

**Executive Summary – Enforcement Matter – Case No. 43953**

**City of Dripping Springs**

**RN104005434**

**Docket No. 2012-0801-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

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

City of Dripping Springs, 0.55 mile east of the intersection of Ranch Road 12 and Farm-to-Market (“FM”) Road 150, as measured along FM Road 150, and from that point, approximately 1,110 feet south of FM Road 150, Dripping Springs, Hays County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: Yes

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 7, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$14,438

**Amount Deferred for Expedited Settlement:** \$2,887

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

**Total Paid to General Revenue:** \$11,551

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

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average by Default

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 43953**

**City of Dripping Springs**

**RN104005434**

**Docket No. 2012-0801-MWD-E**

***Investigation Information***

**Complaint Date(s):** January 24, 2012

**Complaint Information:** Alleged that a discharge had occurred and had not been cleaned up.

**Date(s) of Investigation:** January 26, 2012

**Date(s) of NOE(s):** March 22, 2012

***Violation Information***

1. Failed to prevent the unauthorized discharge of sludge into or adjacent to water in the state. Specifically, on January 2 and 3, 2012, approximately 46,633 gallons of sludge discharged from an open drain valve located on the sludge digester. The discharge flowed approximately 0.25 mile south of the Facility onto adjacent property and into a drainage ditch [TEX. WATER CODE § 26.121(a)(1), § 305.125(4), and TCEQ Permit No. WQ0014488001 Permit Conditions 2.g.].

2. Failed to submit a noncompliance notification orally or by fax to the TCEQ Regional Office within 24 hours of becoming aware of unauthorized discharges and in writing within five days to the TCEQ Regional Office and the Enforcement Division. Specifically, Respondent did not submit a noncompliance notification for the discharge that occurred on January 2 and 3, 2012 until January 31, 2012 [TEX. WATER CODE § 26.039(b), 30 TEX. ADMIN. CODE § 305.125(9)(a), and TCEQ Permit No. WQ0014488001 Monitoring and Reporting Requirements No. 7.a.].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures at the site:

- a. By January 3, 2012, recovered approximately 17,000 gallons of the total 46,633 wastewater sludge discharged and put back into the treatment system;
- b. By January 31, 2012, submitted the noncompliance notification for the unauthorized discharge that occurred on January 2 and 3, 2012;
- c. By January 31, 2012, updated operational guidance to ensure noncompliance notifications are submitted as required;
- d. By late February 2012, installed flotation devices in both digesters to prevent overflows, and replaced the timer; and
- e. By April 10, 2012, completely removed and disposed of the dried sludge from the affected area.

**Executive Summary – Enforcement Matter – Case No. 43953**  
**City of Dripping Springs**  
**RN104005434**  
**Docket No. 2012-0801-MWD-E**

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Todd Parcen, Mayor, City of Dripping Springs, P.O. Box 384, Dripping Springs, Texas 78620  
Bill Foulds, Mayor Pro Tem, City of Dripping Springs, P.O. Box 384, Dripping Springs, Texas 78620

**Respondent's Attorney:** David Tuckfield, The Law Office of David Tuckfield, P.C., 12400 Highway 71 West, Suite 350-150, Austin, Texas 78738





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	26-Mar-2012	<b>Screening</b>	11-Apr-2012	<b>EPA Due</b>	
	<b>PCW</b>	11-Apr-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Dripping Springs				
<b>Reg. Ent. Ref. No.</b>	RN104005434				
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	43953	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-0801-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	JR Cao
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## 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

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance  \*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**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 11-Apr-2012

Docket No. 2012-0801-MWD-E

PCW

Respondent City of Dripping Springs

Policy Revision 3 (September 2011)

Case ID No. 43953

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN104005434

Media [Statute] Water Quality

Enf. Coordinator JR Cao

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> 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

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 11-Apr-2012

Docket No. 2012-0801-MWD-E

PCW

Respondent City of Dripping Springs

Policy Revision 3 (September 2011)

Case ID No. 43953

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN104005434

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(4), and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0014488001 Permit Conditions No. 2.g

Violation Description Failed to prevent the unauthorized discharge of sludge into or adjacent to water in the state, as documented during an investigation conducted on January 26, 2012. Specifically, on January 2 and 3, 2012, approximately 46,633 gallons of sludge discharged from an open drain valve located on the sludge digester. The discharge flowed approximately 0.25 mile south of the Facility onto the adjacent property and into a drainage ditch.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4

99 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Four monthly events are recommended from the start date of the discharge (January 2, 2012) to the date of compliance (April 10, 2012).

Good Faith Efforts to Comply

10.0% Reduction

\$1,500

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

Notes The Respondent achieved compliance on April 10, 2012.

Violation Subtotal \$13,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$570

Violation Final Penalty Total \$13,500

This violation Final Assessed Penalty (adjusted for limits) \$13,500

# Economic Benefit Worksheet

**Respondent** City of Dripping Springs  
**Case ID No.** 43953  
**Req. Ent. Reference No.** RN104005434  
**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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$30,000	2-Jan-2012	10-Apr-2012	0.27	\$27	\$542	\$570
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to properly remove and dispose of the dried sludge from the affected area and to install preventative measures. Date required is the date of the unauthorized discharge. Final date is the date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$30,000

**TOTAL**

\$570

**Screening Date** 11-Apr-2012  
**Respondent** City of Dripping Springs  
**Case ID No.** 43953  
**Reg. Ent. Reference No.** RN104005434  
**Media [Statute]** Water Quality  
**Enf. Coordinator** JR Cao

**Docket No.** 2012-0801-MWD-E

**PCW**

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

**Violation Number** 2

**Rule Cite(s)**

Tex. Water Code § 26.039(b), 30 Tex. Admin. Code § 305.125(9)(a), and TCEQ  
 Permit No. WQ0014488001 Monitoring and Reporting Requirements No. 7.a

**Violation Description**

Failed to submit a noncompliance notification orally or by fax to the TCEQ Regional  
 Office within 24 hours of becoming aware of unauthorized discharges and in writing  
 within five days to the TCEQ Regional Office and the Enforcement Division, as  
 documented during an investigation conducted on January 26, 2012. Specifically,  
 the Respondent did not submit a noncompliance notification for the discharge that  
 occurred on January 2 and 3, 2012 until January 31, 2012.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

**Percent** 5.0%

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment** \$23,750

\$1,250

**Violation Events**

**Number of Violation Events** 1

23 **Number of violation days**

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$1,250

One single event is recommended.

**Good Faith Efforts to Comply**

25.0% Reduction

\$312

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

**Notes** The Respondent achieved compliance on January 31, 2012.

**Violation Subtotal** \$938

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1

**Violation Final Penalty Total** \$938

**This violation Final Assessed Penalty (adjusted for limits)** \$938

## Economic Benefit Worksheet

**Respondent** City of Dripping Springs  
**Case ID No.** 43953  
**Req. Ent. Reference No.** RN104005434  
**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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$25	8-Jan-2012	31-Jan-2012	0.06	\$0	n/a	\$0
Training/Sampling	\$250	8-Jan-2012	31-Jan-2012	0.06	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated costs to submit the noncompliance notification (\$25) and to update operational guidance to ensure that noncompliance notifications are submitted as required (\$250). Date required is the date the noncompliance notification was due. Final dates are the dates the noncompliance notification was received by the TCEQ Austin Region Office and when operational guidance was addressed.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$275

**TOTAL** \$1

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602491284 City of Dripping Springs Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN104005434 CITY OF DRIPPING SPRINGS Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT

ID Number(s): WASTEWATER PERMIT WQ0014488001  
EDWARDS AQUIFER REGISTRATION 11-07061501

Location: APPROXIMATELY 0.55 MILE EAST OF THE INTERSECTION OF RANCH ROAD 12 AND FARM-TO-MARKET ROAD 150, AS MEASURED ALONG FARM-TO-MARKET ROAD 150, AND, FROM THAT POINT, APPROXIMATELY 1,110 FEET SOUTH OF FARM-TO-MARKET ROAD 150, HAYS COUNTY, TEXAS

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: April 11, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 11, 2007 to April 11, 2012

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

Name: JR Cao Phone: (512) 239-2543

## 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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

## 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.)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF DRIPPING SPRINGS  
RN104005434**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-0801-MWD-E**

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

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Dripping Springs ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. David Tuckfield, of The Law Office of David Tuckfield, P.C., together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located 0.55 mile east of the intersection of Ranch Road 12 and Farm-to-Market Road 150, as measured along Farm-to-Market Road 150, and from that point, approximately 1,110 feet south of Farm-to-Market Road 150 in Dripping Springs, Hays County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 27, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fourteen Thousand Four Hundred Thirty-Eight Dollars (\$14,438) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eleven Thousand Five Hundred Fifty-One Dollars (\$11,551) of the administrative penalty and Two Thousand Eight Hundred Eighty-Seven Dollars (\$2,887) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. 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.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. By January 3, 2012, recovered approximately 17,000 gallons of the total 46,633 wastewater sludge discharged and put back into the treatment system;
  - b. By January 31, 2012, submitted the noncompliance notification for the unauthorized discharge that occurred on January 2 and 3, 2012;
  - c. By January 31, 2012, updated operational guidance to ensure noncompliance notifications are submitted as required;
  - d. By late February 2012, installed flotation devices in both digesters to prevent overflows, and replaced the timer; and
  - e. By April 10, 2012, completely removed and disposed of the dried sludge from the affected area.
10. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized discharge of sludge into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), § 305.125(4), and TCEQ Permit No. WQ0014488001 Permit Conditions 2.g, as documented during an investigation conducted on January 26, 2012. Specifically, on January 2 and 3, 2012, approximately 46,633 gallons of sludge discharged from an open drain valve located on the sludge digester. The discharge flowed approximately 0.25 mile south of the Facility onto adjacent property and into a drainage ditch.
2. Failed to submit a noncompliance notification orally or by fax to the TCEQ Regional Office within 24 hours of becoming aware of unauthorized discharges and in writing within five days to the TCEQ Regional Office and the Enforcement Division, in violation of TEX. WATER CODE § 26.039(b), 30 TEX. ADMIN. CODE § 305.125(9)(a), and TCEQ Permit No. WQ0014488001 Monitoring and Reporting Requirements No. 7.a, as documented during an investigation conducted on January 26, 2012. Specifically, the Respondent did not submit a noncompliance notification for the discharge that occurred on January 2 and 3, 2012 until January 31, 2012.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Dripping Springs, Docket No. 2012-0801-MWD-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1)

enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*Pam Nantz*  
For the Executive Director

10/26/12  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

*Todd Purcell*  
Signature

7/10/12  
Date

Todd Purcell  
Name (Printed or typed)  
Authorized Representative of  
City of Dripping Springs

Mayor  
Title

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