

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0036-MLM-E TCEQ ID: RN102328515; RN102329802; AND RN101265213

CASE NO.: 35171 AND 31108

RESPONDENT NAME: DOUBLE DIAMOND UTILITIES CO.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Adjacent to Possum Kingdom Lake immediately west of State Highway 16 and south of the Brazos River, Palo Pinto County ("Facility 1"); 2.5 miles northwest of the intersection of Farm-to-Market Road 933 and Farm-to-Market Road 2604, Hill County ("Facility 2"); and 160 Cliffs Drive, Graford, Palo Pinto County (the "Water System")

TYPE OF OPERATION: 2 waste water treatment facilities and 1 public water system

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired August 24, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297

Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Sam Short, Water Enforcement Section, MC 149, (512) 239-5363

Ms. Rebecca Clausewitz, Water Enforcement Section, MC R-13, (210) 403-4012

TCEQ Regional Contact: Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901

Respondent: Mr. Randy Gracy, President, Double Diamond Utilities Co., 10100 N. Central Expressway, Dallas, Texas 75231

Respondent's Attorney: Mr. Ali Abazari, Jackson Walker, LLP, 100 Congress Ave. Suite 1100, Austin, Texas 78701

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: June 29, 2006; November 5, 2007; and December 10, 2007</p> <p>Dates of NOEs Relating to this Case: August 22, 2006; December 18, 2007; and January 29, 2008</p> <p>Background Facts: This case is a consolidation of two enforcement cases. The EDPRP for the PWS violations, originally docketed under case no. 2006-1593-PWS-E, was filed on March 14, 2007. The Respondent filed an answer and the case was referred to SOAH. The EDPRP for the effluent violations was filed February 13, 2009. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the Agreed Order was signed on June 24, 2009. A revised Agreed Order was signed on September 1, 2009.</p> <p>Current Compliance Status: The Respondent corrected violation nos. 1, 3, 4, 6, 7, 8, and a portion of violation no. 2. The Respondent has not submitted documentation demonstrating compliance with the outstanding technical requirements.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to employ at least one operator who holds a Class "B" or higher surface water license at the Water System [30 TEX. ADMIN. CODE § 290.46(e)(6)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a)]. Failed to maintain records of the inspection results for all water storage and pressure maintenance facilities at the Water System [30 TEX. ADMIN. CODE § 290.46(f)(3)(D)(ii)]. Failed to provide an adequate roof vent on clearwell tank no. 2 at the Water System [30 TEX. ADMIN. CODE § 290.43(c)(1)]. 	<p>Total Assessed: \$20,721</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$3,721/\$17,000</p> <p>The Respondent paid \$3,721 of the administrative penalty. The remaining amount of \$17,000 shall be paid in 5 monthly payments of \$3,400 each.</p> <p>Site Compliance History Classification – Facility 1 (CH-A) <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Site Compliance History Classification – Water System (CH-B) N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Site Compliance History Classification – Facility 2 (CH-C) <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken: The Executive Director recognizes that the Respondent completed the following corrective actions:</p> <ol style="list-style-type: none"> Submitted completed DMRs for Facility 1 for the monitoring periods ending February 28, 2007, for Outfalls 001 and 201; March 31, 2007, for Outfall 001; and June 30, 2007, for Outfall 201. Repaired the roof vent on clearwell tank no. 2 at the Water System. Began performing and maintaining records of storage tank inspections at the Water System. Secured and locked the roof hatch on clearwell tank no. 1 at the Water System. Employed Class "A" surface water operator at the Water System. <p>Ordering Provision(s): The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Begin maintaining all records of inspections on all pressure maintenance facilities at the Water System; and Develop and implement procedures to ensure that DMRs for Facility 1 are reported completely and accurately. Within 90 days, submit written certification to demonstrate compliance with the effluent limits for TPDES Permits Nos. WQ0002789000 and WQ0013786002, and with Ordering Provision nos. 1.a. and 1.b., including specific corrective actions taken to achieve compliance and copies of the most current self-reported DMRs demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>4. Failed to provide a locked roof hatch on clearwell tank no. 1 at the Water System [30 TEX. ADMIN. CODE § 290.43(c)(2)].</p>		
<p>5. Failed to comply with the permitted effluent limits for Facility 1, Outfall Nos. 001 and 201 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0002789000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].</p>		
<p>6. Failed to submit discharge monitoring reports (“DMRs”) and DMR parameter data for Facility 1, Outfall No. 001 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002789000, Monitoring and Reporting Requirements No. 1].</p>		
<p>7. Failed to submit DMR parameter data for Facility 1, Outfall No. 101 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002789000, Monitoring and Reporting Requirements No. 1].</p>		
<p>8. Failed to submit DMR parameter data for Facility 1, Outfall No. 201 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002789000, Monitoring and Reporting Requirements No. 1].</p>		
<p>9. Failed to comply with the permitted effluent limits for Facility 2, Outfall No. 1 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0013786002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	3-Jan-2008	Screening	3-Jan-2008	EPA Due	
	PCW	13-Jan-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Double Diamond Utilities Co. (The Cliffs Resort - Wastewater Treatment Plant)		
Reg. Ent. Ref. No.	RN102328515		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35171	No. of Violations	4	
Docket No.	2008-0036-MLM-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short	
Multi-Media		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement recommended for having 19 NOVs for self-reported effluent data, four NOVs for the same or similar violations, two NOVs for non-similar violations, and one Agreed Order with denial within the last five years.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Reduction **Subtotal 5**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts **Subtotal 6**

Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

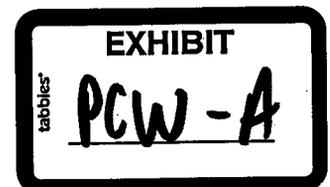
DEFERRAL Reduction **Adjustment**

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

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY



Screening Date: 3-Jan-2008

Docket No. 2008-0036-MLM-E

PCW

Double Diamond Utilities Co.

(The Cliffs Resort - Wastewater

Respondent: Treatment Plant)

Policy Revision 2 (September 2002)

Case ID No. 35171

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102328515

Media [Statute]: Water Quality

Enf. Coordinator: Samuel Short

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	23	115%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (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	No	0%

Adjustment Percentage (Subtotal 2) 139%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended for having 19 NOVs for self-reported effluent data, four NOVs for the same or similar violations, two NOVs for non-similar violations, and one Agreed Order with denial within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 139%

Screening Date 3-Jan-2008

Docket No. 2008-0036-MLM-E

PCW

Respondent Double Diamond Utilities Co.
Treatment Plant

(The Cliffs Resort - Wastewater

Policy Revision 2 (September 2002)

Case ID No. 35171

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102328515

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System Permit ("TPDES") No. WQ0002789000, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 001 and Nos. 1 and 2 for Outfall 201

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on November 5, 2007. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand ("BOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, total dissolved solids ("TDS"), total suspended solids ("TSS"), and ammonia-nitrogen ("NH3-H") values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

150 Number of violation days

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

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$155

Violation Final Penalty Total \$7,170

This violation Final Assessed Penalty (adjusted for limits) \$7,170

Effluent Limit Violation Table

Respondent Double Diamond Utilities Co.
ID Number(s) WQ0002789000
Docket Number 2008-0036-MLM-E
Enf. Coordinator Samuel Short

Corresponds to Violation Number: 1

EFFLUENT PARAMETER

Permit Limit

Outfall 201A								Outfall 001A	
<i>Month/Year</i>	BOD Daily Avg.	TSS Daily Avg.	TSS Daily Max.	TSS Loading Daily Avg.	Flow Daily Avg.	Flow Daily Max.	Chlorine Residual Monthly Min.	<i>Month/Year</i>	TDS Daily Max.
	20 mg/L	20 mg/L	45 mg/L	4.2 lbs/dy	0.025 MGD	0.05 MGD	1.0 mg/L		2500 mg/L
2/28/2007	22	53	100	9.48	c	c	c	4/30/2007	2504
5/31/2007	c	c	64	c	c	c	0.89	5/31/2007	3322
6/30/2007	c	31	132	c	0.027	0.07	c		
7/31/2007	c	c	59	c	c	c	c		

Name

Abbreviation

milligrams per liter
 million gallons per day
 total suspended solids
 biochemical oxygen demand
 total dissolved solids
 compliant
 average
 maximum
 minimum
 pounds per day

mg/L
 MGD
 TSS
 BOD
 TDS
 c
 Avg.
 Max.
 Min.
 lbs/dy

Economic Benefit Worksheet

Respondent: Double Diamond Utilities Co. (The Cliffs Resort - Wastewater Treatment Plant)
Case ID No.: 35171
Reg. Ent. Reference No.: RN102328515
Media: Water Quality
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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	28-Feb-2007	15-Sep-2008	1.5	\$155	n/a	\$155

Notes for DELAYED costs

The estimated cost to determine the cause of the exceedances and to develop and implement procedures to prevent future exceedances. Date required is the date the noncompliance started and the final date is the expected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$155

Screening Date 3-Jan-2008

Docket No. 2008-0036-MLM-E

PCW

Double Diamond Utilities Co.

(The Cliffs Resort - Wastewater

Policy Revision 2 (September 2002)

Respondent Treatment Plant)

PCW Revision November 6, 2007

Case ID No. 35171

Reg. Ent. Reference No. RN102328515

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0002789000, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit discharge monitoring reports ("DMR") and DMR parameter data. Specifically, the DMR for Outfall 001, which includes the total suspended solids ("TSS") and biochemical oxygen demand ("BOD") daily maximum annual sample and single grab annual sample, was not timely submitted for the monitoring period ending March 31, 2007 and the DMR parameter data Flow daily average and daily maximum, total dissolved solids ("TDS") increase over lake water feed daily average and daily maximum, and TDS ambient lake water feed daily average and daily maximum at Outfall 001 for the monitoring period ending February 28, 2007 was not timely submitted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

Greater than 70% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 59 Number of violation days

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

Violation Base Penalty \$2,000

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$109

Violation Final Penalty Total \$4,780

This violation Final Assessed Penalty (adjusted for limits) \$4,780

Economic Benefit Worksheet

Respondent: Double Diamond Utilities Co. (The Cliffs Resort - Wastewater Treatment Plant)
Case ID No.: 35171
Reg. Ent. Reference No.: RN102328515
Media: Water Quality
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
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$2,100	20-Mar-2007	2-Apr-2008	1.0	\$109	n/a	\$109
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to submit complete and accurate DMRs. Date required is the date the first complete DMR was due and the final date is the date the DMRs were submitted.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,100

TOTAL

\$109

Screening Date 3-Jan-2008

Docket No. 2008-0036-MLM-E

PCW

Respondent Double Diamond Utilities Co.
Wastewater Treatment Plant)

(The Cliffs Resort -

Policy Revision 2 (September 2002)

Case ID No. 35171

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102328515

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0002789000, Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit DMR parameter data. Specifically, the DMR parameter data Flow daily average and daily maximum at Outfall 101 was not timely submitted for the monitoring period ending February 28, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
		x		5%

Matrix Notes

30% to 70% of the rule requirement was not met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 28 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,195

This violation Final Assessed Penalty (adjusted for limits) \$1,195

Economic Benefit Worksheet

Respondent: Double Diamond Utilities Co. (The Cliffs Resort - Wastewater Treatment Plant)
Case ID No.: 35171
Reg. Ent. Reference No.: RN102328515
Media: Water Quality
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
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation No. 2.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 3-Jan-2008

Docket No. 2008-0036-MLM-E

PCW

Respondent Double Diamond Utilities Co.
Wastewater Treatment Plant)

(The Cliffs Resort -

Policy Revision 2 (September 2002)

Case ID No. 35171

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102328515

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0002789000, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit DMR parameter data. Specifically, the DMR parameter data TSS loading daily average at Outfall 201 for the monitoring period ending February 28, 2007, and BOD loading daily average and TSS loading daily average at Outfall 201 for the monitoring period ending June.30, 2007 was not timely submitted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2 Number of violation days 58

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$200

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$478

This violation Final Assessed Penalty (adjusted for limits) \$478

Economic Benefit Worksheet

Respondent: Double Diamond Utilities Co. (The Cliffs Resort - Wastewater Treatment Plant)
Case ID No.: 35171
Reg. Ent. Reference No.: RN102328515
Media: Water Quality
Violation No.: 4

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation No. 2.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History

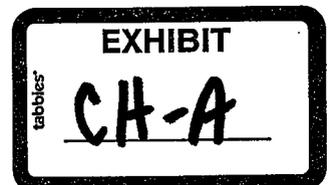
Customer/Respondent/Owner-Operator:	CN600672349	Double Diamond Utilities Co.	Classification: AVERAGE	Rating: 2.30
Regulated Entity:	RN102328515	THE CLIFFS RESORT	Classification: AVERAGE	Site Rating: 1.91
ID Number(s):	WASTEWATER	PERMIT	WQ0002789000	
	WASTEWATER	PERMIT	TPDES0099015	
	WASTEWATER	PERMIT	TX0099015	
	WASTEWATER LICENSING	LICENSE	WQ0002789000	
	STORMWATER	PERMIT	TXR05S719	
Location:	ADJACENT TO POSSUM KINGDOM LAKE IMMEDIATELY WEST OF STATE HIGHWAY 16 AND SOUTH OF THE BRAZOS RIVER IN PALO PINTO COUNTY, TEXAS		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	January 02, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 02, 2003 to January 02, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Samuel Short	Phone:	(512) 239-5363	

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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | |
|--|----------------------------|
| Effective Date: 12/21/2003 | ADMINORDER 2003-0141-MWD-E |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: Not specified PERMIT | |
| Description: Failure to comply with the permit limit for TSS at Outfall 201A. | |
- 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 | 01/15/2003 | (218804) |
| 2 | 01/27/2003 | (218808) |
| 3 | 02/20/2003 | (218773) |
| 4 | 03/03/2003 | (218776) |
| 5 | 04/10/2003 | (218782) |
| 6 | 05/27/2003 | (320895) |
| 7 | 06/26/2003 | (320897) |
| 8 | 08/25/2003 | (320898) |
| 9 | 11/07/2003 | (320899) |
| 10 | 11/07/2003 | (320901) |
| 11 | 12/01/2003 | (320902) |
| 12 | 01/13/2004 | (320903) |
| 13 | 02/17/2004 | (320893) |
| 14 | 02/25/2004 | (320904) |
| 15 | 03/22/2004 | (320894) |
| 16 | 04/08/2004 | (264280) |
| 17 | 04/30/2004 | (363250) |
| 18 | 06/22/2004 | (320896) |
| 19 | 07/01/2004 | (363251) |
| 20 | 08/31/2004 | (13425) |
| 21 | 10/04/2004 | (363254) |
| 22 | 10/08/2004 | (363252) |



23 10/08/2004 (363253)
 24 11/01/2004 (338309)
 25 11/03/2004 (388143)
 26 12/10/2004 (388144)
 27 01/25/2005 (388145)
 28 01/31/2005 (348599)
 29 03/02/2005 (388142)
 30 07/18/2005 (430974)
 31 08/25/2005 (446240)
 32 08/25/2005 (446241)
 33 08/25/2005 (446242)
 34 08/25/2005 (446243)
 35 08/25/2005 (446244)
 36 09/02/2005 (446245)
 37 09/06/2005 (406802)
 38 10/17/2005 (418602)
 39 05/08/2006 (396916)
 40 09/22/2006 (513009)
 41 09/28/2006 (514349)
 42 10/31/2006 (513275)
 43 04/23/2007 (555782)
 44 05/24/2007 (587363)
 45 05/24/2007 (587364)
 46 05/24/2007 (587366)
 47 05/24/2007 (587368)
 48 05/24/2007 (587370)
 49 05/24/2007 (587372)
 50 05/29/2007 (587355)
 51 05/29/2007 (587356)
 52 05/29/2007 (587357)
 53 05/29/2007 (587358)
 54 05/29/2007 (587359)
 55 05/29/2007 (587360)
 56 05/29/2007 (587361)
 57 05/29/2007 (587362)
 58 05/29/2007 (587365)
 59 05/29/2007 (587367)
 60 05/29/2007 (587369)
 61 05/29/2007 (587371)
 62 05/29/2007 (587373)
 63 07/09/2007 (604996)
 64 07/09/2007 (604997)
 65 07/09/2007 (604998)
 66 07/09/2007 (604999)
 67 07/11/2007 (567031)
 68 07/20/2007 (605000)
 69 08/20/2007 (605001)
 70 09/20/2007 (605002)
 71 12/18/2007 (600155)

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

1 Date: 01/31/2003 (218773)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

2 Date: 02/28/2003 (218776)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

3 Date: 03/31/2003 (218782)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

4 Date: 05/31/2003 (320897)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

5 Date: 06/30/2003 (320898)
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 6 Date: 08/31/2003 (320899) Classification: Moderate
 Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 7 Date: 09/30/2003 (320901) Classification: Moderate
 Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 8 Date: 12/31/2003 (320904) Classification: Moderate
 Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 9 Date: 05/31/2004 (363251) Classification: Moderate
 Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 10 Date: 07/31/2004 (363253) Classification: Moderate
 Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 11 Date: 08/31/2004 (363254) Classification: Moderate
 Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 12 Date: 09/30/2004 (388143) Classification: Moderate
 Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 13 Date: 10/22/2004 (338309) Classification: Minor
 Self Report? NO

Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)
 Description: Failure to conduct BOD analysis on the Outfall #001 effluent at the time specified by the permit.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to accurately submit monthly effluent reports.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet permit limits for TSS at Outfall # 201.
 Date: 01/31/2005 (388142) Classification: Moderate
 Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 14 Date: 07/18/2005 (430974) Classification: Moderate
 Self Report? NO

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)

16 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 09/01/2005 (406802) Classification: Major
 Self Report? NO
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 Description: Failure to obtain authorization to discharge storm water associated with a construction activity.

17 Date: 10/14/2005 (418602) Classification: Minor
 Self Report? NO
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to calibrate the secondary flow meter annually.

18 Date: 08/14/2006 (497649) Classification: Moderate
 Self Report? NO
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.

19 Date: 02/28/2007 (604996) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

20 Date: 04/23/2007 (555782) Classification: Moderate
 Self Report? NO
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to complete and submit monthly Discharge Monitoring Reports (DMRs).

21 Date: 04/30/2007 (604998) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

22 Date: 05/31/2007 (604999) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

23 Date: 06/30/2007 (605000) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

24 Date: 07/31/2007 (605001) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

25 Date: 08/31/2007 (605002) Classification: Moderate
 Self Report? YES
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

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

Compliance History

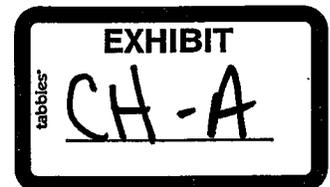
Customer/Respondent/Owner-Operator:	CN600672349	Double Diamond Utilities Co.	Classification: AVERAGE	Rating: 2.30
Regulated Entity:	RN102328515	THE CLIFFS RESORT	Classification: AVERAGE	Site Rating: 1.91
ID Number(s):	WASTEWATER	PERMIT		WQ0002789000
	WASTEWATER	PERMIT		TPDES0099015
	WASTEWATER	PERMIT		TX0099015
	WASTEWATER LICENSING	LICENSE		WQ0002789000
	STORMWATER	PERMIT		TXR05S719
Location:	ADJACENT TO POSSUM KINGDOM LAKE IMMEDIATELY WEST OF STATE HIGHWAY 16 AND SOUTH OF THE BRAZOS RIVER IN PALO PINTO COUNTY, TEXAS			Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	January 02, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 02, 2003 to January 02, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Samuel Short	Phone:	(512) 239-5363	

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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | |
|--|----------------------------|
| Effective Date: 12/21/2003 | ADMINORDER 2003-0141-MWD-E |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: Not specified PERMIT | |
| Description: Failure to comply with the permit limit for TSS at Outfall 201A. | |
- 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 | 01/15/2003 | (218804) |
| 2 | 01/27/2003 | (218808) |
| 3 | 02/20/2003 | (218773) |
| 4 | 03/03/2003 | (218776) |
| 5 | 04/10/2003 | (218782) |
| 6 | 05/27/2003 | (320895) |
| 7 | 06/26/2003 | (320897) |
| 8 | 08/25/2003 | (320898) |
| 9 | 11/07/2003 | (320899) |
| 10 | 11/07/2003 | (320901) |
| 11 | 12/01/2003 | (320902) |
| 12 | 01/13/2004 | (320903) |
| 13 | 02/17/2004 | (320893) |
| 14 | 02/25/2004 | (320904) |
| 15 | 03/22/2004 | (320894) |
| 16 | 04/08/2004 | (264280) |
| 17 | 04/30/2004 | (363250) |
| 18 | 06/22/2004 | (320896) |
| 19 | 07/01/2004 | (363251) |
| 20 | 08/31/2004 | (13425) |
| 21 | 10/04/2004 | (363254) |
| 22 | 10/08/2004 | (363252) |



23	10/08/2004	(363253)
24	11/01/2004	(338309)
25	11/03/2004	(388143)
26	12/10/2004	(388144)
27	01/25/2005	(388145)
28	01/31/2005	(348599)
29	03/02/2005	(388142)
30	07/18/2005	(430974)
31	08/25/2005	(446240)
32	08/25/2005	(446241)
33	08/25/2005	(446242)
34	08/25/2005	(446243)
35	08/25/2005	(446244)
36	09/02/2005	(446245)
37	09/06/2005	(408802)
38	10/17/2005	(418602)
39	05/08/2006	(396916)
40	09/22/2006	(513009)
41	09/28/2006	(514349)
42	10/31/2006	(513275)
43	04/23/2007	(555782)
44	05/24/2007	(587363)
45	05/24/2007	(587364)
46	05/24/2007	(587366)
47	05/24/2007	(587368)
48	05/24/2007	(587370)
49	05/24/2007	(587372)
50	05/29/2007	(587355)
51	05/29/2007	(587356)
52	05/29/2007	(587357)
53	05/29/2007	(587358)
54	05/29/2007	(587359)
55	05/29/2007	(587360)
56	05/29/2007	(587361)
57	05/29/2007	(587362)
58	05/29/2007	(587365)
59	05/29/2007	(587367)
60	05/29/2007	(587369)
61	05/29/2007	(587371)
62	05/29/2007	(587373)
63	07/09/2007	(604996)
64	07/09/2007	(604997)
65	07/09/2007	(604998)
66	07/09/2007	(604999)
67	07/11/2007	(567031)
68	07/20/2007	(605000)
69	08/20/2007	(605001)
70	09/20/2007	(605002)
71	12/18/2007	(600155)

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

1	Date: 01/31/2003 (218773)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 02/28/2003 (218776)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 03/31/2003 (218782)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
4	Date: 05/31/2003 (320897)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
5	Date: 06/30/2003 (320898)		
	Self Report? YES	Classification:	Moderate

	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
6	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	08/31/2003 (320899)		
	Self Report?	YES	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
7	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	09/30/2003 (320901)		
	Self Report?	YES	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
8	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	12/31/2003 (320904)		
	Self Report?	YES	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
9	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	05/31/2004 (363251)		
	Self Report?	YES	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
10	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	07/31/2004 (363253)		
	Self Report?	YES	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
11	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	08/31/2004 (363254)		
	Self Report?	YES	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
12	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	09/30/2004 (388143)		
	Self Report?	YES	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
13	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	10/22/2004 (338309)		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 319, SubChapter A 319.5(b)		
	Description:	Failure to conduct BOD analysis on the Outfall #001 effluent at the time specified by the permit.		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
	Description:	Failure to accurately submit monthly effluent reports.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
14	Description:	Failure to meet permit limits for TSS at Outfall # 201.		
	Date:	01/31/2005 (388142)		
	Self Report?	YES	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
15	Description:	Failure to meet the limit for one or more permit parameter		
	Date:	07/18/2005 (430974)		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		

	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
	Self Report?	NO		
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	Classification:	Moderate
	Self Report?	NO		
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
16	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
	Date:	09/01/2005 (406802)		
	Self Report?	NO	Classification:	Major
	Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
	Description:	Failure to obtain authorization to discharge storm water associated with a construction activity.		
17	Date:	10/14/2005 (418602)		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to calibrate the secondary flow meter annually.		
18	Date:	08/14/2006 (497649)		
	Self Report?	NO	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	Description:	Failure to prevent the unauthorized discharge of wastewater from the collection system.		
19	Date:	02/28/2007 (604996)		
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
20	Date:	04/23/2007 (555782)		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
	Description:	Failure to complete and submit monthly Discharge Monitoring Reports (DMRs).		
21	Date:	04/30/2007 (604998)		
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
22	Date:	05/31/2007 (604999)		
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
23	Date:	06/30/2007 (605000)		
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
24	Date:	07/31/2007 (605001)		
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
25	Date:	08/31/2007 (605002)		
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		

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



DATES	Assigned	05-Sep-2006	Screening	07-Sep-2006	EPA Due	
	PCW	22-May-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Double Diamond Utilities Co. (The Cliffs - PWS)
Reg. Ent. Ref. No.	RN101265213
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	31108	No. of Violations	4
Docket No.	2008-0036-MLM-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Rebecca Clausewitz
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 12% Enhancement Subtotals 2, 3, & 7

Notes The enhancement is due to two prior Notices of Violation ("NOVs") containing violations that are the same as or similar to the violations in the current enforcement case and one prior NOV containing dissimilar violations.

Culpability 0% Enhancement Subtotal 4

Notes Culpability criteria was not met.

Good Faith Effort to Comply 0% Reduction Subtotal 5

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

Notes The Respondent does not meet the good faith criteria.

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	\$23	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$750	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes No deferral is offered with the non-expedited process.

PAYABLE PENALTY



Screening Date 07-Sep-2006

Docket No. 2008-0036-MLM-E

PCW

Respondent Double Diamond Utilities Co. (The Cliffs - PWS)

Policy Revision 2 (September 2002)

Case ID No. 31108

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101265213

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	1	2%
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</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) 12%

>> 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

The enhancement is due to two prior Notices of Violation ("NOVs") containing violations that are the same as or similar to the violations in the current enforcement case and one prior NOV containing dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date 07-Sep-2006

Docket No. 2008-0036-MLM-E

PCW

Respondent Double Diamond Utilities Co. (The Cliffs - PWS)

Policy Revision 2 (September 2002)

Case ID No. 31108

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101265213

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.46(e)(6)(A)

Secondary Rule Cite(s) Tex. Health & Safety Code § 341.033(a)

Violation Description Failed to employ at least one operator who holds a Class "B" or higher surface water license. Specifically, at the time of the investigation the system operator held only a Class "C" license.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 10%
	Potential		X		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent

Matrix Notes Without a properly licensed water works operator managing the facility, improper management of the water supply could result in customers of the water supply being exposed to a significant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment -\$900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$100

One quarterly event is recommended from the investigation date, June 29, 2006 to the screening date, September 7, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$112

This violation Final Assessed Penalty (adjusted for limits) \$112

Economic Benefit Worksheet

Respondent Double Diamond Utilities Co. (The Cliffs – PWS)
Case ID No. 31108
Reg. Ent. Reference No. RN101265213
Media [Statute] Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$500	29-Jun-2006	01-May-2007	0.8	\$21	n/a	\$21
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs The delayed costs include the amount for a Class C operator to obtain Class B certification.
 Date required is the investigation date. Final date is the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$500

TOTAL \$21

Screening Date 07-Sep-2006

Docket No. 2008-0036-MLM-E

PCW

Respondent Double Diamond Utilities Co. (The Cliffs - PWS)

Policy Revision 2 (September 2002)

Case ID No. 31108

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101265213

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

Primary Rule Cite(s) 30 Texas Admin. Code § 290.46(f)(3)(D)(ii)

Secondary Rule Cite(s)

Violation Description Failed to maintain records of the inspection results for all water storage and pressure maintenance facilities.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification			X	Percent 1%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment -\$990

Base Penalty Subtotal \$10

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$10

One single event is recommended..

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$11

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent Double Diamond Utilities Co. (The Cliffs - PWS)

Case ID No. 31108

Reg. Ent. Reference No. RN101265213

Media [Statute] 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	29-Jun-2006	07-Sep-2006	0.2	\$1	n/a	\$1
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs The delayed costs includes the amount to create a record-keeping system for the ground storage and pressure tank inspection reports, calculated from the date of the investigation to the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$100

TOTAL \$1

Screening Date 07-Sep-2006

Docket No. 2008-0036-MLM-E

PCW

Respondent Double Diamond Utilities Co. (The Cliffs - PWS)

Policy Revision 2 (September 2002)

Case ID No. 31108

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101265213

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(1)

Secondary Rule Cite(s)

Violation Description Failed to provide an adequate roof vent on clearwell tank no. 2. Specifically, on the date of the investigation the electrical vent was corroded leaving a five inch opening on top of the tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

		Harm				
Release		Major	Moderate	Minor		
OR	Actual				Percent	25%
	Potential	X				

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor		
Matrix Notes						Percent	
Failure to properly maintain the roof vent could allow a significant amount of pollutants to enter the system which would exceed levels that are protective of human health.							

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$250

One monthly event is recommended from the investigation date, June 29, 2006 to the date of compliance, July 3, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$280

This violation Final Assessed Penalty (adjusted for limits) \$280

Economic Benefit Worksheet

Respondent Double Diamond Utilities Co. (The Cliffs - PWS)

Case ID No. 31108

Reg. Ent. Reference No. RN101265213

Media [Statute] 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
No commas or \$							
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$100	29-Jun-2006	03-Jul-2006	0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to adequately repair the vent for clearwell No. 2. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$100

TOTAL \$0

Screening Date 07-Sep-2006

Docket No. 2008-0036-MLM-E

PCW

Respondent Double Diamond Utilities Co. (The Cliffs - PWS)

Policy Revision 2 (September 2002)

Case ID No. 31108

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101265213

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(2)

Secondary Rule Cite(s)

Violation Description Failed to provide a locked roof hatch on clearwell tank no.1. Specifically, on the date of the investigation the lock was broken, leaving the hatch unsecured.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 5%
	Potential			X	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes Failure to properly secure the clearwell roof hatch could allow an insignificant amount of pollutants to enter the system which would not exceed levels that are protective of human health.

Adjustment -\$950

Base Penalty Subtotal \$50

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$56

This violation Final Assessed Penalty (adjusted for limits) \$56

Economic Benefit Worksheet

Respondent Double Diamond Utilities Co. (The Cliffs - PWS)
Case ID No. 31108
Reg. Ent. Reference No. RN101265213
Media [Statute] Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$50	29-Jun-2006	07-Sep-2006	0.2	\$0	\$1	\$1
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to provide an adequate lock on the clearwell roof hatch. Date required is the investigation date. Final date is the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$50
TOTAL \$1

Compliance History Report

Customer/Respondent/Owner-Operator: CN600672349 Double Diamond Utilities Co. Classification: Rating:

Regulated Entity: RN101265213 CLIFFS THE Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1820061
WATER LICENSING LICENSE 1820061

Location: OFF HWY 16 1 MI S OF THE BRAZOS RIVER BRIDGE, PALO PINTO COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: June 12, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 29, 2001 to September 29, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Rebecca Clausewitz Phone: (210) 403-4012

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

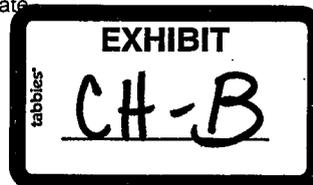
Components (Multimedia) for the Site:

- 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	12/17/2002	(17275)
2	08/12/2004	(283144)
3	08/12/2004	(285226)
4	08/18/2005	(405133)
5	08/30/2006	(497654)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 1.

Date:	12/10/2002	(17275)	
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(6)(E)(ii)		
Description:	Failure to design bulk storage facilities and day tanks so as to minimize the possibility of leaks and spills		
 2.

Date:	08/09/2004	(283144)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)		
Description:	Violation of §290.46(m)(1)(A) Failure to maintain the ground storage tanks in a water-tight, non-corrosive state		



Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)
 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Violation of §290.42(d)(2) and §290.46(m)(4)
 Failure to maintain water-tight connections on the raw water line, raw water valve and pressure filters.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
 Description: Violation of §290.42(l)
 Failure to provide the required emergency contact numbers in the plant operations manual.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)
 Description: Violation of §290.46(f)(3)(E)(iv)
 Failure to provide copies of completed customer service inspections forms.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 291, SubChapter H 291.121
 Description: Violation of §290.121(G)
 Failure to provide a copy of the monitoring plan and a labeled sample site plan map.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(A)
 5A THSC Chapter 341, SubChapter A 341.033(a)
 Description: Failure to employ at least one operator who holds a Class "B" or higher surface water license.
 Specifically, at the time of the investigation, the system operator held only a Class "C" license.

3.

Date: 08/31/2005 (405133)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)
 Description: Violation of §290.46(m)(1)(A)
 Failure to maintain the ground storage tanks in a water-tight, non-corrosive state.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)
 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Violation of §290.42(d)(2) and §290.46(m)(4)
 Failure to maintain water-tight connections on the raw water line, raw water valve and pressure filters.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(A)
 5A THSC Chapter 341, SubChapter A 341.033(a)
 Description: Failure to employ at least one operator who holds a Class "B" or higher surface water license.
 Specifically, at the time of the investigation, the system operator held only a Class "C" license.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
 30 TAC Chapter 290, SubChapter D 290.45(a)
 30 TAC Chapter 290, SubChapter D 290.46(r)
 Description: Failure to maintain a minimum pressure of 35 psi at all points within the distribution system.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(7)
 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Failure to maintain the pressure tank at the treatment plant in a water-tight condition.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(c)(3)
 30 TAC Chapter 290, SubChapter D 290.42(d)(15)
 30 TAC Chapter 290, SubChapter F 290.110(d)
 30 TAC Chapter 290, SubChapter F 290.111(d)
 30 TAC Chapter 290, SubChapter F 290.119(a)
 30 TAC Chapter 290, SubChapter F 290.119(b)
 Description: Failure to provide laboratory facilities for measuring alkalinity.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)

Description: Failure to maintain records of the inspection results for all water storage and pressure maintenance facilities.

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	4-Feb-2008		
	PCW	13-Jan-2009	Screening	6-Feb-2008
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Double Diamond Utilities Co. (White Bluff - Wastewater Treatment Plant)		
Reg. Ent. Ref. No.	RN102329802		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35171	No. of Violations	1
Docket No.	2008-0036-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply **Subtotal 5**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes

Approx. Cost of Compliance **Subtotal 6**

Total EB Amounts	\$155
Approx. Cost of Compliance	\$2,000

0% Enhancement*
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

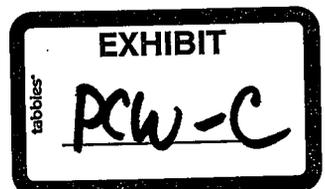
STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Adjustment**

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

Notes

PAYABLE PENALTY



Screening Date 6-Feb-2008

Docket No. 2008-0036-MLM-E

PCW

Double Diamond Utilities Co.

(White Bluff - Wastewater Treatment

Respondent Plant)

Policy Revision 2 (September 2002)

Case ID No. 35171

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102329802

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	21	105%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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	No	0%

Adjustment Percentage (Subtotal 2) 125%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement recommended for having 21 NOVs for self-reported effluent data and one Agreed Order with denial within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 125%

Screening Date 6-Feb-2008 Respondent Double Diamond Utilities Co. (Treatment Plant) Case ID No. 35171 Reg. Ent. Reference No. RN102329802 Media [Statute] Water Quality Enf. Coordinator Samuel Short Violation Number 1	Docket No. 2008-0036-MLM-E (White Bluff - Wastewater) Policy Revision 2 (September 2002) PCW Revision November 6, 2007
Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System Permit ("TPDES") No. WQ0013786002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6 for Outfall 001	
Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on December 10, 2007. See attached table.	
Base Penalty \$10,000	

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual				x
	Potential				
				Percent 10%	

>> Programmatic Matrix

	2/28/2007	Major	Moderate	Minor	
					Percent 0%

Matrix Notes
 A simplified model was used to evaluate ammonia nitrogen ("NH3-H") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, total suspended solids ("TSS"), dissolved oxygen, and carbonaceous biochemical oxygen demand ("CBOD") values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
single event		

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Effluent Limit Violation Table

Respondent	Double Diamond Utilities Co.		
ID Number(s)	WQ0013786002		
Docket Number	2008-0036-MLM-E		
Enf. Coordinator	Samuel Short		
Corresponds to Violation Number:			1

EFFLUENT PARAMETER

Permit Limit

<i>Month/Year</i>	TSS Daily Avg.	TSS Daily Avg.	Flow Daily Avg	CBOD Daily Avg.	NH3-H Daily Avg.	DO Monthly Min.			
	6.3 lbs/dy	15 mg/L	0.05 MGD	4.2 lbs/dy	3 mg/L	4.0 mg/L			
2/28/2007	c	c	c	c	3.05	c			
5/31/2007	8.03	19	c	c	c	c			
6/30/2007	6.5	17	0.053	c	c	c			
7/31/2007	8.3	18	c	4.4	c	c			
8/31/2007	6.7	16	c	c	c	c			
9/30/2007	c	c	c	c	c	3.8			

Name

Abbreviation

milligrams per liter	mg/L
million gallons per day	MGD
total suspended solids	TSS
carbonaceous biochemical oxygen demand	CBOD
dissolved oxygen	DO
ammonia nitrogen	NH3-H
compliant	c
average	Avg.
minimum	Min.

Economic Benefit Worksheet

Respondent: Double Diamond Utilities Co. (White Bluff - Wastewater Treatment Plant)

Case ID No.: 35171

Reg. Ent. Reference No.: RN102329802

Media: Water Quality

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	28-Feb-2007	15-Sep-2008	1.5	\$155	n/a	\$155

Notes for DELAYED costs

The estimated cost to determine the cause of the exceedances and to develop and implement procedures to prevent future exceedances. Date required is the date the noncompliance started and the final date is the expected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$155

Compliance History

Customer/Respondent/Owner-Operator:	CN600672349 Double Diamond Utilities Co.	Classification: AVERAGE	Rating: 2.30
Regulated Entity:	RN102329802 WHITE BLUFF	Classification: AVERAGE	Site Rating: 1.85
ID Number(s):	WASTEWATER PERMIT		WQ0013786002
	WASTEWATER PERMIT		TPDES0113913
	WASTEWATER PERMIT		TX0113913
	WASTEWATER LICENSING LICENSE		WQ0013786002
Location:	2.5 MI NW OF INTX OF FM RD 933 & FM RD 2604 IN HILL COUNTY.	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	February 06, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 06, 2003 to February 06, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Samuel Short</u>	Phone:	<u>(512) 239-5363</u>

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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | |
|--|----------------------------|
| Effective Date: 03/23/2006 | ADMINORDER 2005-1663-MWD-E |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: Effluent Limits PERMIT | |
| Description: Failed to comply with the permit effluent limit for Total Ammonia Nitrogen daily average and the Carbonaceous Bio-Oxygen Demand 5-day daily average limit at Outfall 001A | |

- B. Any criminal convictions of the state of Texas and the federal government.

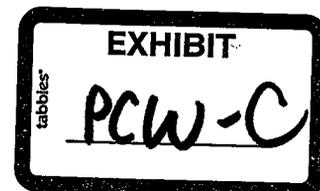
N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	02/21/2003	(228959)
2	04/02/2003	(228962)
3	05/06/2003	(228967)
4	06/03/2003	(325099)
5	07/01/2003	(325101)
6	07/25/2003	(325102)
7	09/02/2003	(325103)
8	09/30/2003	(325104)
9	10/22/2003	(325105)
10	12/03/2003	(325106)
11	12/29/2003	(325107)
12	01/20/2004	(325108)
13	03/03/2004	(325097)
14	03/24/2004	(325098)
15	05/13/2004	(365686)
16	06/15/2004	(325100)
17	07/08/2004	(365687)
18	07/26/2004	(365688)
19	10/04/2004	(365690)
20	10/05/2004	(365689)
21	11/10/2004	(389315)
22	11/29/2004	(389316)
23	01/14/2005	(389318)
24	01/18/2005	(389317)
25	03/21/2005	(389314)
26	03/24/2005	(348316)
27	04/04/2005	(426892)



28 05/13/2005 (426893)
 29 06/08/2005 (426894)
 30 06/20/2005 (426895)
 31 08/02/2005 (447070)
 32 09/13/2005 (447071)
 33 09/29/2005 (447072)
 34 10/18/2005 (491230)
 35 12/07/2005 (491231)
 36 01/12/2006 (491232)
 37 02/16/2006 (491233)
 38 04/14/2006 (505696)
 39 04/14/2006 (505697)
 40 05/15/2006 (505698)
 41 05/31/2006 (460728)
 42 07/31/2006 (527955)
 43 08/15/2006 (527956)
 44 08/24/2006 (527954)
 45 07/18/2007 (566044)
 46 01/28/2008 (611508)

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

- 1 Date: 07/31/2003 (325103)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
- 2 Date: 10/31/2003 (325106)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
- 3 Date: 03/31/2004 (365686)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
- 4 Date: 04/30/2004 (325100)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
- 5 Date: 05/31/2004 (365687)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
- 6 Date: 06/30/2004 (365688)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
- 7 Date: 07/31/2004 (365689)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
- 8 Date: 08/31/2004 (365690)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
- 9 Date: 09/30/2004 (389315)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
- 10 Date: 10/31/2004 (389316)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)

11 Description: Failure to meet the limit for one or more permit parameter
Date: 12/31/2004 (389318)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

12 Description: Failure to meet the limit for one or more permit parameter
Date: 01/31/2005 (389314)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

13 Description: Failure to meet the limit for one or more permit parameter
Date: 02/28/2005 (426892)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

14 Description: Failure to meet the limit for one or more permit parameter
Date: 03/31/2005 (426893)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

15 Description: Failure to meet the limit for one or more permit parameter
Date: 11/30/2006
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

16 Description: Failure to meet the limit for one or more permit parameter
Date: 02/28/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

17 Description: Failure to meet the limit for one or more permit parameter
Date: 05/31/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

18 Description: Failure to meet the limit for one or more permit parameter
Date: 06/30/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

19 Description: Failure to meet the limit for one or more permit parameter
Date: 07/31/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

20 Description: Failure to meet the limit for one or more permit parameter
Date: 08/31/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

21 Description: Failure to meet the limit for one or more permit parameter
Date: 09/30/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

28 05/13/2005 (426893)
 29 06/08/2005 (426894)
 30 06/20/2005 (426895)
 31 08/02/2005 (447070)
 32 09/13/2005 (447071)
 33 09/29/2005 (447072)
 34 10/18/2005 (491230)
 35 12/07/2005 (491231)
 36 01/12/2006 (491232)
 37 02/16/2006 (491233)
 38 04/14/2006 (505696)
 39 04/14/2006 (505697)
 40 05/15/2006 (505698)
 41 05/31/2006 (460728)
 42 07/31/2006 (527955)
 43 08/15/2006 (527956)
 44 08/24/2006 (527954)
 45 07/18/2007 (566044)
 46 01/28/2008 (611508)

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

1	Date: 07/31/2003 (325103)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 10/31/2003 (325106)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 03/31/2004 (365686)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
4	Date: 04/30/2004 (325100)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
5	Date: 05/31/2004 (365687)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
6	Date: 06/30/2004 (365688)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
7	Date: 07/31/2004 (365689)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
8	Date: 08/31/2004 (365690)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
9	Date: 09/30/2004 (389315)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
10	Date: 10/31/2004 (389316)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
	Description: Failure to meet the limit for one or more permit parameter		
11	Date: 12/31/2004 (389318)		
	Self Report? YES	Classification:	Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)		

12	Description: TWC Chapter 26 26.121(a) Failure to meet the limit for one or more permit parameter Date: 01/31/2005 (389314) Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)	Classification: Moderate
13	Description: Failure to meet the limit for one or more permit parameter Date: 02/28/2005 (426892) Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)	Classification: Moderate
14	Description: Failure to meet the limit for one or more permit parameter Date: 03/31/2005 (426893) Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)	Classification: Moderate
15	Description: Failure to meet the limit for one or more permit parameter Date: 11/30/2006 Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)	Classification: Moderate
16	Description: Failure to meet the limit for one or more permit parameter Date: 02/28/2007 Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)	Classification: Moderate
17	Description: Failure to meet the limit for one or more permit parameter Date: 05/31/2007 Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)	Classification: Moderate
18	Description: Failure to meet the limit for one or more permit parameter Date: 06/30/2007 Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)	Classification: Moderate
19	Description: Failure to meet the limit for one or more permit parameter Date: 07/31/2007 Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)	Classification: Moderate
20	Description: Failure to meet the limit for one or more permit parameter Date: 08/31/2007 Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)	Classification: Moderate
21	Description: Failure to meet the limit for one or more permit parameter Date: 09/30/2007 Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)	Classification: Moderate

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
DOUBLE DIAMOND UTILITIES
CO.
RN102328515; RN102329802; and
RN101265213**

§
§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0036-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Double Diamond Utilities Co. ("Double Diamond") under the authority of to TEX. HEALTH & SAFETY CODE ch. 341; and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Double Diamond, represented by Ali Abazari of the law firm of Jackson Walker, LLP, appear before the Commission and together stipulate that:

1. Double Diamond owns and operates wastewater treatment facilities (collectively, the "Facilities") at the following locations:
 - a. Adjacent to Possum Kingdom Lake immediately west of State Highway 16 and south of the Brazos River in Palo Pinto County, Texas ("Facility 1"); and
 - b. 2.5 miles northwest of the intersection of Farm-to-Market Road 933 and Farm-to-Market Road 2604 in Hill County, Texas ("Facility 2").
2. Double Diamond owns and operates a public water system located at 160 Cliffs Drive, Graford, Palo Pinto County, Texas (the "Water System"). The Water System has approximately 200 service connections; serves at least 25 people per day for at least 60 days per year; and provides water for human consumption.
3. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070, and TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 341, and TCEQ rules.

4. The Commission and Double Diamond agree that the Commission has jurisdiction to enter this Agreed Order, and that Double Diamond is subject to the Commission's jurisdiction.
5. Double Diamond received notice of the violations alleged in Section II ("Allegations") on or about August 27, 2006, December 23, 2007, and February 3, 2008.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Double Diamond of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
7. An administrative penalty in the amount of twenty thousand seven hundred twenty-one dollars (\$20,721.00) is assessed by the Commission in settlement of the Allegations. Double Diamond paid three thousand seven hundred twenty-one dollars (\$3,721.00) of the administrative penalty. The remaining amount of seventeen thousand dollars (\$17,000.00) of the administrative penalty shall be payable in 5 monthly payments of three thousand four hundred dollars (\$3,400.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Double Diamond fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Double Diamond's failure to meet the payment schedule of this Agreed Order constitutes the failure by Double Diamond to timely and satisfactorily comply with all of the terms of this Agreed Order
8. 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.
9. The Executive Director of the TCEQ and Double Diamond agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director recognizes that Double Diamond:
 - a. Submitted the completed discharge monitoring reports ("DMR") for Facility 1 for the monitoring periods ending February 28, 2007 for Outfalls 001 and 201; March 31, 2007 for Outfall 001; and June 30, 2007 for Outfall 201 on April 2, 2008;
 - b. Repaired the roof vent on clearwell tank no. 2. at the Water System on or about July 3, 2006;

- c. Began performing and maintaining records of water storage tank inspections at the Water System on or about September 7, 2006;
 - d. Secured and locked the roof hatch on clearwell tank no. 1 at the Water System on or about September 7, 2006; and
 - e. Employed a Class "A" surface water operator at the Water System on or about May 15, 2009.
11. 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 Double Diamond has not complied with one or more of the terms or conditions in this Agreed Order.
12. 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.
13. 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 an inspection conducted on June 29, 2006, a TCEQ DFW Regional Office investigator documented that Double Diamond violated:
- a. 30 TEX. ADMIN. CODE § 290.46(e)(6)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a) by failing to employ at least one operator who holds a Class "B" or higher surface water license at the Water System. Specifically, at the time of the investigation the system operator held only a Class "C" license.
 - b. 30 TEX. ADMIN. CODE § 290.46(f)(3)(D)(ii) by failing to maintain records of the inspection results for all water storage and pressure maintenance facilities at the Water System.
 - c. 30 TEX. ADMIN. CODE § 290.43(c)(1) by failing to provide an adequate roof vent on clearwell tank no. 2 at the Water System. Specifically, on the date of the investigation the electrical vent was corroded, leaving a five inch opening on top of the tank.

- d. 30 TEX. ADMIN. CODE § 290.43(c)(2) by failing to provide a locked roof hatch on clearwell tank no. 1 at the Water System. Specifically, on the date of the investigation the lock was broken, leaving the hatch unsecured.
2. During a record review conducted on November 5, 2007, a TCEQ Central Office investigator documented that Double Diamond violated:
- a. TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0002789000, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 001 and Nos. 1 and 2 for Outfall 201 by failing to comply with the permitted effluent limits for Facility 1, as indicated in the table below;

EFFLUENT PARAMETER

Permit Limit

Outfall 201A								Outfall 001A
	BOD Daily Avg.	TSS Daily Avg.	TSS Daily Max.	TSS Loading Daily Avg.	Flow Daily Avg	Flow Daily Max.	Chlorine Residual Monthly Min.	TDS Daily Max
<i>Month/Year</i>	20 mg/L	20 mg/L	45 mg/L	4.2 lbs/dy	0.025 MGD	0.05 MGD	1.0 mg/L	<i>Month/Year</i> 2500 mg/L
2/28/2007	22	53	100	9.48	c	c	c	4/30/2007 2504
5/31/2007	c	c	64	c	c	c	0.89	5/31/2007 3322
6/30/2007	c	31	132	c	0.027	0.07	c	
7/31/2007	c	c	59	c	c	c	c	

Name

Abbreviation

milligrams per liter
million gallons per day
total suspended solids
biochemical oxygen demand
total dissolved solids
compliant
average
maximum
minimum
pounds per day

mg/L
MGD
TSS
BOD
TDS
c
Avg.
Max.
Min.
lbs/dy

- b. 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002789000, Monitoring and Reporting Requirements No. 1, by failing to submit DMRs and DMR

parameter data for Facility 1. Specifically, the DMR for Outfall 001, which includes the total suspended solids ("TSS") and biochemical oxygen demand ("BOD") daily maximum annual sample and single grab annual sample, was not timely submitted for the monitoring period ending March 31, 2007 and the DMR parameter data Flow daily average and daily maximum, total dissolved solids ("TDS") increase over lake water feed daily average and daily maximum, and TDS ambient lake water feed daily average and daily maximum at Outfall 001 for the monitoring period ending February 28, 2007 was not timely submitted;

- c. 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002789000, Monitoring and Reporting Requirements No. 1, by failing to submit DMR parameter data for Facility 1. Specifically, the DMR parameter data Flow daily average and daily maximum at Outfall 101 was not timely submitted for the monitoring period ending February 28, 2007; and
 - d. 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002789000, Monitoring and Reporting Requirements No. 1 by failing to submit DMR parameter data for Facility 1. Specifically, the DMR parameter data TSS loading daily average at Outfall 201 for the monitoring period ending February 28, 2007, and BOD loading daily average and TSS loading daily average at Outfall 201 for the monitoring period ending June 30, 2007 was not timely submitted.
3. During a record review conducted on December 10, 2007, a TCEQ Central Office investigator documented that Double Diamond violated TEX. WATER CODE § 26.121(a); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0013786002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6 for Outfall 001 by failing to comply with the permitted effluent limits for Facility 2, as indicated in the table below.

EFFLUENT PARAMETER

Permit Limit

	TSS Daily Avg.	TSS Daily Avg.	Flow Daily Avg	CBOD Daily Avg.	NH3-H Daily Avg.	DO Monthly Min.
<i>Month/Year</i>	6.3 lbs/dy	15 mg/L	0.05 MGD	4.2 lbs/dy	3 mg/L	4.0 mg/L
2/28/2007	c	c	c	c	3.05	c
5/31/2007	8.03	19	c	c	c	c
6/30/2007	6.5	17	0.053	c	c	c
7/31/2007	8.3	18	c	4.4	c	c
8/31/2007	6.7	16	c	c	c	c
9/30/2007	c	c	c	c	c	3.8

<u>Name</u>	<u>Abbreviation</u>
milligrams per liter	mg/L
million gallons per day	MGD
total suspended solids	TSS
carbonaceous biochemical oxygen demand	CBOD
dissolved oxygen	DO
ammonia nitrogen	NH3-H
compliant	c
average	Avg.
minimum	Min.

III. DENIALS

Double Diamond generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Double Diamond pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and Double Diamond'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 action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Double Diamond Utilities Co., Docket No. 2008-0036-MLM-E" to:

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

2. Double Diamond shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin maintaining all records of inspections on all pressure maintenance facilities at the Water System, as required by 30 TEX. ADMIN. CODE § 290.46.
 - ii. Develop and implement procedures to ensure that DMRs at Facility 1 are reported completely and accurately, in accordance with 30 TEX. ADMIN. CODE § 305.125 and TPDES Permit No. WQ0002789000;
- b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit Nos. WQ0002789000 and WQ0013786002 and Ordering Provision 2.a., including specific corrective actions that were implemented at the Facilities to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation to demonstrate compliance, 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:

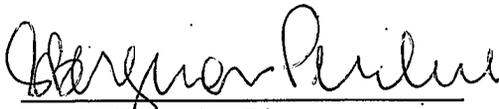
Sid Slocum, Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Double Diamond. Double Diamond is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facilities' and Water System's operations referenced in this Agreed Order.
4. If Double Diamond fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Double Diamond's failure to comply is not a violation of this Agreed Order. Double Diamond shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Double Diamond shall notify the Executive Director within seven days after Double Diamond becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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 Double Diamond shall be made in writing to the Executive Director. Extensions are not effective until Double Diamond receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Double Diamond 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.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 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 Double Diamond, or three days after the date on which the Commission mails notice of this Agreed Order to Double Diamond, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/16/09

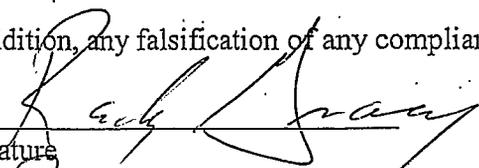
Date

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 the entity, if any, indicated below my signature, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Double Diamond's compliance history;
- Greater scrutiny of any permit applications submitted by Double Diamond;
- 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 against Double Diamond;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Double Diamond; and
- TCEQ seeking other relief as authorized by law.

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



Signature

9-1-09
Date

Randy Gracy
Name (Printed or typed)

President
Title

Authorized representative of
Double Diamond Utilities Co.