

**Executive Summary – Enforcement Matter – Case No. 45175**  
**LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort**  
**RN101252880**  
**Docket No. 2012-2039-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

Yes

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

Lake Medina RV Resort, 1218 Leibolds Point, Pipe Creek, Bandera County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** February 15, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$2,223

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$223

**Total Due to General Revenue:** \$2,000

Payment Plan: 10 payments of \$200 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Unclassified

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 45175  
LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort  
RN101252880  
Docket No. 2012-2039-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** September 10, 2012  
**Date(s) of NOE(s):** September 28, 2012

***Violation Information***

1. Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result, and failed to timely submit to the Executive Director a copy of a public notice of the failure to collect increased coliform sampling during the month it was required [30 TEX. ADMIN. CODE § 290.109(c)(2)(F) and 30 TEX. ADMIN. CODE § 290.122(f)].
2. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(i)].
3. Failed to comply with the Maximum Contaminant Level for total coliform [30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On September 25, 2012, Respondent notified the Executive Director that on June 8, 2012, Respondent provided the required public notice to the customers of the Facility of the failure to complete increased coliform sampling during the month of May 2012.

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 10 days, begin complying with applicable coliform monitoring requirements by collecting all routine, repeat, and increased distribution samples when required, and by providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.
- b. Within 195 days, submit written certification demonstrating compliance with Ordering Provision a.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A

**Executive Summary – Enforcement Matter – Case No. 45175  
LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort  
RN101252880  
Docket No. 2012-2039-PWS-E**

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jim Fisher, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2537; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Marlene Leibold Grothues, Owner, Lake Medina RV Resort, 305 Lakewood Drive, Kerrville, Texas 78028

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	1-Oct-2012	<b>Screening</b>	5-Oct-2012	<b>EPA Due</b>	30-Jun-2012
	<b>PCW</b>	11-Oct-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort		
<b>Reg. Ent. Ref. No.</b>	RN101252880		
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	45175	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-2039-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jim Fisher
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$1,050**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **30.0%** Enhancement **Subtotals 2, 3, & 7** **\$315**

Notes: Enhancement for six NOVs with same/similar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts	\$861
Approx. Cost of Compliance	\$930

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$1,365**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **62.9%** **Adjustment** **\$858**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs associated with violation nos. 1 through 3.

**Final Penalty Amount** **\$2,223**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$2,223**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$2,223**

Screening Date 5-Oct-2012

Docket No. 2012-2039-PWS-E

PCW

Respondent LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort

Policy Revision 3 (September 2011)

Case ID No. 45175

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101252880

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

### 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 (number of NOVs meeting criteria)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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	*Please Select	0%

**Adjustment Percentage (Subtotal 2)** 30%

>> Repeat Violator (Subtotal 3)

N/A

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

>> Compliance History Person Classification (Subtotal 7)

Unclassified

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

>> Compliance History Summary

Compliance History Notes

Enhancement for six NOVs with same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 30%

>> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 30%

Screening Date 5-Oct-2012

Docket No. 2012-2039-PWS-E

PCW

Respondent LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort

Policy Revision 3 (September 2011)

Case ID No. 45175

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101252880

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(F) and 30 Tex. Admin. Code § 290.122(f)

Violation Description Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result, and failed to timely submit to the Executive Director a copy of a public notice of the failure to collect increased coliform sampling during the month it was required. Specifically, the Respondent collected only three of five, and four of five required samples for the months of May and June 2012, respectively; and failed to submit to the Executive Director a copy of the public notice posted of the failure to complete increased coliform sampling during the month of May 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0.0%

Matrix Notes Failure to properly sample may expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Event 6/9/2012

Number of Violation Events 2 Number of violation days 61

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$300

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$88

Violation Final Penalty Total \$635

This violation Final Assessed Penalty (adjusted for limits) \$635

## Economic Benefit Worksheet

**Respondent** LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort

**Case ID No.** 45175

**Reg. Ent. Reference No.** RN101252880

**Media** Public Water Supply

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**coliform sampling during the month it was required. Specifically, the Respondent collected only three of five, and four of five requ**

### Delayed Costs

Item Description	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount	
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	\$100	10-Sep-2012	31-May-2013	0.72	\$4	n/a	\$4
Remediation/Disposal			0.00	\$0	n/a	\$0	
Permit Costs			0.00	\$0	n/a	\$0	
Other (as needed)			0.00	\$0	n/a	\$0	

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future sampling and reporting is properly conducted, calculated from the record review date to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Item Description	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount	
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]	\$75	1-May-2012	30-Jun-2012	1.08	\$4	\$75	\$79
Other (as needed)	\$5	9-Jun-2012	18-Jun-2012	0.00	\$0	\$5	\$5

**Notes for AVOIDED costs**

The avoided cost includes the estimated amount necessary (\$25 per sample x 3 samples) to conduct increased coliform sampling, calculated for the months the increased monitoring was required. The other avoided cost includes the estimated amount to submit a copy of the public notice provided to the persons served by the Facility of the failure to complete increased coliform monitoring to the Executive Director, calculated for the period during which the notice copy was due.

**Approx. Cost of Compliance**

\$180

**TOTAL**

\$88

Screening Date 5-Oct-2012

Docket No. 2012-2039-PWS-E

PCW

Respondent LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort

Policy Revision 3 (September 2011)

Case ID No. 45175

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101252880

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.109(c)(3)(A)(i)

Violation Description

Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample. Specifically, the Respondent did not submit any of the 15 repeat samples required for the month of October 2011 following five coliform-positive results, and collected only three of six repeat samples required for the month of May 2012 following two coliform-positive results.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to perform repeat coliform monitoring may expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

62 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$300

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$450

Violation Final Penalty Total \$635

This violation Final Assessed Penalty (adjusted for limits) \$635

## Economic Benefit Worksheet

**Respondent** LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort

**Case ID No.** 45175

**Reg. Ent. Reference No.** RN101252880

**Media** Public Water Supply

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost to ensure that future sampling and reporting is properly conducted is accounted for in the violation no. 1 economic benefit worksheet.

### 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
<b>ONE-TIME avoided costs [3]</b>	\$375	28-Oct-2011	29-Oct-2011	0.00	\$0	\$375	\$375
Other (as needed)	\$75	30-May-2012	31-May-2012	0.00	\$0	\$75	\$75

**Notes for AVOIDED costs**

The avoided cost includes the estimated amount to collect repeat samples (\$25/sample x 15 samples for October 2011 and \$25 x 3 samples for May 2012), calculated for the 24-hour period after each coliform-positive result.

**Approx. Cost of Compliance**

\$450

**TOTAL**

\$450

Screening Date 5-Oct-2012 Docket No. 2012-2039-PWS-E

PCW

Respondent LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort

Policy Revision 3 (September 2011)

Case ID No. 45175

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101252880

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.109(f)(3) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform for the months of October 2011, and April and May 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes As a result of the exceedance, persons served by the Facility have been exposed to significant amounts of contaminants which do not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 3 61 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$450

Three monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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 \$324

Violation Final Penalty Total \$953

This violation Final Assessed Penalty (adjusted for limits) \$953

## Economic Benefit Worksheet

**Respondent** LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort

**Case ID No.** 45175

**Reg. Ent. Reference No.** RN101252880

**Media** Public Water Supply

**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost to ensure that future sampling and reporting is properly conducted is accounted for in the violation no. 1 economic benefit worksheet.

### 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
<b>ONE-TIME avoided costs [3]</b>	\$300	1-Oct-2011	31-May-2012	1.58	\$24	\$300	\$324
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

The avoided cost includes the estimated amount to provide additional oversight necessary to prevent or avoid the exceedance, calculated for the months the exceedances occurred.

**Approx. Cost of Compliance**

\$300

**TOTAL**

\$324

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# TCEQ Compliance History Report

**PENDING** Compliance History Report for CN604139261, RN101252880, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN604139261, LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort **Classification:** UNCLASSIFIED **Rating:** -----

**Regulated Entity:** RN101252880, LAKE MEDINA RV RESORT **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 1218 LEIBOLDS POINT, PIPE CREEK, BANDERA COUNTY, TEXAS

**TCEQ Region:** REGION 13 - SAN ANTONIO

**ID Number(s):**

**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 0100073

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** October 05, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 01, 2007 to October 01, 2012

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

**Name:** Jim Fisher **Phone:** (512) 239-2537

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:** N/A

**B. Criminal convictions:** N/A

**C. Chronic excessive emissions events:** N/A

**D. The approval dates of investigations (CEEDS Inv. Track. No.):** N/A

**E. Written notices of violations (NOV) (CEEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

**1** **Date:** 11/01/2011 (1034505) **CN604139261**  
Self Report? NO **Classification:** Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR MCL Violation 10/2011 - System exceeded a maximum contaminant level.

**2** **Date:** 02/29/2012 (1034505) **CN604139261**  
Self Report? NO **Classification:** Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(i)



Description: TCR Repeat Monitoring Violation 10/2011 - Failure to collect any repeats following a coliform found result.

- 3**      **Date: 05/08/2012 (1034505)**                      **CN604139261**  
Self Report? NO    Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
Description: TCR MCL Violation 04/2012 - System exceeded a maximum contaminant level.
- 4**      **Date: 06/01/2012 (1034505)**                      **CN604139261**  
Self Report? NO    Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
Description: TCR MCL Violation 05/2012 - System exceeded a maximum contaminant level.
- 5**      **Date: 07/23/2012 (1034505)**                      **CN604139261**  
Self Report? NO    Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
Description: TCR Increase Monitoring Violation 05/2012 - Failure to collect all of the 5 distribution samples following a coliform found month.  
Self Report? NO    Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(i)  
Description: TCR Repeat Monitoring Violation 05/2012 - Failure to collect all repeats following a coliform found result.
- 6**      **Date: 09/19/2012 (1034505)**                      **CN604139261**  
Self Report? NO    Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
Description: TCR Increase Monitoring Violation 06/2012 - Failure to collect all of the 5 distribution samples following a coliform found month.

**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



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	
<b>LEIBOLD-GROTHUES RANCH, LTD.</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>DBA LAKE MEDINA RV RESORT</b>	<b>§</b>	
<b>RN101252880</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**AGREED ORDER**  
**DOCKET NO. 2012-2039-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

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

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply at 1218 Leibolds Point in Pipe Creek, Bandera County, Texas (the "Facility") that has approximately 98 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on September 10, 2012, TCEQ staff documented that the Respondent collected only three of five, and four of five required routine distribution coliform samples for the months of May and June 2012, respectively; and failed to submit to the Executive Director a copy of the public notice posted of the failure to complete increased coliform sampling during the month of May 2012.
3. During a record review conducted on September 10, 2012, TCEQ staff documented that the Respondent did not submit any of the 15 repeat distribution coliform samples required for the month of October 2011 following five coliform-positive results, and collected only three of six repeat distribution coliform samples required for the month of May 2012 following two coliform-positive results.
4. During a record review conducted on September 10, 2012, TCEQ staff documented that the Respondent did not comply with the Maximum Contaminant Level ("MCL") for total coliform for the months of October 2011, and April and May 2012.
5. The Respondent received notice of the violations on October 3, 2012.
6. The Executive Director recognizes that on September 25, 2012, the Respondent notified the Executive Director that on June 8, 2012, the Respondent provided the required public notice to the customers of the Facility of the failure to complete increased coliform sampling during the month of May 2012.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result, and failed to timely submit to the Executive Director a copy of a public notice of the failure to collect increased coliform sampling during the month it was required, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F) and 30 TEX. ADMIN. CODE § 290.122(f).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(i).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with the MCL for total coliform, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code 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 Two Thousand Two Hundred Twenty-Three Dollars (\$2,223) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid Two Hundred Twenty-Three Dollars (\$223) of the administrative penalty. The remaining amount of Two Thousand Dollars (\$2,000) of the administrative penalty shall be payable in 10 monthly payments of Two Hundred Dollars (\$200) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### **III. ORDERING PROVISIONS**

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

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Two Hundred Twenty-Three Dollars (\$2,223) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort, Docket No. 2012-2039-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting all routine, repeat, and increased distribution samples when required, and by providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX

ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.

- b. Within 195 days after the effective date of this Agreed Order, 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. 2.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:

Public Drinking Water Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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 the

Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

6. 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Pam Davis  
For the Executive Director

2/18/13  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort. I am authorized to agree to the attached Agreed Order on behalf of LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the 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, any falsification of any compliance documents may result in criminal prosecution.

Marlene Leibold Grothues  
Signature

12-28-12  
Date

Marlene Leibold Grothues  
Name (Printed or typed)  
Authorized Representative of  
LEIBOLD-GROTHUES RANCH, LTD. dba Lake Medina RV Resort

Owner  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.