011, Respondent filed answers requesting a hearing regarding these enforcement matters pursuant to 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 5.102 and 30 TEX. ADMIN. CODE § 70.5, upon finding that an answer was filed, the Commission has the authority to grant such relief that it deems equitable and just.

It is therefore ordered by the Commission that the Default Orders approved by the Commission at its July 20, 2011, agenda be vacated.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

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**Executive Summary – Enforcement Matter – Case No. 40602**  
**Krebs Utilities, Inc. d/b/a Estates Water Corp**  
**RN101196897**  
**Docket No. 2010-1752-UTL-E**

**Order Type:**  
Agreed Order

**Findings Order Justification:**  
N/A

**Media:**  
UTL

**Small Business:**  
Yes

**Location Where Violation Occurred:**  
2144 Lakeside Dr., Crosby, Harris County

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

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** November 9, 2012

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$436

**Total Paid to General Revenue:** \$436

**Total Due to General Revenue:** \$0

**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:** N/A  
**Date(s) of Investigation:** August 31, 2010  
**Date(s) of NOV(s):** September 1, 2010  
**Date(s) of NOE(s):** October 15, 2010

***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:**

Respondent submitted the Facility's emergency preparedness plan on December 9, 2011, and on February 13, 2012, the TCEQ determined that the plan was acceptable and in general compliance.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition Filed:** March 11, 2011  
**Date Green Card Signed:** March 14, 2011  
**Date Answer Filed:** June 15, 2011  
**Settlement Date:** October 11, 2012

***Contact Information***

**TCEQ Attorneys:** Peipey Tang, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Blas Coy, Public Interest Counsel, (512) 239-6363

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

**TCEQ Regional Contact:** Steve Smith, Houston Regional Office, MC R-12, (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>	18-Oct-2010	<b>Screening</b>	26-Oct-2010	<b>EPA Due</b>	
	<b>PCW</b>	9-Feb-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Krebs Utilities, Inc. dba Estates Water Corp
<b>Reg. Ent. Ref. No.</b>	RN101196897
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40602	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1752-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 Minimum</b>	\$0	<b>Maximum</b>	\$500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$400
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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>	9.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$36
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Notes: Enhancement for one NOV with a same/similar violation and two NOVs for 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: \$33  
 Approx. Cost of Compliance: \$328  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$436
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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>	\$436
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$436
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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>	\$436
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**Screening Date** 26-Oct-2010

**Docket No.** 2010-1752-UTL-E

**PCW**

**Respondent** Krebs Utilities, Inc. dba Estates Water Corp

Policy Revision 2 (September 2002)

**Case ID No.** 40602

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101196897

**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	2	4%
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)** 9%

**>> 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 two NOVs for dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 9%

Screening Date 26-Oct-2010

Docket No. 2010-1752-UTL-E

PCW

Respondent Krebs Utilities, Inc. dba Estates Water Corp

Policy Revision 2 (September 2002)

Case ID No. 40602

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101196897

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), Percent (0%).

>> Programmatic Matrix

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

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

Adjustment \$450

\$50

Violation Events

Number of Violation Events 8 Number of violation days 239

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$400

Eight monthly events are recommended, calculated from the date the plan was due, March 1, 2010, to the date of screening, October 26, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$436

This violation Final Assessed Penalty (adjusted for limits) \$436

## Economic Benefit Worksheet

**Respondent** Krebs Utilities, Inc. dba Estates Water Corp  
**Case ID No.** 40602  
**Reg. Ent. Reference No.** RN101196897  
**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	5-Mar-2012	2.01	\$33	n/a	\$33

Notes for DELAYED costs

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

### 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**

\$33

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600655302 Krebs Utilities, Inc. Classification: Rating:  
Regulated Entity: RN101196897 ESTATES WATER CORP Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1010675  
WATER LICENSING LICENSE 1010675  
Location: 2144 LAKESIDE DR, CROSBY, TX, 77532  
TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 21, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 21, 2005 to October 21, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:

Name: Roshondra Lowe Phone: 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 | 06/23/2006 | (462481) |
| 2 | 09/11/2007 | (573343) |
| 3 | 08/31/2010 | (857740) |
| 4 | 10/15/2010 | (870314) |

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

**Date: 06/23/2006 (462481) CN600655302**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failure to provide an internal and external inspection report on pressure tank.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(B)

Description: Failure to provide a weekly residual log.

**Date: 08/22/2007 (573343) CN600655302**

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to properly maintain the regulated entity by not: cutting the shrubs along the fence line, tightening the barbed wire on the fence and repairing or replacing the leaking schraeder valve.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failure to repair the cracked concrete sealing block surrounding Well Number 1 using a flexible, nontoxic, waterproof compound.

**Date: 09/01/2010 (857740) 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.

- 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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
KREBS UTILITIES, INC. DBA  
ESTATES WATER CORP;  
RN101196897**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2010-1752-UTL-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Krebs Utilities, Inc. d/b/a Estates Water Corp ("Respondent") under the authority of TEX. WATER CODE ch. 13 and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates for compensation a public water system located at 2144 Lakeside Dr. in Crosby, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 19 service connections, and serves at least 25 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. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
3. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of four hundred thirty-six dollars (\$436.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid four hundred thirty-six dollars (\$436.00) of the administrative penalty.
5. 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 and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

7. The Executive Director recognizes that on March 5, 2012, the TCEQ determined that the Facility's emergency preparedness plan submitted by Respondent on December 9, 2011, and February 13, 2012, was acceptable and in general compliance.
8. 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 Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

1. During a record review conducted on August 31, 2010, 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, 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).
2. Respondent received notice of the violation on or about September 6, 2010, and October 20, 2010.

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 4, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. All relief not expressly granted in this Agreed Order is denied.
3. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed 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.
5. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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.
  6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed 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 Agreed 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.
  7. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

Krebs Utilities, Inc. d/b/a Estates Water Corp  
Docket No. 2010-1752-UTL-E  
Page 4

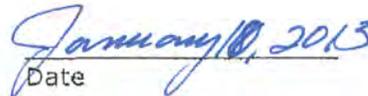
SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission



\_\_\_\_\_  
For the Executive Director

  
Date

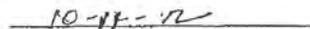
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Krebs Utilities, Inc. d/b/a Estates Water Corp, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions 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;
- Referral of this case to the Attorney General's office 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 Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature - Stephen P. Krebs  
Chief Executive Officer  
Krebs Utilities, Inc. d/b/a Estates Water Corp

  
\_\_\_\_\_  
Date

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 40695  
Krebs Utilities, Inc. d/b/a Roving Meadows Water System  
RN101268977  
Docket No. 2010-1835-UTL-E

**Order Type:**

Agreed Order

**Findings Order Justification:**

N/A

**Media:**

UTL

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

4006 Farm-to-Market 1942 Road A, Crosby, Harris County

**Type of Operation:**

public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** November 9, 2012

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$508

**Total Paid to General Revenue:** \$508

**Total Due to General Revenue:** \$0

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – N/A  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** October 13, 2010  
**Date(s) of NOV(s):** September 1, 2010  
**Date(s) of NOE(s):** September 1, 2010 and October 22, 2010

**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:**

Respondent submitted the Facility's emergency preparedness plan on December 9, 2011, and on February 13, 2012, the TCEQ determined that the plan was acceptable and in general compliance.

**Technical Requirements:**

N/A

**Litigation Information**

**Date Petition(s) Filed:** March 14, 2011  
**Date Answer(s) Filed:** May 4, 2011  
**Settlement Date:** October 11, 2012

**Contact Information**

**TCEQ Attorneys:** Peipey Tang, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Blas Coy, Public Interest Counsel, (512) 239-6363

**TCEQ SEP Coordinator:** N/A

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

**TCEQ Regional Contact:** Stephen Smith, Houston Regional Office, (713) 767-3500

**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>	25-Oct-2010	<b>Screening</b>	9-Nov-2010	<b>EPA Due</b>	
	<b>PCW</b>	14-Feb-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Krebs Utilities, Inc. dba Roving Meadows Water System
<b>Reg. Ent. Ref. No.</b>	RN101268977
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40695	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1835-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 Minimum</b>	\$0	<b>Maximum</b>	\$500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$450
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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>	\$58
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**Notes** Enhancement for one NOV with a same/similar violation and four NOVs for 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	\$22
Approx. Cost of Compliance	\$328

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$508
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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>	\$508
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$508
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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>	\$508
------------------------	-------

**Screening Date** 9-Nov-2010

**Docket No.** 2010-1835-UTL-E

**PCW**

**Respondent** Krebs Utilities, Inc. dba Roving Meadows Water S

*Policy Revision 2 (September 2002)*

**Case ID No.** 40695

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101268977

**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 for dissimilar violations.

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

Screening Date 9-Nov-2010

Docket No. 2010-1835-UTL-E

PCW

Respondent Krebs Utilities, Inc. dba Roving Meadows Water System

Policy Revision 2 (September 2002)

Case ID No. 40695

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101268977

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), Percent (0%).

>> Programmatic Matrix

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

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

Adjustment \$450

\$50

Violation Events

Number of Violation Events 9 Number of violation days 253

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

Violation Base Penalty \$450

Nine monthly events are recommended, calculated from the date the plan was due, March 1, 2010, to the date of screening, November 9, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDRP/Settlement Offer.

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

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$509

This violation Final Assessed Penalty (adjusted for limits) \$509

## Economic Benefit Worksheet

**Respondent** Krebs Utilities, Inc. dba Roving Meadows Water System  
**Case ID No.** 40695  
**Reg. Ent. Reference No.** RN101268977  
**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	11-Jul-2011	1.36	\$22	n/a	\$22

Notes for DELAYED costs

The delayed cost includes the estimated amount (\$41/hr labor and administrative cost x 8 hours) to develop and 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**

\$22

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600655302 Krebs Utilities, Inc. Classification: Rating:  
Regulated Entity: RN101268977 ROVING MEADOWS WATER Classification: Site Rating:  
SYSTEM  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION1 012260  
Location: 4006 FM 1942 ROAD A, CROSBY, TX, 77532  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: October 25, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 25, 2005 to October 25, 2010  
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 | 08/04/2006 | (487657) |
| 2 | 03/19/2008 | (637202) |
| 3 | 10/21/2008 | (704955) |
| 4 | 09/01/2010 | (857795) |
| 5 | 10/20/2010 | (870447) |

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

**DISSIM-1** Date: 08/03/2006 (487657) CN600655302  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)  
Description: Failure to provide a pressure tank inspection report showing that pressure tank had been inspected internally and externally.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to properly maintain the regulated entity by not repairing the fence and barbed wire in the section along FM 1942 to make it more intruder-resistant. It was noted that the back of the fence is not six feet tall, the barbed wire is hanging loosely.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Operating Practices for Public Water Systems  
Failure to properly maintain the regulated entity by not:  
a. cleaning and repainting the wellhead of well #1 and  
b. cleaning and repainting the bottom of pressure tank.  
It is noted that the wellhead of well #1 has been cleaned and repainted. The pressure tank however, does not appear to have been cleaned and repainted.

**DISSIM-2** Date: 02/13/2008 (637202) CN600655302  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)  
Description: Failure to provide a pressure tank inspection report showing that pressure tank had been inspected internally and externally.

**DISSIM-3** Date: 03/04/2008 (637202) CN600655302  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to properly maintain the regulated entity by not repairing the fence and barbed wire in the section along FM 1942 to make it more intruder-resistant. It was noted that the back of the fence is not six feet tall, the barbed wire is hanging loosely.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Operating Practices for Public Water Systems  
Failure to properly maintain the regulated entity by not:  
a. cleaning and repainting the wellhead of well #1 and  
b. cleaning and repainting the bottom of pressure tank.  
It is noted that the wellhead of well #1 has been cleaned and repainted. The pressure tank however, does not appear to have been cleaned and repainted.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to equip the pressure tank with a capacity greater than 1000 gallons with some sanitary means of determining the air to water ratio.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure by the regulated entity to develop and maintain an up to date system monitoring plan.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to provide a plant operations manual at the time of the investigation.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to properly maintain the regulated entity by not removing the stored backhoe located at the well site.

**DISSIM-4** Date: 10/22/2008 (704955) CN600655302

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to equip the pressure tank with a capacity greater than 1000 gallons with some sanitary means of determining the air to water ratio.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure by the regulated entity to develop and maintain an up to date system monitoring plan.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to provide a plant operations manual at the time of the investigation.

**SIM-1** Date: 09/01/2010 (857795) 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.

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. DBA  
ROVING MEADOWS WATER  
SYSTEM;  
RN101268977**

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

**AGREED ORDER**

**DOCKET NO. 2010-1835-UTL-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Krebs Utilities, Inc. d/b/a Roving Meadows Water System ("Respondent") under the authority of TEX. WATER CODE ch. 13 and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates for compensation a public water system located at 4006 Farm-to-Market 1942 Road A in Crosby, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 47 service connections, and serves at least 25 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. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
3. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of five hundred eight dollars (\$508.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid five hundred eight dollars (\$508.00) of the administrative penalty.
5. 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 and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

7. The Executive Director recognizes that on March 5, 2012, the TCEQ determined that the Facility's emergency preparedness plan submitted by Respondent on December 9, 2011, and February 13, 2012, was acceptable and in general compliance.
8. 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 Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

1. During a record review conducted on October 13, 2010, 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, 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).
2. Respondent received notice of the violation on or about September 6, 2010, and October 27, 2010.

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 4, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. All relief not expressly granted in this Agreed Order is denied.
3. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed 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.
5. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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.
  6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed 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 Agreed 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.
  7. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

Krebs Utilities, Inc. d/b/a Roving Meadows Water System  
Docket No. 2010-1835-UTL-E  
Page 4

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*M. Sweeney*  
For the Executive Director

\_\_\_\_\_  
Date

*January 10, 2013*

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Krebs Utilities, Inc. d/b/a Roving Meadows Water System, 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 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;
- Referral of this case to the Attorney General's office 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 Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

*[Signature]*  
Signature - Stephen P. Krebs  
Chief Executive Officer  
Krebs Utilities, Inc. d/b/a Roving Meadows Water System

\_\_\_\_\_  
Date

*10-11-12*

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 40601  
Krebs Utilities, Inc. d/b/a K Lake Terrace  
RN101261568  
Docket No. 2010-1753-UTL-E

**Order Type:**

Agreed Order

**Findings Order Justification:**

N/A

**Media:**

UTL

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

two miles east of Beltway 8 on Garrett Road, Crosby, Harris County

**Type of Operation:**

public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** November 9, 2012

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$452

**Total Paid to General Revenue:** \$452

**Total Due to General Revenue:** \$0

**Compliance History Classifications:**

Person/CN – N/A  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** October 13, 2010  
**Date(s) of NOV(s):** September 1, 2010  
**Date(s) of NOE(s):** September 1, 2010 and October 15, 2010

**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:**

On February 18, 2011, the TCEQ granted a waiver from the requirement to submit an emergency preparedness plan for the Facility.

**Technical Requirements:**

N/A

**Litigation Information**

**Date Petition(s) Filed:** March 17, 2011  
**Date Answer(s) Filed:** May 4, 2011  
**Settlement Date:** October 11, 2012

**Contact Information**

**TCEQ Attorneys:** Peipey Tang, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Blas Coy, Public Interest Counsel, (512) 239-6363

**TCEQ SEP Coordinator:** N/A

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

**TCEQ Regional Contact:** Stephen Smith, Houston Regional Office, (713) 767-3500

**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>	18-Oct-2010	<b>Screening</b>	26-Oct-2010	<b>EPA Due</b>	
	<b>PCW</b>	17-Feb-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Krebs Utilities, Inc. dba K Lake Terrace		
<b>Reg. Ent. Ref. No.</b>	RN101261568		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40601	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1753-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 Minimum</b>	\$0	<b>Maximum</b>	\$500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$400
---	-------------------	-------

### 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>	\$52
---------------------------	-------------------	--------------------------------	------

Notes: Enhancement for one NOV with a same/similar violation and four NOVs for 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
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$23
Approx. Cost of Compliance	\$328

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$452
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$452

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$452
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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>	\$452
------------------------	-------

**Screening Date** 26-Oct-2010

**Docket No.** 2010-1753-UTL-E

**PCW**

**Respondent** Krebs Utilities, Inc. dba K Lake Terrace

*Policy Revision 2 (September 2002)*

**Case ID No.** 40601

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101261568

**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 for dissimilar violations.

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

Screening Date 26-Oct-2010

Docket No. 2010-1753-UTL-E

PCW

Respondent Krebs Utilities, Inc. dba K Lake Terrace

Policy Revision 2 (September 2002)

Case ID No. 40601

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101261568

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), Percent (0%).

>> Programmatic Matrix

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

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

Adjustment \$450

\$50

Violation Events

Number of Violation Events 8 Number of violation days 239

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$400

Eight monthly events are recommended, calculated from the date the plan was due, March 1, 2010, to the date of screening, October 26, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDRP/Settlement Offer.

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

Violation Subtotal \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$452

This violation Final Assessed Penalty (adjusted for limits) \$452

## Economic Benefit Worksheet

**Respondent** Krebs Utilities, Inc. dba K Lake Terrace  
**Case ID No.** 40601  
**Reg. Ent. Reference No.** RN101261568  
**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	18-Jul-2011	1.38	\$23	n/a	\$23

Notes for DELAYED costs

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

### 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**

\$23

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600655302 Krebs Utilities, Inc. Classification: Rating:  
Regulated Entity: RN101261568 K LAKE TERRACE Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1012710  
Location: 2 MILES E OF BELTWAY 8 ON GARRETT RD.  
KEY MAP 418S  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: October 21, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 21, 2005 to October 21, 2010  
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 11/29/2005(438362)  
2 11/28/2007 (597345)  
3 08/20/2008 (700096)  
4 10/21/2008 (704630)  
5 09/03/2010 (858074)  
6 10/14/2010 (870503)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- DISSIM-1** Date: 11/28/2007 (597345) CN600655302  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.121  
Description: Failure to develop and maintain an up-to-date system monitoring plan.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(2)  
30 TAC Chapter 290, SubChapter F 290.105  
30 TAC Chapter 290, SubChapter F 290.118  
Description: Failure to meet the minimum standards for manganese and to sequester the manganese.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)  
Description: Failure to submit a planning report.
- DISSIM-2** Date: 08/15/2008 (700096) CN600655302  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.121  
Description: Failure to develop and maintain an up-to-date system monitoring plan.
- DISSIM-3** Date: 08/16/2008 (700096) CN600655302  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(2)  
30 TAC Chapter 290, SubChapter F 290.105  
30 TAC Chapter 290, SubChapter F 290.118  
Description: Failure to meet the minimum standards for manganese and to sequester the manganese.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)  
Description: Failure to submit a planning report.

**DISSIM-4** Date: 10/10/2008 (704630) CN600655302  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(2)  
30 TAC Chapter 290, SubChapter F 290.105  
30 TAC Chapter 290, SubChapter F 290.118

Description: Failure to meet the minimum standards for manganese and to sequester the manganese.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)

Description: Failure to submit a planning report.

**SIM-1** Date: 09/01/2010 (858074) 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.

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. DBA  
K LAKE TERRACE;  
RN101261568**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2010-1753-UTL-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Krebs Utilities, Inc. d/b/a K Lake Terrace ("Respondent") under the authority of TEX. WATER CODE ch. 13 and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates for compensation a public water system located two miles east of Beltway 8 on Garrett Road in Crosby, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 18 service connections, and serves at least 25 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. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
3. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of four hundred fifty-two dollars (\$452.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid four hundred fifty-two dollars (\$452.00) of the administrative penalty.
5. 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 and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

7. The Executive Director recognizes that on February 18, 2011, the TCEQ granted a waiver request from the requirement to submit an emergency preparedness plan for the Facility.
8. 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 Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

1. During a record review conducted on October 13, 2010, 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, 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).
2. Respondent received notice of the violation on or about September 6, 2010, and October 20, 2010.

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 4, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. All relief not expressly granted in this Agreed Order is denied.
3. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed 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.
5. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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.
  6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed 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 Agreed 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.
  7. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

Krebs Utilities, Inc. d/b/a K Lake Terrace  
Docket No. 2010-1753-UTL-E  
Page 4

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

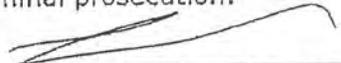
January 10, 2013  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Krebs Utilities, Inc. d/b/a K Lake Terrace, 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 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;
- Referral of this case to the Attorney General's office 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 Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature - Stephen P. Krebs  
Chief Executive Officer  
Krebs Utilities, Inc. d/b/a K Lake Terrace

10-11-12  
Date