

**Executive Summary – Enforcement Matter – Case No. 44162  
Dripping Springs Apartments, L.P.  
RN102768231  
Docket No. 2012-1020-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

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

Dripping Springs Apartments, located on the north side of U.S. Route 290, approximately 13,000 feet west along U.S. Route 290 from its intersection with State Route 12, Hays County

**Type of Operation:**

Wastewater treatment facility and disposal site

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 23, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$7,646

**Amount Deferred for Expedited Settlement:** \$1,529

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

**Total Paid to General Revenue:** \$1,117

**Total Due to General Revenue:** \$5,000

Payment Plan: 5 payments of \$1,000 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 44162  
Dripping Springs Apartments, L.P.  
RN102768231  
Docket No. 2012-1020-MWD-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** March 13, 2012

**Date(s) of NOE(s):** April 16, 2012

***Violation Information***

1. Failed to comply with the permitted effluent limitations for 5-day biochemical oxygen demand and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0014146001 Effluent Limitations and Monitoring Requirements A].
2. Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flows at least annually unless authorized by the Executive Director for a longer period. Specifically, the flow meter was not calibrated in 2009, 2010, and 2011 [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014146001 Monitoring Requirements No. 5].
3. Failed to obtain and analyze soil samples from the land application site. Specifically, annual soil samples were not collected and analyzed for the years 2009 and 2010 [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014146001 Special Provisions No. 9].
4. Failed to adequately maintain the drip irrigation system resulting in a discharge into or adjacent to water in the state. Specifically, treated effluent was pooled near an irrigation valve box because the irrigation system components were leaking [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1) and TCEQ Permit No. WQ0014146001 Operational Requirements No. 1, Permit Conditions No. 2.g, and Special Provisions No. 4].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures:

- a. By August 31, 2011, conducted annual soil sampling;
- b. By March 7, 2012, calibrated the flow meter; and
- c. By April 11, 2012, repaired the leaking irrigation system components.

**Executive Summary – Enforcement Matter – Case No. 44162  
Dripping Springs Apartments, L.P.  
RN102768231  
Docket No. 2012-1020-MWD-E**

**Technical Requirements:**

The Order will require Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TCEQ Permit No. WQ0014146001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported monthly effluent reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***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:** Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** John Ford, Manager, Dripping Springs Apartments, L.P., 2951 Fall Creek Road, Kerrville, Texas 78028  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	16-Apr-2012	<b>Screening</b>	30-Apr-2012	<b>EPA Due</b>	
	<b>PCW</b>	7-May-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Dripping Springs Apartments, L.P.
<b>Reg. Ent. Ref. No.</b>	RN102768231
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	44162	<b>No. of Violations</b>	4
<b>Docket No.</b>	2012-1020-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jennifer Graves
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$7,500**

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

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

**Compliance History** **2.0%** Enhancement **Subtotals 2, 3, & 7** **\$150**

Notes: Enhancement for one NOV with dissimilar violations.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$625**

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

Total EB Amounts: \$2,079  
 Approx. Cost of Compliance: \$11,050  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$7,025**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **8.8%** **Adjustment** **\$621**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to collect avoided costs associated with Violation Nos. 2 and 3.

**Final Penalty Amount** **\$7,646**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$7,646**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$1,529**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$6,117**

**Screening Date** 30-Apr-2012

**Docket No.** 2012-1020-MWD-E

**PCW**

**Respondent** Dripping Springs Apartments, L.P.

Policy Revision 2 (September 2002)

**Case ID No.** 44162

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102768231

**Media [Statute]** Water Quality

**Enf. Coordinator** Jennifer Graves

### 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	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 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%
<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)** 2%

>> **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 for one NOV with dissimilar violations.

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

Screening Date 30-Apr-2012

Docket No. 2012-1020-MWD-E

PCW

Respondent Dripping Springs Apartments, L.P.

Policy Revision 2 (September 2002)

Case ID No. 44162

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102768231

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0014146001 Effluent Limitations and Monitoring Requirements A

Violation Description Failed to comply with the permitted effluent limitations, as documented during an investigation conducted on March 13, 2012, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes 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 Number of violation days 181

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

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,456

Violation Final Penalty Total \$3,330

This violation Final Assessed Penalty (adjusted for limits) \$3,330

# Economic Benefit Worksheet

**Respondent** Dripping Springs Apartments, L.P.  
**Case ID No.** 44162  
**Reg. Ent. Reference No.** RN102768231  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	31-Jan-2011	28-Feb-2013	2.08	\$69	\$1,386	\$1,456
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 cost to determine the cause of noncompliance and implement corrective actions. Date required is the initial month of noncompliance. Final date is the expected date of compliance.

### 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				0.00	\$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** \$10,000

**TOTAL** \$1,456

Screening Date 30-Apr-2012

Docket No. 2012-1020-MWD-E

PCW

Respondent Dripping Springs Apartments, L.P.

Policy Revision 2 (September 2002)

Case ID No. 44162

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102768231

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0014146001 Monitoring Requirements No. 5

Violation Description

Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flows at least annually unless authorized by the Executive Director for a longer period, as documented during an investigation conducted on March 13, 2012. Specifically, the flow meter was not calibrated in 2009, 2010, and 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 3 1,094 Number of violation days

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

Violation Base Penalty \$1,500

Three single events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$375

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

Notes The Respondent came into compliance by March 7, 2012.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$347

Violation Final Penalty Total \$1,257

This violation Final Assessed Penalty (adjusted for limits) \$1,257

# Economic Benefit Worksheet

**Respondent** Dripping Springs Apartments, L.P.  
**Case ID No.** 44162  
**Reg. Ent. Reference No.** RN102768231  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
<b>ONE-TIME avoided costs [3]</b>	\$300	31-Dec-2009	7-Mar-2012	3.10	\$47	\$300	\$347
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to annually calibrate the flow meter. Date required is the date the first calibration was due.  
Final date is the date of compliance.

Approx. Cost of Compliance \$300

**TOTAL** \$347

Screening Date 30-Apr-2012

Docket No. 2012-1020-MWD-E

PCW

Respondent Dripping Springs Apartments, L.P.

Policy Revision 2 (September 2002)

Case ID No. 44162

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102768231

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0014146001 Special Provisions No. 9

Violation Description

Failed to obtain and analyze soil samples from the land application site, as documented during an investigation conducted on March 13, 2012. Specifically, annual soil samples were not collected and analyzed for the years 2009 and 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

729 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$2,000

Two annual events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$274

Violation Final Penalty Total \$2,220

This violation Final Assessed Penalty (adjusted for limits) \$2,220

# Economic Benefit Worksheet

**Respondent** Dripping Springs Apartments, L.P.  
**Case ID No.** 44162  
**Reg. Ent. Reference No.** RN102768231  
**Media** Water Quality  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
<b>ONE-TIME avoided costs [3]</b>	<b>\$250</b>	<b>30-Sep-2009</b>	<b>30-Sep-2010</b>	<b>1.92</b>	<b>\$24</b>	<b>\$250</b>	<b>\$274</b>
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to collect, analyze and report the annual soil sample for 2009 and 2010. Date required is the date the first soil analysis was due. Final date is the last date soil analysis sampling results were due.

Approx. Cost of Compliance

\$250

**TOTAL**

\$274

Screening Date 30-Apr-2012

Docket No. 2012-1020-MWD-E

PCW

Respondent Dripping Springs Apartments, L.P.

Policy Revision 2 (September 2002)

Case ID No. 44162

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102768231

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 4

Rule Cite(s) 30 Tex. Admin Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TCEQ Permit No. WQ0014146001, Operational Requirements No. 1, Permit Conditions No. 2.g, and Special Provisions No. 4

Violation Description

Failed to adequately maintain the drip irrigation system resulting in a discharge into or adjacent to water in the state, as documented during an investigation conducted on March 13, 2012. Specifically, treated effluent was pooled near an irrigation valve box because the irrigation system components were leaking.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes 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 1

29 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date (March 13, 2012) to the date of compliance (April 11, 2012).

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent came into compliance by April 11, 2012.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$838

This violation Final Assessed Penalty (adjusted for limits) \$838

# Economic Benefit Worksheet

**Respondent** Dripping Springs Apartments, L.P.  
**Case ID No.** 44162  
**Reg. Ent. Reference No.** RN102768231  
**Media** Water Quality  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$500	13-Mar-2012	11-Apr-2012	0.08	\$0	\$3	\$3
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 cost to repair leaking irrigation system components. 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)**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$500

**TOTAL**

\$3

**EFFLUENT VIOLATION TABLE**

**Dripping Springs Apartments, L.P.**

**TCEQ Permit No. WQ0014146001**

**Docket No. 2012-1020-MWD-E**

Months	BOD <sub>5</sub> Daily Avg. Conc. Limit = 20 mg/L	TSS Daily Avg. Conc. Limit = 20 mg/L
	January 2011	c
February 2011	c	21
April 2011	43	40
May 2011	112	206
July 2011	c	24

BOD<sub>5</sub> = five-day biochemical oxygen demand

TSS = total suspended solids

Avg. = Average

Conc. = Concentration

mg/L = milligrams per liter

c = compliant

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601407265 Dripping Springs Apartments, L.P. Classification: AVERAGE Rating: 0.50  
 Regulated Entity: RN102768231 DRIPPING SPRINGS APARTMENTS Classification: AVERAGE Site Rating: 0.50

ID Number(s): EDWARDS AQUIFER REGISTRATION 11-99122102  
 WASTEWATER PERMIT WQ0014146001

Location: LOCATED ON THE N SIDE OF U.S. RT 290,  
 APPROX 13,000 FT W ALONG U.S. RT 290  
 FROM ITS INTX WITH STATE RT 12 IN HAYS CO, TX

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: April 30, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 30, 2007 to April 30, 2012

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

Name: Jennifer Graves Phone: (956) 430-6023

## 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 <b>YES</b> , who is the current owner/operator?  | N/A |
| 4. If <b>YES</b> , who was/were the prior owner(s)/operator(s)?                                    | N/A |
| 5. If <b>YES</b> , 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.)
  - 1 08/06/2007 (513774)
  - 2 04/13/2012 (994279)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - Date: 08/08/2007 (513774) CN601407265
  - Self Report? NO Classification: Minor
  - Citation: 30 TAC Chapter 317 317.7(d)
  - Description: Failure to provide non-potable water signs at the facility site. The signs have been stolen or removed by vandals. More signs are being ordered.
- 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  
DRIPPING SPRINGS  
APARTMENTS, L.P.  
RN102768231

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

AGREED ORDER  
DOCKET NO. 2012-1020-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 Dripping Springs Apartments, L.P. ("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 together stipulate that:

1. The Respondent owns a wastewater treatment facility and disposal site located on the north side of United States Route 290, approximately 13,000 feet west along United States Route 290 from its intersection with State Route 12 in 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 April 21, 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 Seven Thousand Six Hundred Forty-Six Dollars (\$7,646) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand One Hundred Seventeen Dollars (\$1,117) of the administrative penalty and One Thousand Five Hundred Twenty-Nine Dollars (\$1,529) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If The Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Five Thousand Dollars (\$5,000) of the administrative penalty shall be payable in five monthly payments of One Thousand Dollars (\$1,000) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order

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 August 31, 2011, conducted annual soil sampling;
  - b. By March 7, 2012, calibrated the flow meter; and
  - c. By April 11, 2012, repaired the leaking irrigation system components.
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 of the Facility, the Respondent is alleged to have:

1. Failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0014146001 Effluent Limitations and Monitoring Requirements A, as documented during an investigation conducted on March 13, 2012, and shown in the table below:

EFFLUENT VIOLATION TABLE		
Months	BOD <sub>5</sub> Daily Avg. Conc.	TSS Daily Avg. Conc.
	Limit = 20 mg/L	Limit = 20 mg/L
January 2011	c	41
February 2011	c	21
April 2011	43	40
May 2011	112	206
July 2011	c	24
<p>BOD<sub>5</sub> = five-day biochemical oxygen demand  TSS = total suspended solids  Avg. = Average  Conc. = Concentration  mg/L = milligrams per liter  c = compliant</p>		

2. Failed to accurately calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flows at least annually unless authorized by the Executive Director for a longer period, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014146001 Monitoring Requirements No. 5, as documented during an investigation conducted on March 13, 2012. Specifically, the flow meter was not calibrated in 2009, 2010, and 2011.
3. Failed to obtain and analyze soil samples from the land application site, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014146001 Special Provisions No. 9, as documented during an investigation conducted on March 13, 2012. Specifically, annual soil samples were not collected and analyzed for the years 2009 and 2010.
4. Failed to adequately maintain the drip irrigation system resulting in a discharge into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1) and TCEQ Permit No. WQ0014146001 Operational Requirements No. 1, Permit Conditions No. 2.g, and Special Provisions No. 4, as documented during an investigation conducted on March 13, 2012. Specifically, treated effluent was pooled near an irrigation valve box because the irrigation system components were leaking.

### 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: Dripping Springs Apartments, L.P., Docket No. 2012-1020-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. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TCEQ Permit No. WQ0014146001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported monthly effluent reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine 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:

Water Section, Manager  
Austin Regional Office, MC R11  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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.
7. 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.

8. 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

Paul Jerni  
For the Executive Director

2/11/13  
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.

John Ford  
Signature

September 25, 2012  
Date

John Ford  
Name (Printed or typed)  
Authorized Representative of  
Dripping Springs Apartments, L.P.

Manager  
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.