## EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44504 Page 1 of 3 DOUBLE DIAMOND UTILITIES CO. d/b/a Rock Creek WWTP and d/b/a The Cliffs Resort RN105132401 and RN102328515 Docket No. 2012-1427-MLM-E

## Order Type:

Findings Agreed Order

## Findings Order Justification:

Three or more enforcement actions (9 NOVs, 2 orders) over the prior five year period for the same violations (Facility 1).

## Media:

Water Quality

## Small Business:

Yes

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

- 1. The Cliffs Resort: 922 State Highway 16 South, adjacent to Possum Kingdom Lake, immediately west of State Highway 16 and south of the Brazos River, Palo Pinto County ("Facility 1"); and
- Rock Creek Resort: located off of Farm-to-Market Road 901, approximately 1.8 miles west of the intersection of Farm-to-Market Road 901 and Farm-to-Market Road 377, approximately 3.8 miles east of the community of Dexter and 12 miles north of Whitesboro, Grayson County ("Facility 2").

## Type of Operation:

wastewater treatment plant with an associated reverse osmosis water treatment plant (Facility 1); waste water treatment plant (Facility 2)

Other	Significant	Matters:
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Additional Pending Enforcement Actions: Past-Due Penalties: Past-Due Fees: Other: Interested Third-Parties:	None None None None None
Texas Register Publication Date:	January 2, 2015
Comments Received:	None
Pen	alty Information
Total Penalty Assessed:	\$13,038
Total Paid to General Revenue:	\$13,038
Total Due to General Revenue:	\$O
Compliance History Classifications: Person/CN – Satisfactory (Both Facilities) Site/RN – Satisfactory (Facility 1); Unclas	
Major Source:	No (Both Facilities)
Statutory Limit Adjustment:	None
	September 2002 (PCW 1A) September 2011 (PCWs 1B and 2)

### EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44504 Page 2 of 3 DOUBLE DIAMOND UTILITIES CO. d/b/a Rock Creek WWTP and d/b/a The Cliffs Resort RN105132401 and RN102328515 Docket No. 2012-1427-MLM-E

## Investigation Information

Complaint Date(s): Complaint Information:	June 8, 2012 (Facility 2) Alleged that Facility 2 was discharging untreated or inadequately treated wastewater into a creek.
Date(s) of Investigation:	June 6, 2012 (Facility 1); June 19, 2012 (Facility 2);
Date(s) of NOV(s):	See Compliance History – 9 related NOVs (Facility 1)
Date(s) of NOE(s):	June 21, 2012 (Facility 1) July 16, 2012 (Facility 2)

## Violation Information

- Failed to comply with permitted effluent limits at Facility 1 [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002789000 Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 001, 101, and 201].
- Failed to comply with permitted effluent limits at Facility 2 [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0014783001 Effluent Limitations and Monitoring Requirements No. 1].
- Failed to provide written notice to TCEQ Dallas/Fort Worth Regional Office and the Application Review and Processing Team of the Water Quality Division prior to plant startup or discharge from the outfall at Facility 2 [30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0014783001 Other Requirements No. 8].

## Corrective Actions/Technical Requirements

## Corrective Action(s) Completed:

Facility 1:

1. Submitted self-reported discharge monitoring reports for Facility 1 demonstrating three consecutive months of compliance with all permitted effluent limits on October 13, 2014.

## Facility 2:

- 2. Had the contents of the chlorine contact chamber and clarifier pumped, hauled off, and properly disposed of by June 20, 2012;
- 3. Capped the effluent pipe to prevent the discharge of untreated wastewater by June 25, 2012; and
- 4. Submitted written notice of the plant startup to the TCEQ Dallas/Fort Worth Regional Office and the Applications Review and Processing Team of the Water Quality Division by August 31, 2012.

Litigation Information

## **Technical Requirements:**

None

	Litigation Information
Date Petition(s) Filed:	July 18, 2014
Date Answer Filed:	August 1, 2014
SOAH Referral Date:	September 15, 2014
Hearing Date(s): Preliminary Hearing:	October 23, 2014 (scheduled)
Settlement Date:	October 10, 2014

## EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44504 Page 3 of 3 DOUBLE DIAMOND UTILITIES CO. d/b/a Rock Creek WWTP and d/b/a The Cliffs Resort RN105132401 and RN102328515 Docket No. 2012-1427-MLM-E

## **Contact Information**

**TCEQ Attorneys:** David A. Terry, Litigation Division, (512) 239-3400 Lena Roberts, Litigation Division, (512) 239-3400 Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Jennifer Graves, Enforcement Division, (956) 430-6023

TCEQ Regional Contact: Jeff Tate, Dallas/Fort Worth Regional Office, (817) 588-5800

**Respondent Contact:** Randy Gracy, President, DOUBLE DIAMOND UTILITIES CO., 5495 Belt Line Road, Suite 200, Dallas, Texas 75254

**Respondent's Attorney:** Ali Abazari, Jackson Walker, L.L.P., 100 Congress Avenue, Suite 1100, Austin, Texas 78701

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	Policy Revision 2 (S		nalty Calcu	ulatior	n Worksh	neet (PC	•	sion October 30, 2008
TCEQ	Assigned	2-Jul-2012						
DATES		23-Sep-2014	Screening 3-J	ul-2012	EPA Due		]	
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KL3F U			ND UTILITIES CO.	(The Cliffs	s Facility)			
	g. Ent. Ref. No.	RN102328515					I	
Facilit	ty/Site Region	4-Dallas/Fort W	orth		Major/N	linor Source	Minor	
CASE I	NFORMATION							
Ent	f./Case ID No.				No. (	of Violations		
Mod	Docket No. lia Program(s)	2012-1427-MLN	1-Е		Government	Order Type		
IVIEU	Multi-Media						Jennifer Grave	es
						EC's Team	Enforcement T	eam 1
Adm	nin. Penalty \$ l	imit Minimum-		imum	\$10,000			
			Penalty C	alculat	ion Section	on		
ΤΟΤΑΙ	L BASE PENA	LTY (Sum o	f violation base	e penalt	ies)		Subtotal 1	\$1,000
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			ng the Total Base Penalt				tale 2 2 8 7	¢950
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	Notoo		for eight months of					
	Notes	NOV WITH Same	similar violations/ انا	, and two a ability.	agreed orders v	with denial of		
				ionity.			_	
	Culpability	No		0.0%	Enhancement		Subtotal 4	\$0
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	Good Faith Eff	ort to Comply	Total Adjustment	s			Subtotal 5	\$0
				5			oubtotal o	<b>\$</b> 0
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		Total EB Amounts			Enhancement* d at the Total EB \$	Amount	Subiolaro	\$0
	Approx.	Cost of Compliance	\$10,000					
SUM C	OF SUBTOTA	LS 1-7				F	inal Subtotal	\$1,850
OTHE					0.0%		0 -15	¢0
	or enhances the Fina				0.0%		Adjustment	\$0
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	Notes							
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		enalty by the indicte	d percentage. <i>(Enter n</i>	umber only;				
		NI-	deforral is recommend	and ad for	Eindings Orden	<u> </u>		
	Notes	INO	deferral is recomm	ended for	rindings Orders	5.		
							<b>_</b>	
PAYA	BLE PENALT	Y						\$1,850

								<u>PCW</u>
Screening Date			3-Jul-2012	Docket No.	2012-1427-MLM-E			
				UTILITIES CO. (The	Cliffs Facility)		Policy Revis	ion 2 (Sept
		e ID No.					PCW Re	vision Octo
Reg.	Ent. Refere							
		-	Water Quality					
	Enf. Cool	rainator	Jennifer Graves					
			Com	pliance Histor	y Worksheet			
>> Con			hancement (Subt	otal 2)			E . N	Adiust
	Component	Number	-				Enter Number Here	Adjust.
			•	"NOVs") with same on ( <i>number of NOVs</i> )	or similar violations as thos meeting criteria)	se in	9	45%
			ten NOVs				0	0%
			ed final enforcement eeting criteria)	t orders containing a	a denial of liability ( <i>numbe</i>	er of	2	40%
governm		without a	denial of liability nt, or any final	, or default orders	eed final enforcement or of this state or the fec ency orders issued by	deral	0	0%
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	and Consent Decrees	adjudicate		ents or consent decr	default judgments, or e ees without a denial of liab			0%

Any criminal convictions of this state or the federal government (number of

Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature,

Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which

Voluntary on-site compliance assessments conducted by the executive director

Early compliance with, or offer of a product that meets future state or federal

Chronic excessive emissions events (number of events)

1995 (number of audits for which notices were submitted)

Participation in a voluntary pollution reduction program

Environmental management systems in place for one year or more

Revision 2 (September 2002)

W Revision October 30, 2008

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0%

Adjustment Percentage (Subtotal 2) 85%

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No

No

No

No

Please Enter Yes or No

Repeat Violator (Subtotal 3) >>

Convictions

Emissions

Audits

Other

counts)

violations were disclosed)

under a special assistance program

government environmental requirements

Adjustment Percentage (Subtotal 3)

Adjustment Percentage (Subtotal 7)

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

No

>> Compliance History Summary

Compliance History Notes

Enhancement for eight months of self-reported effluent violations, one NOV with same/similar violations, and two agreed orders with denial of liability.

> Total Adjustment Percentage (Subtotals 2, 3, & 7) 85%

**PCW** 

PCW 1A

	Scre	ening Date	3-Jul-2012		Dock	cet No. 2012-1427	-MLM-E	PCW
	I	Respondent	DOUBLE DIAM	IOND UTILITIE	S CO. (The Clif	fs Facility)	Policy Revis	sion 2 (September 2002)
	(	Case ID No.	44504				PCW Re	evision October 30, 2008
Reg.	Ent. Re	ference No.	RN102328515	i				
		ia [Statute]						
	Enf. (	Coordinator	Jennifer Grave	es				
	Viol	ation Number	1					-
		Rule Cite(s)	Tex. Water C	ode § 26 121(	a)(1), 30 Tex	Admin. Code § 305.	125(1), and Texas	
						"TPDES") Permit No.		
			Effluent Limit	ations and Mo	nitoring Require	ements No.1, Outfall	Nos. 001 and 101	
			Failed to cor	mply with pern	nitted effluent l	imits, as documente	d during a record	
	Violatio	on Description				and shown in the att		
							Base Penalty	\$10,000
>> En	vironme	ntal, Proper	ty and Hum	han Health	Matrix			
			., and non	Harm				
		Release	Major	Moderate	Minor			
OR		Actual			x	_		
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		Falsification	Major	Moderate	Minor	Democrat [	001	
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							C 11 1 1 1 1 1 1	7
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				01	the violation.			<u> </u>
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								\$1,000
Vieleti		•-					¢7/888	
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Violatio	on Even		/iolation Events	\$ <u>1</u>	]			
Violatio	on Even			\$ <u> </u>				
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Violatio	on Even		daily weekly	\$ <u>1</u>		31 Number of		\$1,000
Violatio	on Even	Number of V mark only one	daily weekly monthly			31 Number of	violation days	\$1,000
Violatio	on Even	Number of V mark only one	daily weekly monthly quarterly semiannual annual			31 Number of	violation days	\$1,000
Violatio	on Even	Number of V mark only one	daily weekly monthly quarterly semiannual			31 Number of	violation days	\$1,000
Violatio	on Even	Number of V mark only one	daily weekly monthly quarterly semiannual annual			31 Number of	violation days	\$1,000
Violatio	on Even	Number of V mark only one with an x	daily weekly monthly quarterly semiannual annual single event	x mmended for		31 Number of Viola	violation days tion Base Penalty	\$1,000
Violatio	on Even	Number of V mark only one with an x	daily weekly monthly quarterly semiannual annual single event	x mmended for	the quarter con Nos. 001 and 1	31 Number of Viola	violation days tion Base Penalty	\$1,000
Violatio	on Even	Number of V mark only one with an x	daily weekly monthly quarterly semiannual annual single event	x mmended for		31 Number of Viola	violation days tion Base Penalty	\$1,000
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		Number of W mark only one with an x	daily weekly monthly quarterly semiannual annual single event	x mmended for Outfall	Nos. 001 and 1	31 Number of Violar	violation days tion Base Penalty	\$1,000
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		Number of W mark only one with an x	daily weekly monthly quarterly semiannual annual single event y event is reco	mmended for Outfall	Nos. 001 and 1 Reduction NOV to EDPRP/Se (mark w th x)	31 Number of Viola Itaining the month o 01.	violation days tion Base Penalty f August 2011 for	\$1,000
		Number of W mark only one with an x	daily weekly monthly quarterly semiannual annual single event y event is reco	mmended for Outfall	Nos. 001 and 1 Reduction NOV to EDPRP/Se (mark w th x) dent does not n	31 Number of Violar	violation days tion Base Penalty f August 2011 for	\$1,000
		Number of W mark only one with an x	daily weekly monthly quarterly semiannual annual single event y event is reco oly Extraordinary Ordinary N/A	mmended for Outfall	Nos. 001 and 1 Reduction NOV to EDPRP/Se (mark w th x) dent does not n	31 Number of Viola Itaining the month o 01.	violation days tion Base Penalty f August 2011 for	\$1,000
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Good F	aith Eff	Number of V mark only one with an x One quarter orts to Comp	daily weekly monthly quarterly semiannual annual single event y event is reco oly Extraordinary Ordinary N/A	mmended for Outfall	Nos. 001 and 1 Reduction NOV to EDPRP/Se (mark w th x) dent does not n	31 Number of Violar Number of Violar	violation days tion Base Penalty f August 2011 for criteria	\$1,000 \$1,000 \$1,000 \$0 \$1,000
Good F	aith Eff	Number of V mark only one with an x One quarter orts to Comp	daily weekly monthly quarterly semiannual annual single event y event is reco oly Extraordinary Ordinary N/A Notes	mmended for Outfall	Nos. 001 and 1 Reduction NOV to EDPRP/Se (mark w th x) Ident does not r for this v \$1,459	31 Number of Violar Number of Violar	violation days tion Base Penalty f August 2011 for f August 2011 for violation Subtotal y Limit Test inal Penalty Total	\$1,000 \$1,000 \$1,000 \$0 \$1,000 \$1,000

	Outfall No. 001	Outfall I	No. 101			
	Total Dissolved Solids Daily	Total Dissolved Solids Daily	Total Dissolved Solids Daily			
Months	Max. Conc. Limit = 2500 mg/L	Avg. Conc. Limit = 5700 mg/L	Max. Conc. Limit = 9800 mg/L			
August 2011 4780 7636 10600						
Max. Conc. = maximum concentration						
Avg. Conc. = av		ation				
Mg/L = milligran	ns per liter					

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#### **Economic Benefit Worksheet** Respondent DOUBLE DIAMOND UTILITIES CO. (The Cliffs Facility) Case ID No. 44504 Reg. Ent. Reference No. RN102328515 Media Water Quality Years of Percent Interest Violation No. 1 Depreciation 5.0 15 Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs **EB** Amount Item Description No commas or \$ **Delayed Costs** 0.00 \$0 \$0 \$0 Equipment Buildings 0.00 \$0 \$0 \$0 Other (as needed) 0.00 \$0 \$0 \$0 \$10,000 31-Aug-2011 30-Sep-2013 \$1,390 Engineering/construction 2.08 \$69 \$1,459 Land 0.00 \$0 n/a \$0 **Record Keeping System** 0.00 \$0 n/a \$0 Training/Sampling 0.00 \$0 \$0 n/a Remediation/Disposal 0.00 \$0 n/a \$0 Permit Costs 0.00 \$0 n/a \$0 0.00 Other (as needed) \$0 \$0 n/a Estimated costs to determine the cause of non-compliance and to implement corrective actions. Date Notes for DELAYED costs required is the first date of non-compliance. Final date is the expected date of compliance. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **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 \$10,000 TOTAL Approx. Cost of Compliance \$1,459

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P	C١	W	1	В

							PCW IB
	Policy Revision 3 (S		Ity Calcula	tion Works	sheet (PC	•	evision August 3, 20
TCFQ	Toncy Revision 5 (5	eptember 2011)				100 / 10	WSION August 5, 20
DATES	Assigned PCW		reening 3-Jul-2	012 EPA Du	e		
RESPO	NDENT/FACILI	TY INFORMATION					
		DOUBLE DIAMOND L	JTILITIES CO. (Clif	fs Facility)			
	g. Ent. Ref. No.						
Facili	ty/Site Region	4-Dallas/Fort Worth		Major	/Minor Source	e <mark>Minor</mark>	
	NFORMATION						
En	nf./Case ID No.			No	o. of Violations		
		2012-1427-MLM-E		_	Order Type		
Med	dia Program(s)	Water Quality			ent/Non-Profit		
	Multi-Media			Er		r Jennifer Grave Enforcement 1	
Adr	min. Penalty \$ I	Limit Minimum	\$0 Maximu	<b>m</b> \$25,000		Linorcement	
		F	Penalty Calc	ulation Sec	tion		
ΤΟΤΑ	L BASE PENA	ALTY (Sum of vio	plation base pe	enalties)		Subtotal 1	\$2,50
ADJU	STMENTS (+	/-) TO SUBTOTA	<b>AL 1</b>				
	Subtotals 2-7 are of	btained by multiplying the	Total Base Penalty (Su				
	Compliance Hi			.0% Enhancement		otals 2, 3, & 7	\$2,12
		Enhancement for e					
	Notes	NOV with same/sim		-	s with denial of		
			liabilit	у.			
	Culpability	No	C	.0% Enhancement		Subtotal 4	9
	Notes	The Respor	ndent does not me	et the culpability c	riteria.		
	Good Faith Eff	ort to Comply Total	Adjustments			Subtotal 5	9
			Aujustments			Subtotal S	
	Economic Ben			.0% Enhancement*		Subtotal 6	•
	Δρηγοχ	Total EB Amounts . Cost of Compliance	\$0` \$0`	Capped at the Total E	3 \$ Amount		
	Арргох.		<b>Ф</b> О				
SUM	OF SUBTOTA	LS 1-7				Final Subtotal	\$4,62
ОТЦЕ		AS JUSTICE MAY		0.0%	(	Adjustment	4
		al Subtotal by the indicated		0.07	<u>o</u>	Aajustment	
	Notes						
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		enalty by the indicted perc	entage. (Enter numbe			Aujustment	۲. ۲. ۲. ۲. ۲. ۲. ۲. ۲. ۲. ۲. ۲. ۲. ۲. ۲
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1	Notes	No defer	ral is recommende	d for Findings Ord	lers.		
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PAYA	BLE PENALT	Y					\$4,62

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	Screenin	ng Date	3-Jul-2012	Docket No.	2012-1427-MLM-E			PCW
	Resp	ondent	DOUBLE DIAMOND	UTILITIES CO. (Cliff	s Facility)	Policy Revis	ion 3 (Septe	mber 2011)
	Case	ID No.	44504			PCW	Revision Aug	just 3, 2011
Reg.	Ent. Referer	nce No.	RN102328515					
	Media [S	tatute]	Water Quality					
	Enf. Coord	dinator	Jennifer Graves					
			Comp	liance Histor	y Worksheet			
Con	npliance History	y <i>Site</i> Enł	nancement (Subto	tal 2)				
1	Component N	Number o	f			Enter Number Here	Adjust.	
				NOVs") with same of ( <i>number of NOVs n</i>	r similar violations as those in neeting criteria)	9	45%	

Any agreed final enforcement orders containing a denial of liability (number of

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 Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements

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

Any criminal convictions of this state or the federal government (number of

Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature,

Audits	1995 (number of audits for which notices were submitted)	Ū.	0,0
Addits	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%
	Ple	ease Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
2	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) 85%

0

2

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Repeat Violator (Subtotal 3) >>

Orders

Judgments

and Consent

Decrees

Convictions

Emissions

>>

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Other written NOVs

orders meeting criteria)

or the federal government

counts)

or consent decrees meeting criteria)

Chronic excessive emissions events (number of events)

Satisfactory Performer

No

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for eight months of self-reported effluent violations, one NOV with same/similar violations, and two agreed orders with denial of liability.

> Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 85%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 85%

PCW 1B

	Scre	ening Date	3-Jul-2012		Doc	cket No. 2012-1427-ML	M-F	PCW
			DOUBLE DIAMON					
					5 CO. (CIIIIS	racinty)		ion 3 (September 2011)
_		Case ID No.					PCW	Revision August 3, 2011
Reg.	Ent. Re	ference No.	RN102328515					
	Medi	ia [Statute]	Water Quality					
	Enf. (	Coordinator	Jennifer Graves					
		ation Number						
	101			- 6 0/ 101/	-)(1) 20 T	Advairs Orde 6 205 125		
		Rule Cite(s)				. Admin. Code § 305.125		
						("TPDES") Permit No. WO		
			Effluent Limita	tions and Mo		uirements No.1, Outfall N	os. 001, 101,	
					and	201		
			Failed to comp	ly with perm	nitted effluen	t limits, as documented d	uring a record	
	Violatic	on Description		· ·		, and shown in the attach	U	
					54110 07 2012			
							Dees Develo	¢25.000
							Base Penalty	\$25,000
<b>.</b>			<b>.</b>		N // +!			
>> Env	/ironme	ntal, Proper	ty and Huma		viatrix			
		Delesse	Malan	Harm	N 41-10 - 10			
		Release	Major	Moderate	Minor			
OR		Actual			х			
		Potential				Percent 5	5.0%	
>>Proc	aramma	tic Matrix						
	9	Falsification	Major	Moderate	Minor			
		laisingation		lineacture		Percent	0.0%	
						reicent (	0.076	
	Matrix	Human health	or the environme	ent has beer	n exposed to	insignificant amounts of p	ollutants which	
		do not exceed	d levels that are p	protective of	human healt	th or environmental recept	tors as a result	
	Notes			of	the violation.			
						Adjustment	\$23,750	
							\$207700	
								\$1,250
							1	+ - 1 =
Violatic	on Even	ts						
Violatic								
		Number of V	iolation Events	2	1 1	184 Number of viol	lation days	
					I U		ation days	
			al a thu					
			daily					
			weekly					
		mante ante ana	monthly					
		mark only one with an x	quarterly	х		Violatior	n Base Penalty	\$2,500
		with an X	semiannual					
			annual					
			single event					
			single event					
		Two quarter	ly ovorts aro rocc	ammondod f	or the quarte	ers containing the months	of Sontombor	
			2			, January 2012, and Febr		
						tober 2011 for Outfall No.	2	
		Outi	all NOS. OUT allu	TOT and the		CODEL 2011 IOL OUTIAL NO.	201.	
Good	aith Eff	orts to Com		0.0%	Reduction			\$0
300u F						Settlement Offer		ΦŪ
			Extraordinant		NOV IU EDPRP/3			
			Extraordinary					
			Ordinary					
			N/A	х	(mark with x)			
			Notes	The Respon	dent does no	t meet the good faith crite	eria	
			NOLES		for this	s violation.		
						- ··· ·		·
						Viol	ation Subtotal	\$2,500
_						Chattan I	inelt Test	
	nic Bene	ent (EB) for	this violation	1		Statutory L	lmit lest	
Econon								
Econon		Estimate	ed FB Amount		\$0	Violation Final	Penalty Total	\$4 625
Econon		Estimate	ed EB Amount		\$0	Violation Fina	Penalty Total	\$4,625
Econon		Estimate	ed EB Amount			Violation Final	-	\$4,625 \$4,625

	Outfall	No. 001	Outfall No. 101	Outfall No. 201
	Total	Total	Total	Total
	Dissolved Solids Daily Avg. Conc.	Dissolved Solids Daily Max. Conc.	Dissolved Solids Daily Avg. Conc.	Suspended Solids Daily Avg. Conc.
Months	Limit = 2000 mg/L	Limit = 2500 mg/L	Limit = 5700 mg/L	Limit = 20 mg/L
September 2011	2101	с	6375	с
October 2011	С	c	6833	23
November 2011	2022	3720	6420	c
December 2011	3050	2960	7485	с
January 2012	с	3256	5900	с
February 2012	С	c	6312	с
Max. Conc. = ma	aximum conce	ntration		
Avg. Conc. = av	erage concent	ration		
mg/L = milligrar	ns per liter			
c = compliant				

D	C)	M	1	R
<b>F</b>		vv		D

#### **Economic Benefit Worksheet Respondent** DOUBLE DIAMOND UTILITIES CO. (Cliffs Facility) Case ID No. 44504 Reg. Ent. Reference No. RN102328515 Media Water Quality Years of Percent Interest Violation No. 1 Depreciation 5.0 15 Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs **EB** Amount Item Description No commas or \$ **Delayed Costs** 0.00 \$0 \$0 \$0 Equipment Buildings 0.00 \$0 \$0 \$0 Other (as needed) 0.00 \$0 \$0 \$0 \$0 Engineering/construction 0.00 \$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 \$0 n/a Permit Costs 0.00 \$0 n/a \$0 Other (as needed) 0.00 \$0 \$0 n/a See economic benefit on accompanying PCW. Notes for DELAYED costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **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 \$0 TOTAL \$0 Approx. Cost of Compliance

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# Compliance History Report

**PUBLISHED** Compliance History Report for CN600672349, RN102328515, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respo	CN600672349 1	DOUBLE DIAMOND UTILITIES CO	D. Classification: SATISFACTORY Rating: 7.28
or Owner/Opera			
<b>Regulated Entity</b>	RN102328515, [	Double Diamond DBA The Cliffs Resort	Classification: SATISFACTORY Rating: 19.06
Complexity Point	<b>s:</b> 4		at Violator: NO
CH Group:	14 - Other	Kepe	
-		to Possum Kingdom Lake imme	ediately west of State Highway 16 and south of the
Location:	-	lo Pinto County, Texas	
TCEQ Region:	REGION 04 - DF	W METROPLEX	
ID Number(s):	WASTEWATER	PERMIT WQ0002789000	
	WASTEWATER	LICENSING LICENSE WQ0002	789000
	WASTEWATER	EPA ID TX0099015	
Compliance Histo	ory Period: September 01	, 2007 to August 31, 2012	Rating Year: 2012 Rating Date: 9/1/2012
Date Compliance	<b>History Report Prepar</b>	ed: April 15, 2013	
Agency Decision	Requiring Compliance	History: Enforcement	
-	d Selected: April 15, 20	-	
		ional Information Regard	ing This Compliance History.
Name: Stev		Phon	e: (512) 239-4930
	/Operator History:		
	-	n for the full five year compliand	•
		p/operator of the site during the	e compliance period? NO
	<ul> <li>is the current owner/opera</li> <li>was/were the prior owner(section)</li> </ul>		
	he change(s) in owner or op		
		ite Are Listed in Section	s Α - J
	, court judgments, and		
			C-E (1660 Order-Agreed Order With Denial)
Classificatio	n: Moderate		· · · · · · · · · · · · · · · · · · ·
Citation:	30 TAC Chapter 30, Sul		
-			license to operate a wastewater treatment plant.
	e: 11/27/2009 n: Moderate	ADMINORDER 2008-0036-W	ILM-E (1660 Order-Agreed Order With Denial)
		ubChapter A 26.121(a)	
Citation:	2D TWC Chapter 26, Su	ubChapter A 26.121(a) ubChapter F 305.125(1)	
Citation: Rqmt Prov:	2D TWC Chapter 26, St 30 TAC Chapter 305, St Effluent Limits PERMIT	ubChapter F 305.125(1)	
Citation: Rqmt Prov: Description:	2D TWC Chapter 26, Su 30 TAC Chapter 305, Su Effluent Limits PERMIT Failure to comply with per	ubChapter F 305.125(1)	d by a TCEQ record review of self-reported data.
Citation: Rqmt Prov: Description: Classificatio	2D TWC Chapter 26, Su 30 TAC Chapter 305, Su Effluent Limits PERMIT Failure to comply with per n: Moderate	ubChapter F 305.125(1) mit effluent limits as documente	d by a TCEQ record review of self-reported data.
Citation: Rqmt Prov: Description:	2D TWC Chapter 26, Su 30 TAC Chapter 305, Su Effluent Limits PERMIT Failure to comply with per n: Moderate	ubChapter F 305.125(1) mit effluent limits as documente ubChapter F 305.125(17)	d by a TCEQ record review of self-reported data.
Citation: Rqmt Prov: Description: Classificatio Citation: Rqmt Prov: Description:	2D TWC Chapter 26, Su 30 TAC Chapter 305, Si Effluent Limits PERMIT Failure to comply with per n: Moderate 30 TAC Chapter 305, Si Self-Reporting Requirer Failed to submit discharge	ubChapter F 305.125(1) mit effluent limits as documente ubChapter F 305.125(17)	
Citation: Rqmt Prov: Description: Classificatio Citation: Rqmt Prov: Description: Classificatio	2D TWC Chapter 26, Su 30 TAC Chapter 305, Su Effluent Limits PERMIT Failure to comply with per n: Moderate 30 TAC Chapter 305, Su Self-Reporting Requirer Failed to submit discharge n: Minor	ubChapter F 305.125(1) mit effluent limits as documente ubChapter F 305.125(17) ments PERMIT monitoring reports ("DMR") and	
Citation: Rqmt Prov: Description: Classificatio Citation: Rqmt Prov: Description: Classificatio Citation:	2D TWC Chapter 26, Su 30 TAC Chapter 305, Si Effluent Limits PERMIT Failure to comply with per n: Moderate 30 TAC Chapter 305, Si Self-Reporting Requirer Failed to submit discharge n: Minor 30 TAC Chapter 305, Si	ubChapter F 305.125(1) mit effluent limits as documente ubChapter F 305.125(17) ments PERMIT monitoring reports ("DMR") and ubChapter F 305.125(17)	
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	Item 19 Septe	ember 14, 2010	(875368)	Item 24	April 27, 20	11	(929183	3)	<u>CH 1</u>
		per 25, 2010	(882926)	Item 25	June 08, 20		(939439	•	
		mber 27, 2010	(897707)	Item 26	May 09, 201		(100236		
		ary 20, 2011	(903597)	Item 27	December 1	7, 2012	(106815	59)	
-		n 01, 2011	(917730)						
Ε.	Written notices				-				
	A notice of violation regulated entity. A		-						
1	Date: 3/31/2		)11487)		600672349			as actually oc	curreu.
	Self Report?	YES	(11487)	CN	000072349	Classific	ation:	Moderate	
	Citation:		er 26, SubChapte	er A 26.121(a	)				
			305, SubChapt						
2	Description: Date: 4/30/2		the limit for one 17855)		mit parameter 1 <b>600672349</b>				
~	Self Report?	YES	(17655)	CN	000072347	Classific	ation:	Moderate	
	Citation:		er 26, SubChapte	er A 26.121(a	)				
	Description		305, SubChapt			_			
3	Description: Date: 5/31/2		the limit for one 125627)	•	mit parameter 1 <b>600672349</b>				
5	Self Report?	YES	23027)		000072347	Classific	ation:	Moderate	
	Citation:		er 26, SubChapte	•	•				
	Description		305, SubChapt		. ,	_			
4	Description: Date: 6/30/2		the limit for one 32967)		mit parameter 1 <b>600672349</b>				
-	Self Report?	YES	027077		000072047	Classific	ation:	Moderate	
	Citation:	•	er 26, SubChapte		-				
	Description		305, SubChapt			-			
5	Description: Date: 7/31/2		the limit for one 68155)		111 parameter 1600672349				
•	Self Report?	YES	,			Classific	ation:	Moderate	
	Citation:	•	er 26, SubChapte		-				
	Description:		r 305, SubChapt the limit for one			-			
6	Description. Date: 8/31/2		68156)		600672349				
	Self Report?	YES	,			Classific	ation:	Moderate	
	Citation:		er 26, SubChapte						
	Description:		r 305, SubChapt the limit for one			-			
7	Date: 9/30/2		68157)	-	600672349				
	Self Report?	YES	-			Classific	ation:	Moderate	
	Citation:		er 26, SubChapte						
	Description:		r 305, SubChapt the limit for one			-			
8	Date: 10/31/		68158)	-	600672349				
	Self Report?	YES				Classific	ation:	Moderate	
	Citation:		er 26, SubChapte r 305, SubChapt						
	Description:		the limit for one		• /	-			
9	Date: 11/5/2	2012	(10	35084)	-	CN60067	2349		
	Self Report?	NO				Classific	ation:	Minor	
	Citation: Description:		r 305, SubChapt tain the clarifier		(5)				
	Self Report?	NO				Classific	ation:	Moderate	
	Citation:		305, SubChapt						
	Description: Self Report?	Failure to main	tain compliance v	with the perm	litted effluent	Classific	ation	Moderate	
	Citation:		305, SubChapt	er F 305.125(	(1)	Classific	ation.	Modelate	
			Reporting PERM						
F.	Description: Environmental	•	de notification of	f effluent perr	nit limit violat	ions.			
г.	N/A	auuns:							
G.	Type of enviro	nmental mana	igement syste	ems (EMSs)	):				
Н.	Voluntary on-s	ite complianc	e assessment	dates:					
Ι.	Participation in	a voluntary p	ollution redu	ction progr	am:				
J.	Early compliand	ce:							
Site	es Outside of Tex	kas:							

N/A

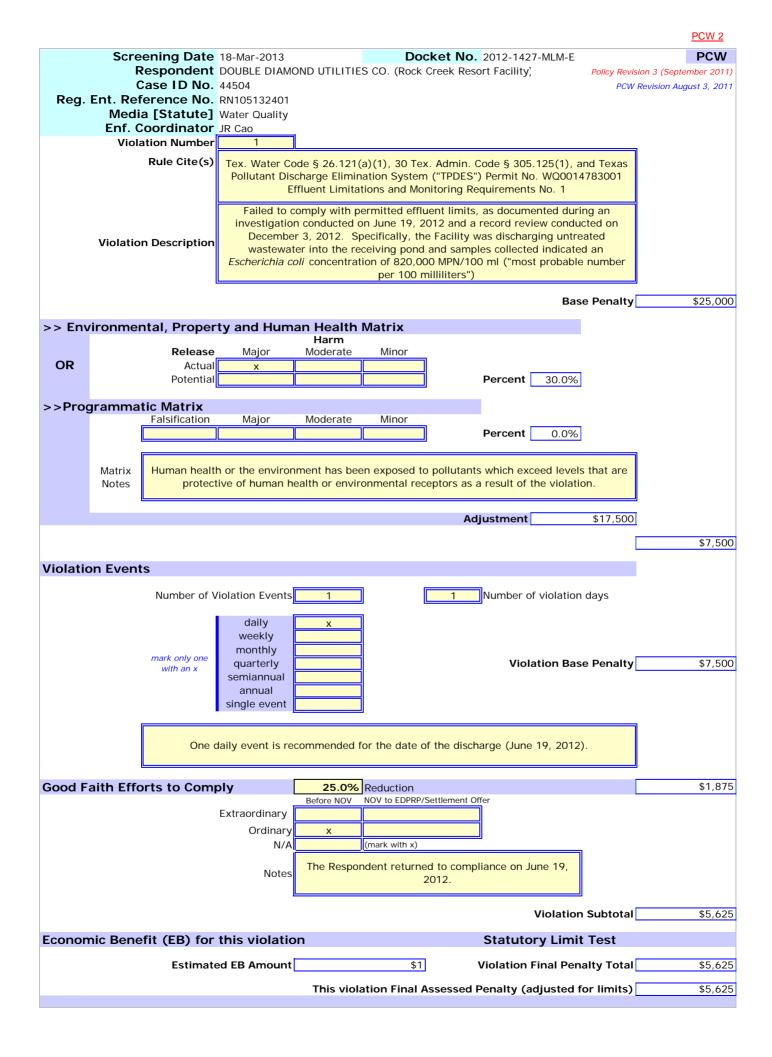
									<u>PCW 2</u>	
$\sim$		Pe	nalty (	Calcula	atior	n Worksh	neet (P(	(M)		
	Policy Revision 3 (S		nanty (	Juicaic				•	evision August 3, 2	2011
TCEQ										
DATES			Canaania	10 Mar	2012	EDA Due		_		
	PCW	18-Mar-2013	Screenir	ng 18-Mar	-2013	EPA Due				
RESPO		TY INFORMATI								
D		DOUBLE DIAMO	ND UTILITI	ES CO. (Ro	ock Cre	ek Resort Facil	ity)			
	g. Ent. Ref. No.	4-Dallas/Fort Wo	orth			Maior/N	/linor Sourc	Minor		
T dom	ty/ Site Region	- Dallas Tort W				Majori / K				
	NFORMATION	<b>.</b>						L -		
En	f./Case ID No.	44504 2012-1427-MLM	E			No.	of Violation Order Typ			
Med	lia Program(s)		-L			Governmen				
	Multi-Media					Enf.	Coordinato			
0 alu		·····	¢0			¢05.000	EC's Tear	m Enforcement T	eam 1	
Adr	nin. Penalty \$ I	imit Minimum	\$0	Maximu	Jm	\$25,000				
			Pena	Ity Cal	rulat	ion Section	n			
TOTA		LTY (Sum of		5			511	Cubtotal 1	\$8,	750
IUIA	L DAJE PENA	LIY (Sum O	violatio	n base p	enan	lesj		Subtotal 1	<b>ФО</b> ,	/50
ADJU		/-) TO SUBT								
	Subtotals 2-7 are of Compliance Hi	story	g the Total Ba		ubtotal ´ <b>0.0%</b>			otals 2, 3, & 7		\$0
	compliance m				0.076	Ennancement	5451			<b>4</b> 0
	Notes		No adjust	ment for co	ompliar	nce history.				
			2		·	J.				
	Culpability	No			0.0%	Enhancement		Subtotal 4		\$0
	oulpability				0.078	Linancement				<b>40</b>
	Notes	The Re	spondent c	loes not me	eet the	culpability crit	eria.			
	Good Faith Eff	ort to Comply T	otal Adju	stments				Subtotal 5	\$2,	187
	Economic Ben	efit			0.0%	Enhancement*		Subtotal 6		\$0
		Total EB Amounts	\$2			d at the Total EB \$	Amount			
	Approx.	Cost of Compliance	\$2,100							
SUM (	OF SUBTOTA	LS 1-7						Final Subtotal	\$6,!	563
		AS JUSTICE N I Subtotal by the indi				0.0%		Adjustment		\$0
Reduces			cated percent	lage.						
	Notes									
							5: ( )		<b>A</b> (1)	
							Final Pe	enalty Amount	\$6,!	363
STAT	UTORY LIMI		NT				Final Ass	essed Penalty	\$6,!	563
-								j		
DEFE		10 1 01 1 01 1 1 1 1 1	·			0.0%	Reduction	Adjustment		\$0
Reduces	the Final Assessed Pe	enalty by the indicted	percentage.	(Enter numb	er only;	e g_20 for 20% re	eauction )			
	Notes	No c	leferral is r	ecommend	ed for	Findings Order	S.			
									<b>.</b>	
ΡΑΥΑ	BLE PENALT	Y							\$6,	563

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

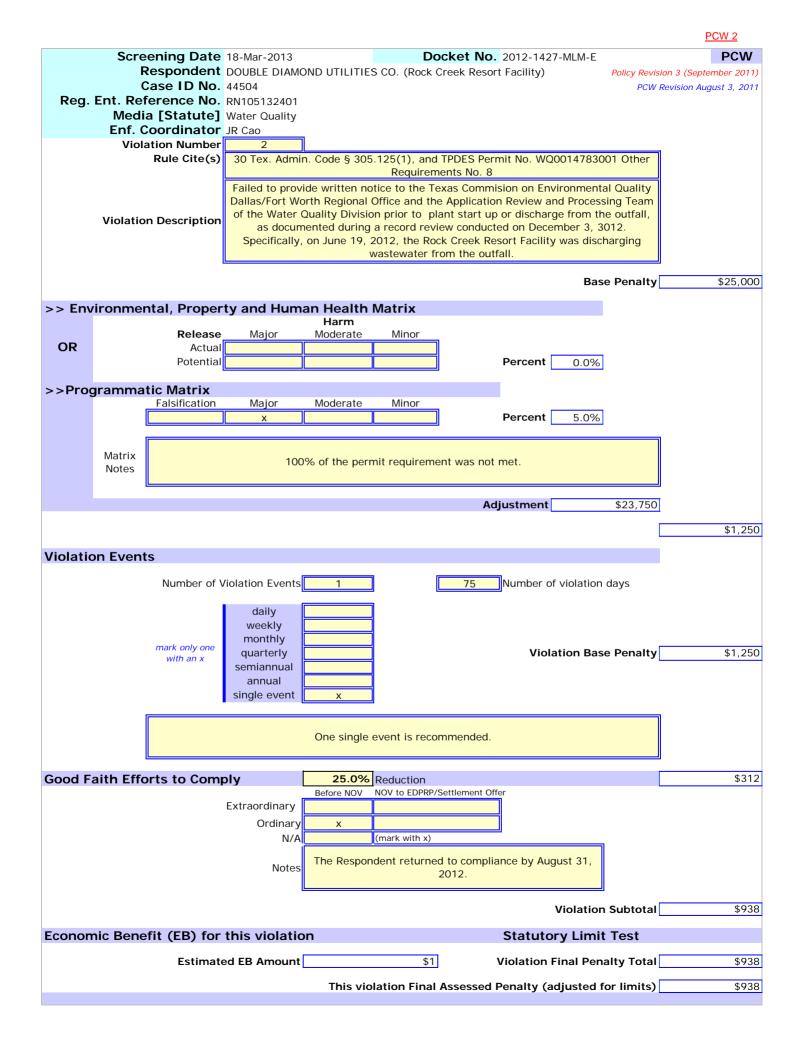
Screening Date	18-Mar-2013	Docket No.	2012-1427-MLM-E
Respondent	DOUBLE DIAMOND	UTILITIES CO. (Roc	k Creek Re
Case ID No.	44504		
Reg. Ent. Reference No.	RN105132401		
Media [Statute]	Water Quality		
Enf. Coordinator	JR Cao		

## **Compliance History Worksheet**

Component	ry <i>Site</i> Enhancement (Subtotal 2) Number of	Enter Number	Here Adjust.			
NOVs	Written notices of violation ("NOVs") with same or similar violations as the current enforcement action ( <i>number of NOVs meeting criteria</i> )	those in O	0%			
	Other written NOVs					
	Any agreed final enforcement orders containing a denial of liability (nu orders meeting criteria)	Imber of 0	0%			
Orders	Any adjudicated final enforcement orders, agreed final enforcemen without a denial of liability, or default orders of this state or the government, or any final prohibitory emergency orders issued by the cor	e federal 0	0%			
Judgments	Any non-adjudicated final court judgments or consent decrees cont denial of liability of this state or the federal government ( <i>number of jud</i> or consent decrees meeting criteria)		0%			
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adj final court judgments or consent decrees without a denial of liability, of t or the federal government		0%			
Convictions	Any criminal convictions of this state or the federal government ( <i>nu counts</i> )	imber of 0	0%			
Emissions	Chronic excessive emissions events (number of events)	0	0%			
Audits	Letters notifying the executive director of an intended audit conducted u Texas Environmental, Health, and Safety Audit Privilege Act, 74th Leg 1995 (number of audits for which notices were submitted)		0%			
Addits	Disclosures of violations under the Texas Environmental, Health, an Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which v were disclosed</i> )		0%			
		Please Enter Yes				
	Environmental management systems in place for one year or more	No	0%			
Other	Voluntary on-site compliance assessments conducted by the executive under a special assistance program	director No	0%			
	Participation in a voluntary pollution reduction program	No	0%			
	Early compliance with, or offer of a product that meets future state o government environmental requirements	r federal No	0%			
	- -	ent Percentage (	Subtotal 2)			
epeat Violator (		ent Percentage (	Subtatal 2)			
	ry Person Classification (Subtotal 7)	iem Percentage (				
-	· · · · ·		·			
Satisfactory ompliance Histo		ent Percentage (	Subtotal 7)			
Compliance History Notes	No adjustment for compliance history.					
	Total Compliance History Adjustment Percer	ntage (Subtotals	; 2, 3, & 7)			
	listory Adjustment					



#### **Economic Benefit Worksheet** Respondent DOUBLE DIAMOND UTILITIES CO. (Rock Creek Resort Facility) Case ID No. 44504 Reg. Ent. Reference No. RN105132401 Media Water Quality Years of Percent Interest Violation No. 1 Depreciation 5.0 15 Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs **EB** Amount Item Description 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 \$0 Engineering/construction 0.00 \$0 \$0 Land 0.00 \$0 n/a \$0 **Record Keeping System** 0.00 \$0 n/a \$0 Training/Sampling 0.00 \$0 \$0 n/a \$1,500 Remediation/Disposal 19-Jun-2012 20-Jun-2012 0.00 \$0 n/a \$0 Permit Costs 0.00 \$0 n/a \$0 19-Jun-2012 25-Jun-2012 0.02 Other (as needed) \$500 \$0 n/a \$0 Estimated cost to take immediate steps to stop the discharge, have the contents of the chlorine contact chamber and clarifier hauled off and properly disposed of, and to cap the effluent line to prevent any Notes for DELAYED costs future discharges. Date required is the investigation date. Final dates are the dates the discharge was ceased and the effluent cap was installed. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **Avoided Costs** 0.00 \$0 Disposal \$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 \$2,000 TOTAL Approx. Cost of Compliance \$1



## **Economic Benefit Worksheet**

Case ID No. Reg. Ent. Reference No.	44504 RN105132401	OND UTILITIES C	O. (Rock Creek	Resort	t Facility)		
Media Violation No.	Water Quality 2					Percent Interest	Years of Depreciation
						5.0	15
	I tem Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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)	\$100	19-Jun-2012	31-Aug-2012	0.20	\$1	n/a	\$1
Notes for DELAYED costs	Divisio	n. Date required	is the date of t	he dis	charge. Final date	Regional Office and is the date of comp	bliance.
Avoided Costs	ANNUALI	ZE [1] avoided	costs before e	nterir	ng item (except	for one-time avoid	ded 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		\$100			TOTAL		\$1



# **Compliance History Report**

**PUBLISHED** Compliance History Report for CN600672349, RN105132401, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600672349, DOUBLE DIAMOND UTILITIES CO.	Classification: SATISFACTORY Rating: 7.28
Regulated Entity:	RN105132401, ROCK CREEK WWTP	Classification: UNCLASSIFIED Rating:
Complexity Points:	4	Repeat Violator: NO
CH Group:	- 08 - Sewage Treatment Facilities	Repeat Violator. No
CH Group:	5	
Location:	Market Road 901 and Farm-to-Market Road 377, a Dexter and 12 miles north of Whitesboro, Grayson	
TCEQ Region:	REGION 04 - DFW METROPLEX	
ID Number(s):	WASTEWATER EPA ID TX0129241	
	WASTEWATER PERMIT WQ0014783001	
Compliance History Perio	d: September 01, 2007 to August 31, 2012	Rating Year: 2012 Rating Date: 9/1/2012
	Report Prepared: April 15, 2013	<u> </u>
	ig Compliance History: Enforcement	
	ed: April 15, 2008 to April 15, 2013	
-		a This Compliance History
	ntact for Additional Information Regardin	
Name: Steve Villatoro	Phc (512) 23	39-4930
Site and Owner/Opera		
	e and/or operation for the full five year compliance	
	hange in ownership/operator of the site during the c	compliance period? NO
3) If YES for #2, who is the cu	-	
	e the prior owner(s)/operator(s)? N/A	
-	e(s) in owner or operator occur? N/A	
	dia) for the Site Are Listed in Sections	<u>A - J</u>
· · ·	udgments, and consent decrees:	
N/A		
B. Criminal convictions	:	
N/A		
C. Chronic excessive er	nissions events:	
N/A		
	of investigations (CCEDS Inv. Track. No.):	
	ober 15, 2012 (1070892)	
	vember 20, 2012 (1070893)	
	cember 19, 2012 (1070894)	
E. Written notices of vi	olations (NOV) (CCEDS Inv. Track. No.):	
	ents a written allegation of a violation of a specific i of violation is not a final enforcement action, nor pr	
N/A		
F. Environmental audits	5:	
N/A		
G. Type of environment	al management systems (EMSs):	
H. Voluntary on-site co	mpliance assessment dates:	
I. Participation in a vol	untary pollution reduction program:	
J. Early compliance:		
Sites Outside of Texas:		
N/A		

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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING DOUBLE DIAMOND UTILITIES CO. DBA ROCK CREEK WWTP AND DBA THE CLIFFS RESORT; RN105132401 AND RN102328515 **BEFORE THE** 

**TEXAS COMMISSION ON** 

ENVIRONMENTAL QUALITY

## AGREED ORDER

## DOCKET NO. 2012-1427-MLM-E

At its \_\_\_\_\_\_agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding DOUBLE DIAMOND UTILITIES CO. d/b/a Rock Creek WWTP and d/b/a The Cliffs Resort ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Ali Abazari of the law firm Jackson Walker, L.L.P., presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, the right to an evidentiary hearing, notice of an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

## FINDINGS OF FACT

- 1. Respondent owns and operates a waste water treatment plant ("Rock Creek Resort Facility") and a wastewater treatment plant with an associated reverse osmosis water treatment plant ("Cliffs Facility") at the following locations:
  - a. The Cliffs Facility is located at 922 State Highway 16 South, adjacent to Possum Kingdom Lake, immediately west of State Highway 16 and south of the Brazos River in Palo Pinto County, Texas. The Cliffs Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
  - b. The Rock Creek Resort Facility is located off Farm-to-Market Road 901, approximately 1.8 miles west of the intersection of Farm-to-Market Road 901 and Farm-to-Market Road 377, approximately 3.8 miles east of the community of Dexter and 12 miles north of Whitesboro, Grayson County, Texas. The Rock Creek Resort Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in Tex. WATER CODE § 26.001(5).

2. During a record review of the Cliffs Facility conducted on June 6, 2012, TCEQ Central Office Staff documented that Respondent failed to comply with permitted effluent limits at the Cliffs Facility, as illustrated in the following table:

Table 1

EFFLUENT VIOLATION TABLE										
	Outfall	No. 001	Outfall I	No. 101	Outfall No. 201					
	Total Dissolved Solids Daily Avg. Conc.	Total Dissolved Solids Daily Max. Conc.	Total Dissolved Solids Daily Avg. Conc.	Dissolved Dissolved Solids Daily Solids Daily						
Months	Limit = 2000 mg/L	Limit = 2500 mg/L	Limit = 5700 mg/L	Limit = 9800 mg/L	Limit = 20 mg/L					
August 2011	С	4780	7636	10600	С					
September 2011	2101	С	6375	С	с					
October 2011	С	С	6833	С	23					
November 2011	2022	3720	6420	С	С					
December 2011	3050	2960	7485	С	С					
January 2012	С	3256	5900	С	С					
February 2012	С	С	6312	С	С					
mg/L = milligrams per literConc. = concentrationc = compliantMax. = maximumAvg. = averageAverage										

- During an investigation of the Rock Creek Resort Facility conducted on June 19, 2012, a TCEQ Dallas/Fort Worth Regional investigator documented that Respondent:
  - a. Failed to comply with permitted effluent limits. Specifically, untreated wastewater was discharging into the receiving pond and samples collected indicated an *Escherichia coli* concentration of 820,000 MPN/100 ml ("most probable number per 100 milliliters"); and
  - b. Failed to provide written notice to TCEQ Dallas/Fort Worth Regional Office and the Application Review and Processing Team of the Water Quality Division prior to plant startup or discharge from the outfall.

- 4. The Executive Director recognizes that Respondent implemented the following corrective measures at the Rock Creek Resort Facility:
  - a. By June 20, 2012, had the contents of the chlorine contact chamber and clarifier pumped, hauled off, and properly disposed of;
  - b. By June 25, 2012, capped the effluent pipe to prevent the discharge of untreated wastewater; and
  - c. By August 31, 2012, submitted written notice of the plant startup to the TCEQ Dallas/Fort Worth Regional Office and the Applications Review and Processing Team of the Water Quality Division.
- 5. The Executive Director recognizes that, on October 13, 2014, Respondent submitted self-reported discharge monitoring reports for the Cliffs Facility demonstrating three consecutive months of compliance with all permitted effluent limits.

## CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
- As evidenced by Finding of Fact No. 2, Respondent failed to comply with permitted effluent limits at the Cliffs Facility, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002789000 Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 001, 101, and 201.
- As evidenced by Finding of Fact No. 3.a., Respondent failed to comply with permitted effluent limits at the Rock Creek Resort Facility, in violation of Tex. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit No. WQ0014783001 Effluent Limitations and Monitoring Requirements No. 1.
- 4. As evidence by Finding of Fact No. 3.b., Respondent failed to provide written notice to TCEQ Dallas/Fort Worth Regional Office and the Application Review and Processing Team of the Water Quality Division prior to plant startup or discharge from the outfall at the Rock Creek Resort Facility, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0014783001 Other Requirements No. 8.
- 5. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
- 6. An administrative penalty in the amount of thirteen thousand thirty-eight dollars (\$13,038.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid thirteen thousand thirty-eight dollars (\$13,038.00) of the administrative penalty.

## ORDERING PROVISIONS

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

Respondent is assessed an administrative penalty as set forth in Conclusion of Law No.
 6 for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order

in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.

- 2. All relief not expressly granted in this Agreed Order is denied.
- 3. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facilities operations referenced in this Agreed Order.
- 4. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed in Ordering Provision No. 2.a.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute.
- 7. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 8. 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.
- 9. 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.

10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

DOUBLE DIAMOND UTILITIES CO. D/B/A ROCK CREEK WWTP AND D/B/A THE CLIFFS RESORT DOCKET NO. 2012-1427-MLM-E PAGE 6

### SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Direct

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 DOUBLE DIAMOND UTILITIES CO. d/b/a Rock Creek WWTP and d/b/a The Cliffs Resort, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this Agreed Order and/or failure to timely pay the penalty amount may result in:

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

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

Signature - Randy Gracy, President

Signature - Randy Gracy, President DOUBLE DIAMOND UTILITIES CO. 5495 Belt Line Road, Suite 200 Dallas, Texas 75254

)-10-,

Date

□ If mailing address has changed, please check this box and provide the new address below: