

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2003-1241-MWD-E TCEQ ID NO.: RN101916559 CASE NO.: 9863

RESPONDENT NAME: CITY OF FOLLETT

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: One mile north of State Highway 15 and approximately one mile west of Farm-to-Market Road 1454, Follett, Lipscomb County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on October 7, 2007. No comments were received.

CONTACTS AND MAILING LIST:

- TCEQ Attorney:** Mr. Robert R. Mosley, Litigation Division, MC 175, (512) 239-0627
Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
- SEP Coordinator:** Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223
- TCEQ Enforcement Coordinator:** Ms. Heather Brister, Water Enforcement Section, MC 169, (512) 239-1203
- TCEQ Regional Contact:** Mr. Jim McWilliams, Amarillo Regional Office, MC R-1, (806) 468-0520
- Respondent:** Mr. Robert R. Williamson, City Manager, City of Follett, P.O. Box 216, Follett, Texas 79034
- Respondent's Attorney:** Not represented by counsel.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: January 15, 2003</p> <p>Dates of NOV/NOEs Relating to this Case: March 14, 2003 (NOE)</p> <p>Background Facts:</p> <p>After discussions with the Respondent and negotiating a Supplemental Environmental Project, a signed Agreed Order was received on July 13, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MWD:</p> <p>1. Failed to maintain effluent levels within permitted limits for 5-day Biochemical Oxygen Demand ("BOD5"), pH, Total Suspended Solids ("TSS"), and fecal coliform. Specifically, the BOD5 daily average limit of 30 milligrams per liter was exceeded during the months of February, April, May, November, and December 2002. The pH maximum level was exceeded during July 2002. TSS levels were exceeded during May, July, August, September, and October 2002. Single grab fecal coliform levels were exceeded during March, April, May, July, August, October, November, and December 2002 [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1) and TPDES Permit No. 10508-001, Monitoring Requirements and Effluent Limitations].</p> <p>2. Failed to notify the TCEQ Amarillo Regional Office within 5 working days of becoming aware of an effluent permit excursion of 40% or greater. Specifically, excursions of 40% or greater were observed during March, April, May, August, September, October, November, and December 2002 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 10508-001, Permit Conditions 7(c)].</p>	<p>Total Assessed: \$10,560</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$10,560</p> <p>Total Paid to General Revenue: \$0</p> <p>* The assessed penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 30 days, return to compliance with TPDES Permit No. 10508-001, Monitoring Requirements and Effluent Limitations. 2. Within 90 days, certify that the Facility has complied with effluent limits for at least the past two consecutive months. 3. Within 105 days, submit written certification demonstrating compliance with Ordering Provisions Nos. 1 and 2. 4. The Respondent shall implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).

Attachment A
Docket Number: 2003-1241-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Follett
Penalty Amount: Ten Thousand Five Hundred Sixty Dollars (\$10,560)
SEP Amount: Ten Thousand Five Hundred Sixty Dollars (\$10,560)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") **Illegal Dump Clean Up**
Location of SEP: Lipscomb County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the *Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")* for the Illegal Dump Clean Up program in Lipscomb County. Any funds remaining after completion of the Illegal Dump Clean Up program may, in the alternative, be used by the Third Party Recipient to perform either: an Abandoned Tire Site Clean Up, Wastewater Treatment Assistance, or other approved project to be conducted within Lipscomb, Ochiltree, Hemphill, or Roberts Counties. Specifically, SEP monies will pay for the labor and disposal costs associated with proper clean up and disposal of wastes, debris, or abandoned tires, assistance to low-income residents with failing on site wastewater systems, plugging of abandoned wells, or antifreeze recycling. The projects will be administered in accordance with federal, state, and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The illegal dump and abandoned tire clean up portions of this project would provide a discernable environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should illegally dumped tires catch fire.

The wastewater portion of this SEP would provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic

organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The plugging of abandoned wells provides an environmental benefit by reducing the potential for contamination of groundwater and aquifers from pollutants that may be dumped into the well opening.

Recycling of antifreeze provides an environmental benefit by providing a convenient disposal method for used antifreeze. Antifreeze (ethylene glycol) is a common coolant for automobile engines. Ingestion of antifreeze and its derivatives may lead to kidney failure and harmful effects to the liver. Exposure to ethylene glycol may cause eye and skin irritation. If improperly disposed in the environment, ethylene glycol may be ingested by domestic animals or wildlife. Ingestion may be fatal to small animals. A sudden release of ethylene / propylene glycol into a waterway can produce adverse impacts upon fresh water and marine environments. Glycol degradation in the environment has a high oxygen demand and as a result threatens or negatively impacts aquatic life. Ammonia gas is also released to the environment by the degradation of glycols.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. **Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation
and Development Areas, Inc. (RC&D)
Attention: Eddi Darilek
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

In the event of incomplete performance, the check for any remaining amount due shall have the notation "SEP Refund" and the docket number of the case, and be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 6/12/2003

DATES		PCW	13-Oct-2003	Screening	14-Oct-2003	Priority Due	11-Feb-2004	EPA Due	
RESPONDENT INFORMATION									
Respondent	City of Follett								
Respondent/Site ID No(s)	Follett WWTP; TPDES Permit No. 10508-001								
Facility/Site Region	1 - Amarillo	Major/Minor Source		Minor					
CASE INFORMATION									
Enf./Case ID No(s)	CCEDS Case No. 9863								
Docket No.	2003-1241-MWD-E				No. Violations		2		
Case Priority	3	Order Type		1660 without deferral					
Enf. Coordinator	Michael Limos			EC's Team		Enforcement Team 5			
Media Program(s)	Water Quality								
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000					

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1: \$12,540

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 60% Enhancement Subtotals 2, 3 & 7: \$7,524

Notes: Eleven months of self-reported discharge violations and one NOV for same or similar violations have been noted at this site within the past five years.

Culpability 0% Enhancement Subtotal 4: \$0

No Select Yes/No

Notes: The Respondent does not meet culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5: \$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		

None of the above (mark with small x)

Notes: The Respondent is not yet in compliance.

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

\$641	Total EB Amounts	*Capped at the Total EB \$ Amount
\$5,100	Approx. Cost of Compliance	=

SUM OF SUBTOTALS 1-7 Final Subtotal: \$20,064

OTHER FACTORS AS JUSTICE MAY REQUIRE 45% Reduction Adjustment: -\$9,029

Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)

Notes: A reduction in penalty is recommended so that monthly self-reported violations don't overly impact the penalty amount and so that the reporting violations are proportional to the effluent violations.

Final Penalty Amount: \$11,035

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty: \$10,560

DEFERRAL Deferral 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 offered because the Respondent has received an NOV for same or similar violations at this site within the past five years.

PAYABLE PENALTY \$10,560

Screening Date 14-Oct

Docket

ber 2003-1241-MWD-E

PCW

Respondent City of Follett

Case ID No. CCEDS Case No. 9863

Respondent/Site ID No. Follett WWTP; TPDES Permit No. 10508-001

Media [Statute] Water Quality

Enf. Coordinator Michael Limos

Policy Revision 2 (09/02)

PCW Revision 6/12/2003

Site Address One mi. N of SH15 and one mi. W of FM 1454, Follett, Lipscomb County

Compliance History Worksheet

Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	12	60%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)		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%
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 (number of judgements or consent decrees meeting criteria)		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%
Convictions	Any criminal convictions of this state or the federal government (number of counts)		0%
Emissions	Chronic excessive emissions events (number of events)		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 (number of audits for which notices were submitted)		0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)		0%
Other	Environmental management systems in place for one year or more		0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program		0%
	Participation in a voluntary pollution reduction program		0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements		0%

Adjustment Percentage (Subtotal 2) 60%

Repeat Violator (Subtotal 3)

No Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

Compliance History Person Classification (Subtotal 7)

Average Performer Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance History Notes

Eleven months of self-reported discharge violations and one NOV for same or similar violations have been noted at this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3 & 7) 60%

Screening Date 14-Oct-03 Docket Number 2003-1241-MWD-E

PGW
Policy Revision 2 (09/02)
PCW Revision 6/12/2003

Respondent City of Follett
Case ID No. CCEDS Case No. 9863
Respondent/Site ID No. Follett WWTP; TPDES Permit No. 10508-001

Media [Statute] Water Quality

Enf. Coordinator Michael Limos

Violation Number 1

Primary Rule Cite 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. 10508-001 Monitoring Requirements and Effluent Limits

Secondary Cite(s)
Violation Description Failure to maintain effluent levels within permitted limits for 5-day Biochemical Oxygen Demand (BOD5), pH, Total Suspended Solids (TSS) and fecal coliform. The BOD5 daily average limit of 30 milligrams per liter was exceeded during the months of 2/02, 4/02, 5/02, 11/02 and 12/02. The pH maximum level was exceeded during the month 7/02. TSS levels were exceeded during the months of 5/02, 7/02, 8/02, 9/02 and 10/02. Single-grab fecal coliform levels were exceeded during the months of 3/02, 4/02, 5/02, 7/02, 8/02, 10/02, 11/02 and 12/02.

Base Penalty \$10,000

» Environmental Property and Human Health Matrix

		Harm			
		Major	Moderate	Minor	
OR	Actual			X	Percent 10%
	Potential				

» Programmatic Matrix

		Major	Moderate	Minor	
OR	Falsification				Percent

Matrix Notes

A simplified model was utilized to evaluate the values of BOD5 to determine whether the discharged amounts of pollutants exceed levels that are protective of human health and the environment. The BOD5 and other pollutants discharged at the time of the violations were insignificant and did not exceed levels that are protective of human health and the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 4

mark only one; use small x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$4,000

Events Notes

Four quarterly events are recommended based on the number of quarters in which violations were discovered during the investigation conducted on January 15, 2003.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$541

Violation Final Penalty total \$3,520

This Violation Final Assessed Penalty (adjusted for limits) \$3,520

Economic Benefit Worksheet

Respondent: City of Follett
 ID Number(s): CCEDS Case No. 9863
 Media (Statute): Water Quality
 Violation Number: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$5,000	1-Feb-2002	1-Apr-2004	2.2	\$541	n/a	\$541
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for additional oversight and sampling which might have reduced or alleviated the exceedances from February 2002 (the month the violations were first documented) to April 2004 (the estimated month of compliance).

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

TOTAL

Screening Date 14-Oct-03

Docket Number 2003-1241-MWD-E

PCW

Respondent City of Follett

Policy Revision 2 (09/02)

Case ID No. CCEDS Case No. 9863

PCW Revision 6/12/2003

Respondent/Site ID No. Follett WWTP; TPDES Permit No. 10508-001

Media [Statute] Water Quality

Enf. Coordinator Michael Limos

Violation Number 2

Primary Rule Cite TPDES Permit No. 10508-001 Permit Conditions No. 7(c)

Secondary Cite(s) 30 TAC § 305.125(1)

Violation Description Failure to notify the TCEQ's Amarillo Regional Office within 5 working days of becoming aware of an effluent permit excursion of 40% or greater. Specifically, excursions of 40% or greater were observed during 3/02, 4/02, 5/02, 8/02, 9/02, 10/02, 11/02 and 12/02.

Base Penalty \$10,000

Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes 100% of the requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 8

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$8,000

Events Notes Eight single events are recommended based on the number of times an excursion of 40% or greater was observed and not reported to the TCEQ, as documented during the investigation conducted on January 15, 2003.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$100

Violation Final Penalty total \$7,040

This Violation Final Assessed Penalty (adjusted for limits) \$7,040

Economic Benefit Worksheet

Respondent City of Follett
 ID Number(s) CCEDS Case No. 9863
 Media (Statute) Water Quality
 Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	7-Dec-2002		0.0	\$0	\$100	\$100
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost of paying an employee \$10/hr. for 10 hours in order to report permit excursions of 40% or greater to the TCEQ Regional Office within 5 days of the event.

Approx Cost of Compliance

TOTAL

Effluent Limit Violation Table

Respondent	City of Follett
ID Number(s)	Follett WWTP TPDES Permit No. 10508-001
Docket Number	2003-1241-MWD-E
Enf. Coordinator	Michael Limos

Corresponds to Violation Number:

1

EFFLUENT PARAMETER
Permit Limit

Month/Year	BOD5	pH	TSS	Flow	Fecal Coliform
	Daily Avg. (30mg/L)	Max. (9 s.u.'s)	Daily Avg. (90 mg/L)	Avg. MGD (0.065 MGD)	Single Grab (800 colonies per 100 mL)
January 2002	c	c	c	c	c
February 2002	38	c	c	c	c
March 2002	C	c	c	c	1750*
April 2002	57*	c	c	c	3400*
May 2002	62*	c	103	c	3150*
June 2002	c	c	c	c	c
July 2002	c	9.4	114	c	850
August 2002	c	c	111.75	c	1550*
September 2002	c	c	136*	c	c
October 2002	c	c	112.8	c	5200*
November 2002	33.7	c	c	c	6700*
December 2002	35	c	c	c	2150*
*indicates ≥40% excursion					

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
million gallons per day	MGD
total suspended solids	TSS
5-day biochemical oxygen demand	BOD5
carbonaceous biochemical oxygen demand	CBOD
ammonia-nitrogen	NH3-N
dissolved oxygen	DO
compliant (no excursions)	c

Compliance History

Customer/Respondent/Owner-Operator:	CN600737811 City Of Follett	Classification: AVERAGE	Rating: 2.12
Regulated Entity:	RN101916559 CITY OF FOLLETT WWTP	Classification: AVERAGE	Site Rating: 2.12
ID Number(s):	WASTEWATER	PERMIT.	TPDES0066796
	WASTEWATER	PERMIT	WQ0010508001
	WASTEWATER LICENSING	LICENSE	WQ0010508001
Location:	1 MILE N OF SH15 & APPROXIMATELY 1 MILE W OF FARM TO MARKET ROAD 1454 IN LIPSCOMB COUNTY		Rating Date: 9/1/03 Repeat Violator: NO
TCEQ Region:	REGION 01 - AMARILLO		
Date Compliance History Prepared:	October 13, 2003		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 13, 1998 to October 13, 2003		

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

Name: Mike Limos Phone: 512.239.5839

Site Compliance History Components

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

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The dates of investigations.

- 1 10/21/2002
- 2 08/22/2002
- 3 11/20/2002
- 4 08/22/2002
- 5 08/22/2002
- 6 01/16/2003
- 7 02/21/2001
- 9 08/22/2002
- 10 03/27/2003
- 11 08/22/2002
- 12 08/22/2002
- 13 08/22/2002
- 14 03/14/2003
- 15 08/22/2002
- 16 08/22/2002
- 17 08/22/2002

E. Written notices of violations (NOV).

Date: 08/31/2002

Self Report? YES

Classification: Moderate

Citation: COH Violation 26.121(a)(G)

COH Violation 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF
AN ENFORCEMENT ACTION
CONCERNING CITY OF
FOLLETT;
RN101916559

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2003-1241-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Follett ("Follett") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Follett, appear before the Commission and together stipulate that:

1. Follett owns and operates a wastewater treatment facility located one mile north of State Highway 15 and approximately one mile west of Farm-to-Market Road 1454 in Follett, Lipscomb County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Follett agree that the Commission has jurisdiction to enter this Agreed Order, and that Follett is subject to the Commission's jurisdiction.
4. Follett received notice of the violations alleged in Section II ("Allegations") on or about March 14, 2003.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Follett of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

2. 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 10508-001, Permit Conditions 7(c), by failing to notify the TCEQ Amarillo Regional Office within 5 working days of becoming aware of an effluent permit excursion of 40% or greater. Specifically, excursions of 40% or greater were observed during March, April, May, August, September, October, November, and December 2002 as documented during an inspection on January 15, 2003.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Follett pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Follett's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Follett, Docket No. 2003-1241-MWD-E" to:

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

2. Follett shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. Ten thousand five hundred sixty dollars (\$10,560.00) of the assessed administrative penalty shall be offset with the condition that Follett implement the SEP defined in Attachment A, incorporated herein by reference. Follett's obligation to pay the conditionally offset portion of the administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. Follett shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Follett shall return to compliance with TPDES Permit No. 10508-001, Monitoring Requirements and Effluent Limitations;

5. If Follett 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, Follett's failure to comply is not a violation of this Agreed Order. Follett shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Follett shall notify the Executive Director within seven days after Follett becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Follett shall be made in writing to the Executive Director. Extensions are not effective until Follett receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Follett in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 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 the Order to Follett, or three days after the date on which the Commission mails notice of the Order to Follett, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Attachment A
Docket Number: 2003-1241-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Follett

Penalty Amount: Ten Thousand Five Hundred Sixty Dollars (\$10,560)

SEP Amount: Ten Thousand Five Hundred Sixty Dollars (\$10,560)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") **Illegal Dump Clean Up**

Location of SEP: Lipscomb County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the *Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")* for the Illegal Dump Clean Up program in Lipscomb County. Any funds remaining after completion of the Illegal Dump Clean Up program may, in the alternative, be used by the Third Party Recipient to perform either: an Abandoned Tire Site Clean Up, Wastewater Treatment Assistance, or other approved project to be conducted within Lipscomb, Ochiltree, Hemphill, or Roberts Counties. Specifically, SEP monies will pay for the labor and disposal costs associated with proper clean up and disposal of wastes, debris, or abandoned tires, assistance to low-income residents with failing on site wastewater systems, plugging of abandoned wells, or antifreeze recycling. The projects will be administered in accordance with federal, state, and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The illegal dump and abandoned tire clean up portions of this project would provide a discernable environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should illegally dumped tires catch fire.

The wastewater portion of this SEP would provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic

organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The plugging of abandoned wells provides an environmental benefit by reducing the potential for contamination of groundwater and aquifers from pollutants that may be dumped into the well opening.

Recycling of antifreeze provides an environmental benefit by providing a convenient disposal method for used antifreeze. Antifreeze (ethylene glycol) is a common coolant for automobile engines. Ingestion of antifreeze and its derivatives may lead to kidney failure and harmful effects to the liver. Exposure to ethylene glycol may cause eye and skin irritation. If improperly disposed in the environment, ethylene glycol may be ingested by domestic animals or wildlife. Ingestion may be fatal to small animals. A sudden release of ethylene / propylene glycol into a waterway can produce adverse impacts upon fresh water and marine environments. Glycol degradation in the environment has a high oxygen demand and as a result threatens or negatively impacts aquatic life. Ammonia gas is also released to the environment by the degradation of glycols.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation
and Development Areas, Inc. (RC&D)
Attention: Eddi Darilek
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

In the event of incomplete performance, the check for any remaining amount due shall have the notation "SEP Refund" and the docket number of the case, and be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.