

**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
2. 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:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** January 2, 2015

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$13,038

**Total Paid to General Revenue:** \$13,038

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

**Compliance History Classifications:**

Person/CN – Satisfactory (Both Facilities)  
Site/RN – Satisfactory (Facility 1); Unclassified (Facility 2)

**Major Source:** No (Both Facilities)

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002 (PCW 1A)  
September 2011 (PCWs 1B and 2)

**Investigation Information**

**Complaint Date(s):** June 8, 2012 (Facility 2)  
**Complaint Information:** 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**

1. 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].
2. 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].
3. 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.

**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

**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

**THIS PAGE INTENTIONALLY LEFT BLANK**



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	2-Jul-2012	<b>Screening</b>	3-Jul-2012	<b>EPA Due</b>	
	<b>PCW</b>	23-Sep-2014				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	DOUBLE DIAMOND UTILITIES CO. (The Cliffs Facility)		
<b>Reg. Ent. Ref. No.</b>	RN102328515		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	44504	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-1427-MLM-E	<b>Order Type</b>	Findings
<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** **\$1,000**

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

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

<b>Compliance History</b>	85.0%	Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$850</b>	
<b>Notes</b>	Enhancement for eight months of self-reported effluent violations, one NOV with same/similar violations, and two agreed orders with denial of liability.				
<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
<b>Notes</b>	The Respondent does not meet the culpability criteria.				
<b>Good Faith Effort to Comply Total Adjustments</b>			<b>Subtotal 5</b>	<b>\$0</b>	
<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>	
Total EB Amounts	\$1,459	*Capped at the Total EB \$ Amount			
Approx. Cost of Compliance	\$10,000				

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$1,850**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
	<b>Final Penalty Amount</b> <b>\$1,850</b>

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$1,850**

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

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

<b>Notes</b>	No deferral is recommended for Findings Orders.
--------------	---

**PAYABLE PENALTY** **\$1,850**

Screening Date 3-Jul-2012

Docket No. 2012-1427-MLM-E

PCW

Respondent DOUBLE DIAMOND UTILITIES CO. (The Cliffs Facility)

Policy Revision 2 (September 2002)

Case ID No. 44504

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102328515

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

## Compliance History Worksheet

## &gt;&gt; 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> )	9	45%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 85%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; 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, &amp; 7) 85%

**Screening Date** 3-Jul-2012 **Docket No.** 2012-1427-MLM-E **PCW**  
**Respondent** DOUBLE DIAMOND UTILITIES CO. (The Cliffs Facility) *Policy Revision 2 (September 2002)*  
**Case ID No.** 44504 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102328515  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jennifer Graves

**Violation Number**   
**Rule Cite(s)** 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 and 101  
**Violation Description** Failed to comply with permitted effluent limits, as documented during a record review conducted on June 6, 2012, and shown in the attached table.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="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 as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended for the quarter containing the month of August 2011 for Outfall Nos. 001 and 101.

**Good Faith Efforts to Comply**  Reduction

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

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

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



## Economic Benefit Worksheet

**Respondent** DOUBLE DIAMOND UTILITIES CO. (The Cliffs Facility)  
**Case ID No.** 44504  
**Reg. Ent. Reference No.** RN102328515  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$10,000	31-Aug-2011	30-Sep-2013	2.08	\$69	\$1,390	\$1,459
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to determine the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the expected date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$1,459

**THIS PAGE INTENTIONALLY LEFT BLANK**



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	2-Jul-2012	<b>Screening</b>	3-Jul-2012	<b>EPA Due</b>	
	<b>PCW</b>	23-Sep-2014				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	DOUBLE DIAMOND UTILITIES CO. (Cliffs Facility)	
<b>Reg. Ent. Ref. No.</b>	RN102328515	
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b> Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	44504	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-1427-MLM-E	<b>Order Type</b>	Findings
<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>	\$25,000

**Penalty Calculation Section**

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$2,500

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

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

<b>Compliance History</b>	85.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$2,125
<b>Notes</b>	Enhancement for eight months of self-reported effluent violations, one NOV with same/similar violations, and two agreed orders with denial of liability.		
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b>	\$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$0
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$0	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$0		

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$4,625

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>		<b>Final Penalty Amount</b>	\$4,625
--------------	--	-----------------------------	---------

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$4,625

**DEFERRAL** **Adjustment** \$0

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

<b>Notes</b>	No deferral is recommended for Findings Orders.
--------------	---

**PAYABLE PENALTY** \$4,625

**Screening Date** 3-Jul-2012      **Docket No.** 2012-1427-MLM-E  
**Respondent** DOUBLE DIAMOND UTILITIES CO. (Cliffs Facility)  
**Case ID No.** 44504  
**Reg. Ent. Reference No.** RN102328515  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jennifer Graves

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

### 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> )	9	45%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 85%

#### >> Repeat Violator (Subtotal 3)

No

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

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

Satisfactory Performer

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

#### >> 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%

<b>Screening Date</b>	3-Jul-2012	<b>Docket No.</b>	2012-1427-MLM-E	<b>PCW</b>
<b>Respondent</b>	DOUBLE DIAMOND UTILITIES CO. (Cliffs Facility)		<i>Policy Revision 3 (September 2011)</i>	
<b>Case ID No.</b>	44504	<i>PCW Revision August 3, 2011</i>		
<b>Reg. Ent. Reference No.</b>	RN102328515			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Jennifer Graves			

**Violation Number**

**Rule Cite(s)**

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

**Violation Description**

Failed to comply with permitted effluent limits, as documented during a record review conducted on June 6, 2012, and shown in the attached table.

**Base Penalty**

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

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 as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Two quarterly events are recommended for the quarters containing the months of September 2011, October 2011, November 2011, December 2011, January 2012, and February 2012 for Outfall Nos. 001 and 101 and the month of October 2011 for Outfall No. 201.

**Good Faith Efforts to Comply**

Reduction

Before NOV    NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

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

**Violation Subtotal**

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

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

Months	Outfall No. 001		Outfall No. 101	Outfall No. 201
	Total Dissolved Solids Daily Avg. Conc.	Total Dissolved Solids Daily Max. Conc.	Total Dissolved Solids Daily Avg. Conc.	Total Suspended Solids Daily Avg. Conc.
	Limit = 2000 mg/L	Limit = 2500 mg/L	Limit = 5700 mg/L	Limit = 20 mg/L
September 2011	2101	c	6375	c
October 2011	c	c	6833	23
November 2011	2022	3720	6420	c
December 2011	3050	2960	7485	c
January 2012	c	3256	5900	c
February 2012	c	c	6312	c
Max. Conc. = maximum concentration				
Avg. Conc. = average concentration				
mg/L = milligrams per liter				
c = compliant				

## Economic Benefit Worksheet

**Respondent** DOUBLE DIAMOND UTILITIES CO. (Cliffs Facility)  
**Case ID No.** 44504  
**Reg. Ent. Reference No.** RN102328515  
**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
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

See economic benefit on accompanying PCW.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

**TOTAL** \$0

**THIS PAGE INTENTIONALLY LEFT BLANK**



The TCEQ is committed to accessibility.

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



# 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, Respondent, or Owner/Operator:** CN600672349, DOUBLE DIAMOND UTILITIES CO. **Classification:** SATISFACTORY **Rating:** 7.28

**Regulated Entity:** RN102328515, Double Diamond DBA The Cliffs Resort **Classification:** SATISFACTORY **Rating:** 19.06

**Complexity Points:** 4 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** located adjacent to Possum Kingdom Lake immediately west of State Highway 16 and south of the Brazos River, Palo Pinto County, Texas

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):** **WASTEWATER PERMIT** WQ0002789000  
**WASTEWATER LICENSING LICENSE** WQ0002789000  
**WASTEWATER EPA ID** TX0099015

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 9/1/2012

**Date Compliance History Report Prepared:** April 15, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** April 15, 2008 to April 15, 2013

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

**Name:** Steve Villatoro

**Phone:** (512) 239-4930

## Site and Owner/Operator History:

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

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

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

- 1 Effective Date: 10/06/2008 ADMINORDER 2008-0215-WOC-E (1660 Order-Agreed Order With Denial)**  
Classification: Moderate  
Citation: 30 TAC Chapter 30, SubChapter A 30.5(a)  
Description: Field Citation - Failure to obtain the required occupational license to operate a wastewater treatment plant.
- 2 Effective Date: 11/27/2009 ADMINORDER 2008-0036-MLM-E (1660 Order-Agreed Order With Denial)**  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Effluent Limits PERMIT  
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
Rqmt Prov: Self-Reporting Requirements PERMIT  
Description: Failed to submit discharge monitoring reports ("DMR") and DMR parameter data  
Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
Rqmt Prov: Monitoring and Reporting No.1 PERMIT  
Description: Failed to submit discharge monitoring reports ("DMR") and DMR parameter data  
Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
Rqmt Prov: Monitoring Reporting No.1 PERMIT  
Description: Failed to submit discharge monitoring reports ("DMR") and DMR parameter data

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	April 17, 2008	(694548)	Item 10	June 23, 2009	(929184)
Item 2	May 22, 2008	(715984)	Item 11	October 05, 2009	(929187)
Item 3	July 23, 2008	(715985)	Item 12	November 04, 2009	(929188)
Item 4	August 22, 2008	(715986)	Item 13	December 11, 2009	(929189)
Item 5	October 29, 2008	(715987)	Item 14	December 23, 2009	(929190)
Item 6	January 20, 2009	(754951)	Item 15	March 01, 2010	(929182)
Item 7	February 09, 2009	(754950)	Item 16	May 18, 2010	(834978)
Item 8	February 20, 2009	(754949)	Item 17	June 14, 2010	(847514)
Item 9	May 15, 2009	(772124)	Item 18	August 25, 2010	(868473)

Item 19	September 14, 2010	(875368)	Item 24	April 27, 2011	(929183)
Item 20	October 25, 2010	(882926)	Item 25	June 08, 2011	(939439)
Item 21	December 27, 2010	(897707)	Item 26	May 09, 2012	(1002363)
Item 22	January 20, 2011	(903597)	Item 27	December 17, 2012	(1068159)
Item 23	March 01, 2011	(917730)			

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

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

<b>1</b>	<b>Date:</b> 3/31/2012	<b>(1011487)</b>	<b>CN600672349</b>		
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			
<b>2</b>	<b>Date:</b> 4/30/2012	<b>(1017855)</b>	<b>CN600672349</b>		
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			
<b>3</b>	<b>Date:</b> 5/31/2012	<b>(1025627)</b>	<b>CN600672349</b>		
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			
<b>4</b>	<b>Date:</b> 6/30/2012	<b>(1032967)</b>	<b>CN600672349</b>		
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			
<b>5</b>	<b>Date:</b> 7/31/2012	<b>(1068155)</b>	<b>CN600672349</b>		
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			
<b>6</b>	<b>Date:</b> 8/31/2012	<b>(1068156)</b>	<b>CN600672349</b>		
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			
<b>7</b>	<b>Date:</b> 9/30/2012	<b>(1068157)</b>	<b>CN600672349</b>		
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			
<b>8</b>	<b>Date:</b> 10/31/2012	<b>(1068158)</b>	<b>CN600672349</b>		
	Self Report?	YES		Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to meet the limit for one or more permit parameter			
<b>9</b>	<b>Date:</b> 11/5/2012	<b>(1035084)</b>	<b>CN600672349</b>		
	Self Report?	NO		Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)			
	Description:	Failure to maintain the clarifier weir.			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	Description:	Failure to maintain compliance with the permitted effluent limits.			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring and Reporting PERMIT			
	Description:	Failure to provide notification of effluent permit limit violations.			

#### F. Environmental audits:

N/A

#### G. Type of environmental management systems (EMSs):

N/A

#### H. Voluntary on-site compliance assessment dates:

N/A

#### I. Participation in a voluntary pollution reduction program:

N/A

#### J. Early compliance:

N/A

#### Sites Outside of Texas:

N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	18-Mar-2013	<b>Screening</b>	18-Mar-2013	<b>EPA Due</b>	
	<b>PCW</b>	18-Mar-2013				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	DOUBLE DIAMOND UTILITIES CO. (Rock Creek Resort Facility)	
<b>Reg. Ent. Ref. No.</b>	RN105132401	
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b> Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	44504	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-1427-MLM-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	JR Cao
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

**Penalty Calculation Section**

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$8,750**

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

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

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

**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** **\$2,187**

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

Total EB Amounts **\$2**  
 Approx. Cost of Compliance **\$2,100**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$6,563**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$6,563**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$6,563**

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

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

Notes:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$6,563**

<b>Screening Date</b>	18-Mar-2013	<b>Docket No.</b>	2012-1427-MLM-E	<b>PCW</b>
<b>Respondent</b>	DOUBLE DIAMOND UTILITIES CO. (Rock Creek R	<i>Policy Revision 3 (September 2011)</i>		
<b>Case ID No.</b>	44504	<i>PCW Revision August 3, 2011</i>		
<b>Reg. Ent. Reference No.</b>	RN105132401			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	JR Cao			

### Compliance History Worksheet

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

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

**Adjustment Percentage (Subtotal 2)** 0%

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

No		<b>Adjustment Percentage (Subtotal 3)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
----	--	--

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

Satisfactory Performer		<b>Adjustment Percentage (Subtotal 7)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
------------------------	--	--

>> **Compliance History Summary**

<b>Compliance History Notes</b>	No adjustment for compliance history.
---------------------------------	---------------------------------------

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

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 0%

<b>Screening Date</b>	18-Mar-2013	<b>Docket No.</b>	2012-1427-MLM-E	<b>PCW</b>
<b>Respondent</b>	DOUBLE DIAMOND UTILITIES CO. (Rock Creek Resort Facility)		<i>Policy Revision 3 (September 2011)</i>	
<b>Case ID No.</b>	44504	<i>PCW Revision August 3, 2011</i>		
<b>Reg. Ent. Reference No.</b>	RN105132401			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	JR Cao			

**Violation Number**

**Rule Cite(s)** Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014783001 Effluent Limitations and Monitoring Requirements No. 1

**Violation Description** Failed to comply with permitted effluent limits, as documented during an investigation conducted on June 19, 2012 and a record review conducted on December 3, 2012. Specifically, the Facility was discharging untreated wastewater into the receiving pond and samples collected indicated an *Escherichia coli* concentration of 820,000 MPN/100 ml ("most probable number per 100 milliliters")

**Base Penalty**

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

OR			<b>Harm</b>		
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="30.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0.0%"/>

**Matrix Notes** Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text" value="x"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One daily event is recommended for the date of the discharge (June 19, 2012).

**Good Faith Efforts to Comply**

Reduction

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

**Notes** The Respondent returned to compliance on June 19, 2012.

**Violation Subtotal**

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

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** DOUBLE DIAMOND UTILITIES CO. (Rock Creek Resort Facility)  
**Case ID No.** 44504  
**Reg. Ent. Reference No.** RN105132401  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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	\$1,500	19-Jun-2012	20-Jun-2012	0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	19-Jun-2012	25-Jun-2012	0.02	\$0	n/a	\$0

**Notes for DELAYED costs**  
 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 future discharges. Date required is the investigation date. Final dates are the dates the discharge was ceased and the effluent cap was installed.

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

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

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$2,000	<b>TOTAL</b>	\$1
-----------------------------------	---------	--------------	-----

<b>Screening Date</b>	18-Mar-2013	<b>Docket No.</b>	2012-1427-MLM-E	<b>PCW</b>
<b>Respondent</b>	DOUBLE DIAMOND UTILITIES CO. (Rock Creek Resort Facility)			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44504			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN105132401			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	JR Cao			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

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

Notes

**Violation Subtotal**

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

**Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** DOUBLE DIAMOND UTILITIES CO. (Rock Creek Resort Facility)  
**Case ID No.** 44504  
**Reg. Ent. Reference No.** RN105132401  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of 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
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

Estimated cost to submit written notification to the Dallas/Fort Worth Regional Office and Water Quality Division. Date required is the date of the discharge. Final date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$1



The TCEQ is committed to accessibility.

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



# 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

**Location:** 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, Texas

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):** WASTEWATER EPA ID TX0129241

WASTEWATER PERMIT WQ0014783001

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 9/1/2012

**Date Compliance History Report Prepared:** April 15, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** April 15, 2008 to April 15, 2013

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

**Name:** Steve Villatoro

**Phc** (512) 239-4930

## Site and Owner/Operator History:

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

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

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

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	October 15, 2012	(1070892)
Item 2	November 20, 2012	(1070893)
Item 3	December 19, 2012	(1070894)

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

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

N/A

### **F. Environmental audits:**

N/A

### **G. Type of environmental management systems (EMSs):**

N/A

### **H. Voluntary on-site compliance assessment dates:**

N/A

### **I. Participation in a voluntary pollution reduction program:**

N/A

### **J. Early compliance:**

N/A

### **Sites Outside of Texas:**

N/A

**THIS PAGE INTENTIONALLY LEFT BLANK**

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>DOUBLE DIAMOND UTILITIES CO.</b>	<b>§</b>	
<b>DBA ROCK CREEK WWTP AND</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>DBA THE CLIFFS RESORT;</b>	<b>§</b>	
<b>RN105132401 AND RN102328515</b>	<b>§</b>	

## 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					
Months	Outfall No. 001		Outfall No. 101		Outfall No. 201
	Total Dissolved Solids Daily Avg. Conc.	Total Dissolved Solids Daily Max. Conc.	Total Dissolved Solids Daily Avg. Conc.	Total Dissolved Solids Daily Max. Conc.	Total Suspended Solids Daily Avg. Conc.
	Limit = 2000 mg/L	Limit = 2500 mg/L	Limit = 5700 mg/L	Limit = 9800 mg/L	Limit = 20 mg/L
August 2011	c	4780	7636	10600	c
September 2011	2101	c	6375	c	c
October 2011	c	c	6833	c	23
November 2011	2022	3720	6420	c	c
December 2011	3050	2960	7485	c	c
January 2012	c	3256	5900	c	c
February 2012	c	c	6312	c	c
mg/L = milligrams per liter      Conc. = concentration c = compliant                              Max. = maximum Avg. = average					

3. 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.
2. 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.
3. 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:

1. 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.

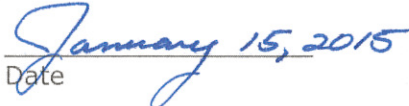
10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier.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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

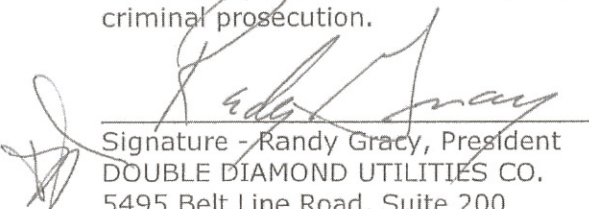
  
\_\_\_\_\_  
Date

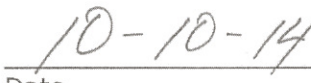
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of DOUBLE DIAMOND UTILITIES CO. d/b/a Rock Creek WWTP and d/b/a The Cliffs Resort, and I do agree to the terms and conditions specified therein. I further 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

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

  
\_\_\_\_\_  
Date

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

\_\_\_\_\_