

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 59286
Double Diamond Utilities, Co.
RN102329802
Docket No. 2020-0651-MWD-E

Order Type:

Default Order (SOAH preliminary hearing)

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

On Misty Valley Circle, off White Bluff Drive, approximately 2.4 miles west of the intersection of Farm-to-Market Road 933 and White Bluff Drive, in Hill County

Type of Operation:

wastewater treatment facility

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: November 10, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$42,799

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$42,799

Compliance History Classifications:

Person/CN - Satisfactory
Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 1, 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: February 19, 2020

Date(s) of NOV(s): None

Date(s) of NOE(s): April 16, 2020

Double Diamond Utilities, Co.

RN102329802

Docket No. 2020-0651-MWD-E

Violation Information

1. Failed to properly analyze effluent samples according to the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(c), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0013786002, Definitions and Standard Permit Condition No. 2 e.].
2. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal were properly operated and maintained [30 TEX. ADMIN. CODE § 305.125(1) and (5); and TPDES Permit No. WQ0013786002, Operational Requirements No. 1].
3. Failed to submit a complete and accurate annual sludge report to TCEQ by September 30th of each year [30 Tex. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0013786002, Sludge Provisions Section IV.C].
4. Failed to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 305.125(4)].
5. Failed to comply with permitted effluent limitations [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0013786002, Permit Conditions No. 2.d. and Effluent Limitations and Monitoring Requirements Nos. 1 and 2].
6. Failed to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license [30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and TPDES Permit No. WQ0013786002, Other Requirements No. 1].
7. Failed to properly analyze effluent samples according to the permit [30 TEX ADMIN. CODE §§ 305.125(1) and 319.11(c) and TPDES Permit No. WQ0013786002, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

Respondent no longer owns or operates the Facility as of June 18, 2020.

Technical Requirements:

None

Litigation Information

Date Petition(s) Filed:	February 27, 2023
Date(s) of Service:	March 2, 2023
Date Answer(s) Filed:	March 16, 2023
SOAH Referral Date:	May 12, 2023
Preliminary hearing:	July 13, 2023 (defaulted)

Double Diamond Utilities, Co.

RN102329802

Docket No. 2020-0651-MWD-E

Contact Information

TCEQ Attorneys: Taylor Pack Ellis, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division, (817) 588-5865

TCEQ Regional Contact: Richard Monreal, Waco Regional Office, (254) 761-3005

Respondent Contact: Mike Ward, Double Diamond Utilities, Co., 5495 Belt Line Road, Suite 200,
Dallas, Texas 75424

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

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	13-Apr-2020			
	PCW	21-Dec-2020	Screening	23-Apr-2020	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Double Diamond Utilities, Co.
Reg. Ent. Ref. No.	RN102329802
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	59286	No. of Violations	6
Docket No.	2020-0651-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephanie Frederick
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$31,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	20.0%	Adjustment	Subtotals 2, 3, & 7	\$6,200
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Notes	Enhancement for four months of self-reported effluent violations.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$5,599	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$5,549	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$37,200
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OTHER FACTORS AS JUSTICE MAY REQUIRE	15.1%	Adjustment	\$5,599
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided costs of compliance with Violation Nos. 1, 2, 3, 4, 5, and 6.
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Final Penalty Amount	\$42,799
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$42,799
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$42,799
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Screening Date 23-Apr-2020

Docket No. 2020-0651-MWD-E

PCW

Respondent Double Diamond Utilities, Co.

Policy Revision 4 (April 2014)

Case ID No. 59286

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102329802

Media Water Quality

Enf. Coordinator Stephanie Frederick

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	4	20%
	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 judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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) 20%

>> 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 four months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 23-Apr-2020
Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Enf. Coordinator Stephanie Frederick

Docket No. 2020-0651-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.11(c) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013786002, Definitions and Standard Permit Conditions No. 2.e

Violation Description Failed to properly analyze effluent samples according to the permit. Specifically, the Escherichia coli ("E. coli") daily average concentration was calculated using average mean rather than geometric mean during the monthly monitoring periods of March, May, and November 2019.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of the rule requirement was not met.					
Adjustment					\$23,750

\$1,250

Violation Events

Number of Violation Events 3 92 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

Three single events are recommended, one for each monitoring period evaluated.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$252

Violation Final Penalty Total \$5,177

This violation Final Assessed Penalty (adjusted for limits) \$5,177

Economic Benefit Worksheet

Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$250	19-Feb-2020	23-Apr-2020	0.18	\$2	\$250	\$252
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct employee training and implement procedures to ensure effluent samples are properly analyzed. Date required is the investigation date. Final date is the screening date.

Approx. Cost of Compliance \$250

TOTAL \$252

Screening Date 23-Apr-2020
Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Enf. Coordinator Stephanie Frederick

Docket No. 2020-0651-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0013786002, Operational Requirements No. 1

Violation Description

Failed to ensure the Facility and all of its systems of collection, treatment, and disposal were properly operated and maintained. Specifically, the catwalk over the second treatment system was unsafe and required repair.

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"/>	<input type="text" value="5.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<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="0.0%"/>

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would 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

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

One quarterly event is recommended from the investigation date (February 19, 2020) to the screening date (April 23, 2020).

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/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"/>	<input type="text"/>

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)

Economic Benefit Worksheet

Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

ANNUALIZE 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	\$500	19-Feb-2020	23-Apr-2020	0.18	\$0	\$88	\$88
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to repair/replace the catwalk. Date required is the investigation date. Final date is the screening date.

Approx. Cost of Compliance \$88

TOTAL \$88

Screening Date 23-Apr-2020
Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Enf. Coordinator Stephanie Frederick

Docket No. 2020-0651-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17) and TPDES Permit No. WQ0013786002, Sludge Provisions, Section IV.C

Violation Description Failed to submit a complete and accurate annual sludge report ("ASR") to the TCEQ by September 30th of each year. Specifically, the 2019 ASR did not correctly state the amount of sludge transported.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1.0%

Matrix Notes Less than 30% of the rule requirements were not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 206 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$345

This violation Final Assessed Penalty (adjusted for limits) \$345

Economic Benefit Worksheet

Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$25	30-Sep-2019	23-Apr-2020	0.56	\$1	\$25	\$26
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to submit a revised 2019 ASR. Date required is the date the ASR was due. Final date is the screening date.

Approx. Cost of Compliance \$25

TOTAL \$26

Screening Date 23-Apr-2020
Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Enf. Coordinator Stephanie Frederick

Docket No. 2020-0651-MWD-E

PCW

*Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014*

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (4), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0013786002, Permit Conditions No. 2.d and Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description

Failed to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment. Additionally, the Respondent failed to comply with permitted effluent limitations. Specifically, a Facility upset led to the discharge of partially treated wastewater into the receiving stream. An effluent grab sample revealed the Respondent exceeded the permitted effluent limitation of 399 most probable number per 100 milliliters ("MPN/100 mL") for E. coli with a result of 613,100 MPN/100 mL; 15 milligrams per liter ("mg/L") for ammonia nitrogen with a result of 45.7 mg/L; and did not meet the minimum total chlorine residual of 1.0 mg/L with a result of 0.0 mg/L. Samples collected 10 yards upstream documented E. coli at 2,620 MPN/100 mL and sample results collected 20 yards downstream documented E. coli at 161,600 MPN/100 mL.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 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 \$17,500

\$7,500

Violation Events

Number of Violation Events 3 64 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$22,500

Three monthly events are recommended from the investigation date (February 19, 2020) to the screening date (April 23, 2020).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,043

Violation Final Penalty Total \$31,064

This violation Final Assessed Penalty (adjusted for limits) \$31,064

Economic Benefit Worksheet

Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	19-Feb-2020	23-Apr-2020	0.18	\$43	\$5,000	\$5,043

Notes for AVOIDED costs

Estimated avoided cost to disinfect the receiving stream, determine the cause of noncompliance, make the necessary repairs/adjustments to the Facility, and achieve compliance with permitted effluent limitations. Date required is the investigation date. Final date is the screening date.

Approx. Cost of Compliance

\$5,000

TOTAL

\$5,043

Screening Date 23-Apr-2020
Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Enf. Coordinator Stephanie Frederick

Docket No. 2020-0651-MWD-E

PCW

*Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014*

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 30.350(d) and 305.125(1) and TPDES Permit No. WQ0013786002, Other Requirements No. 1

Violation Description Failed to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license. Specifically, process control activities were conducted at the Facility from November 2019 through February 2020, by a person holding an expired license.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 110 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended for the period the unlicensed operator was allowed to conduct process control duties.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$190

Violation Final Penalty Total \$3,452

This violation Final Assessed Penalty (adjusted for limits) \$3,452

Economic Benefit Worksheet

Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$186	1-Nov-2019	23-Apr-2020	0.48	\$4	\$186	\$190

Notes for AVOIDED costs

Estimated avoided cost to obtain a valid license to operate the Facility (\$111 test fee plus \$75 training cost). Date required is the start of the period the unlicensed operator was allowed to conduct process control duties. Final date is the screening date.

Approx. Cost of Compliance

\$186

TOTAL

\$190

Screening Date 23-Apr-2020
Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Enf. Coordinator Stephanie Frederick

Docket No. 2020-0651-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.11(c) and TPDES Permit No. WQ0013786002, Monitoring and Reporting Requirements No. 1

Violation Description Failed to properly analyze effluent samples according to the permit. Specifically, manganese oxide corrections were not recorded during the monthly monitoring periods of March, May, and November 2019.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
				x	

Less than 30% of the rule requirements were not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 3 92 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

Three single events are recommended, one for each monitoring period evaluated.

Good Faith Efforts to Comply

0.0% Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,035

This violation Final Assessed Penalty (adjusted for limits) \$1,035

Economic Benefit Worksheet

Respondent Double Diamond Utilities, Co.
Case ID No. 59286
Reg. Ent. Reference No. RN102329802
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided Costs are captured in the Economic Benefit Worksheet for Violation No. 1.

Approx. Cost of Compliance \$0

TOTAL \$0

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

Compliance History Report for CN600672349, RN102329802, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600672349, Double Diamond Utilities Co. **Classification:** SATISFACTORY **Rating:** 0.33

Regulated Entity: RN102329802, WHITE BLUFF **Classification:** UNCLASSIFIED **Rating:** -----

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

CH Group: 08 - Sewage Treatment Facilities

Location: On Misty Valley Circle, off White Bluff Drive, approximately 2.4 miles west of the intersection of Farm-to-Market Road 933 and White Bluff Drive, in Hill County, Texas

TCEQ Region: REGION 09 - WACO

ID Number(s):

WASTEWATER PERMIT WQ0013786002

WASTEWATER EPA ID TX0113913

WASTEWATER LICENSING LICENSE WQ0013786002

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: February 08, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 08, 2016 to February 08, 2021

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

Name: Stephanie Frederick

Phone: (512) 239-1001

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

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	February 18, 2016	(1326649)	Item 13	February 14, 2017	(1405683)
Item 2	March 16, 2016	(1333415)	Item 14	March 15, 2017	(1412768)
Item 3	April 13, 2016	(1340564)	Item 15	April 20, 2017	(1419276)
Item 4	May 17, 2016	(1347372)	Item 16	May 18, 2017	(1426919)
Item 5	June 15, 2016	(1353777)	Item 17	June 28, 2017	(1432912)
Item 6	July 14, 2016	(1360761)	Item 18	July 11, 2017	(1441472)
Item 7	August 17, 2016	(1367200)	Item 19	August 23, 2017	(1445151)
Item 8	September 16, 2016	(1373921)	Item 20	November 14, 2017	(1463041)
Item 9	October 05, 2016	(1380072)	Item 21	December 07, 2017	(1469475)
Item 10	November 21, 2016	(1386028)	Item 22	January 08, 2018	(1476177)
Item 11	December 15, 2016	(1392179)	Item 24	February 12, 2018	(1488344)
Item 12	January 10, 2017	(1398782)			

Item 25	March 02, 2018	(1492012)	Item 38	June 20, 2019	(1586487)
Item 26	April 23, 2018	(1495300)	Item 39	July 18, 2019	(1594785)
Item 27	May 04, 2018	(1502231)	Item 40	August 13, 2019	(1601087)
Item 28	June 20, 2018	(1509348)	Item 41	August 23, 2019	(1594786)
Item 29	July 20, 2018	(1515662)	Item 42	September 17, 2019	(1608000)
Item 30	September 05, 2018	(1528891)	Item 43	October 18, 2019	(1614867)
Item 31	October 15, 2018	(1535214)	Item 44	November 13, 2019	(1620656)
Item 32	November 19, 2018	(1543071)	Item 45	January 21, 2020	(1635632)
Item 33	December 20, 2018	(1546807)	Item 46	February 11, 2020	(1642250)
Item 34	January 17, 2019	(1564545)	Item 47	March 18, 2020	(1648760)
Item 35	February 19, 2019	(1564543)	Item 48	April 20, 2020	(1655114)
Item 36	April 19, 2019	(1573447)	Item 49	May 19, 2020	(1661675)
Item 37	May 20, 2019	(1586486)	Item 50	June 05, 2020	(1668210)

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.

- 1 Date: 06/30/2020 (1675156)
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
- 2 Date: 07/31/2020 (1681924)
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
- 3 Date: 08/31/2020 (1688502)
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
- 4 Date: 09/30/2020 (1694862)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DOUBLE DIAMOND UTILITIES, CO.;
RN102329802

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2020-0651-MWD-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Double Diamond Utilities, Co. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated a wastewater treatment facility located on Misty Valley Circle, off White Bluff Drive, approximately 2.4 miles west of the intersection of Farm-to-Market Road 933 and White Bluff Drive, in Hill County, Texas (the "Facility"). The 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 an investigation conducted on and around February 19, 2020, an investigator documented that Respondent:
 - a. Failed to properly analyze effluent samples according to the permit. Specifically, the *Escherichia coli* ("*E. coli*") daily average concentration was calculated using the average mean rather than geometric mean during the monthly monitoring periods of March, May, and November 2019;
 - b. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal were properly operated and maintained. Specifically, the catwalk over the second treatment system was unsafe and required repair;
 - c. Failed to submit a complete and accurate annual sludge report ("ASR") to TCEQ by September 30th of each year. Specifically, the 2019 ASR did not correctly state the amount of sludge transported;
 - d. Failed to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment. Specifically, a Facility upset led to the discharge of partially treated wastewater into the receiving stream;
 - e. Failed to comply with permitted effluent limitations. Specifically, an effluent grab sample revealed Respondent exceeded the permitted effluent limitation of 399 most probable number per 100 milliliters ("MPN/100 mL") for *E. coli* with a result of 613,100 MPN/100 mL; 15 milligrams per liter ("mg/L") for ammonia nitrogen with a result of 45.7 mg/L; and did not meet the minimum total chlorine residual of 1.0 mg/L with a result of 0.0 mg/L. Samples collected 10 yards upstream documented *E. coli* at 2,620 MPN/100 mL and sample results collected 20 yards downstream documented *E. coli* at 161,600 MPN/100 mL;

- f. Failed to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license. Specifically, process control activities were conducted at the Facility from November 2019 through February 2020, by a person holding an expired license; and
 - g. Failed to properly analyze effluent samples according to the permit. Specifically, manganese oxide corrections were not recorded during the monthly monitoring periods of March, May, and November 2019.
3. The Executive Director recognizes that Respondent no longer owns or operates the Facility as of June 18, 2020.
 4. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Double Diamond Utilities, Co.” (the “EDPRP”) in the TCEQ Chief Clerk’s office on February 27, 2023.
 5. Respondent filed an answer requesting a hearing on March 16, 2023, and the matter was referred to the State Office of Administrative Hearings (“SOAH”) on May 12, 2023.
 6. On June 14, 2023, the TCEQ Chief Clerk mailed notice of the July 13, 2023 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
 7. On July 13, 2023, the Administrative Law Judge (“ALJ”) convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
 8. On July 13, 2023, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 2, so that TCEQ may dispose of this case on a default basis.

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.a., Respondent failed to properly analyze effluent samples according to the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(c), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0013786002, Definitions and Standard Permit Condition No. 2.e.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to ensure the Facility and all of its systems of collection, treatment, and disposal were properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5); and TPDES Permit No. WQ0013786002, Operational Requirement No. 1.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to submit a complete and accurate ASR to TCEQ by September 30th of each year, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0013786002, Sludge Provisions Section IV.C.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 305.125(4).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No.

- WQ0013786002, Permit Conditions No. 2.d. and Effluent Limitations and Monitoring Requirements Nos. 1 and 2.
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license, in violation of 30 TEX. ADMIN. CODE §§ 30.350(d) and 305.125(1) and TPDES Permit No. WQ0013786002, Other Requirement No. 1.
 8. As evidenced by Finding of Fact No. 2.g., Respondent failed to properly analyze effluent samples according to the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.11(c) and TPDES Permit No. WQ0013786002, Monitoring and Reporting Requirement No. 1.
 9. As evidenced by Finding of Fact No. 5, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(d) and 30 TEX. ADMIN. CODE § 70.109.
 10. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.105(b), 155.401, and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.405, 39.413, 39.423, and 80.6.
 11. As evidenced by Findings of Fact Nos. 7 and 8, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE § 155.501(e), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106(b).
 12. Pursuant to TEX. WATER CODE § 7.051 the Commission 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.
 13. An administrative penalty in the amount of \$42,799 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
 14. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$42,799 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Double Diamond Utilities, Co.; Docket No. 2020-0651-MWD-E" to:

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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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.
6. If Respondent fails to comply with any of the Ordering Provisions in this 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 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.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF TAYLOR PACK ELLIS

“On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Double Diamond Utilities, Co.’ (the “EDPRP”) was filed in the TCEQ Chief Clerk’s office on February 27, 2023.

Respondent filed an answer requesting a hearing on March 16, 2023, and the matter was referred to the State Office of Administrative Hearings (“SOAH”) on May 12, 2023. On June 14, 2023, the TCEQ Chief Clerk mailed notice of the July 13, 2023 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on July 13, 2023. At that hearing, the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(e), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV’T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH No. 2, issued on July 13, 2023, so that TCEQ may dispose of this case on a default basis.”

"My name is Taylor Pack Ellis and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,
on the 26th day of October, 2023

TP Ellis
Declarant