

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2005-2084-MWD-E TCEQ ID: RN104402741 CASE NO.: 27886**

**RESPONDENT NAME: AMERICAN GOLF CORPORATION AND WYNNWOOD PENINSULA GOLF, LLC**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input checked="" 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
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 1000 Boyd Road, The Colony, Denton County</p> <p><b>TYPE OF OPERATION:</b> Unauthorized on-site sewage facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There is one complaint. The complainant alleged that the septic system was failing, and had been failing for some time. The complainant described pooling effluent, malfunctioning effluent treatment plants, and an offensive sewage odor. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> One complaint has been received but the complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 9, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney:</b> Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p><b>TCEQ Enforcement Coordinator:</b> Ms. Pam Campbell, Water Enforcement Section, MC169, (512) 239-4493</p> <p><b>TCEQ Regional Contact:</b> Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903</p> <p><b>Respondents:</b> Ms. Christine Chong, Assistant Secretary, American Golf Corporation, 16055 Space Center, Ste. 235, Houston, Texas 77062-0000; Mr. Kristian Teleki, Senior Vice President, Wynnwood Peninsula Golf, LLC; 1445 Ross Ave., Ste. 3200, Dallas, Texas 75202-2799</p> <p><b>Respondents' Attorneys:</b> Mr. Patrick Larkin, Partner, Strasburger &amp; Price, L.L.P., Attorney for American Golf Corporation, 901 Main Street, Suite 4300, Dallas, Texas 75202; Mr. Steven R. Morton, Partner, Moltz, Morton &amp; O'Toole, L.L.P., Attorney for Wynnwood Peninsula Golf, LLC, 106 E. 6th Street, Suite 700, Austin, TX 78701</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input checked="" type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>  September 21, 2004</p> <p><b>Dates of Investigation Relating to this Case:</b>  September 21, 2004; September 30, 2004;  November 17, 2005</p> <p><b>Date of NOE Relating to this Case:</b>  December 5, 2005</p> <p><b>Background Facts:</b></p> <p>Extensive negotiations were conducted between TCEQ and both Respondents. The Agreed Order was signed by "Wynnwood" on March 31, 2008, and by "American" on April 3, 2008.</p> <p><b>MWD:</b></p> <p>Failed to obtain proper authorization for the treatment and disposal of wastewater. Specifically, the Respondent treated and disposed of more than 5,000 gallons of sewage per day on one piece of property, requiring a consolidated Texas Pollution Discharge Elimination System permit [30 TEX. ADMIN. CODE § 305.42(a) and TEX. WATER CODE § 26.121].</p>	<p><b>Total Assessed:</b> \$4,400</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$4,400</p> <p>The Respondents have paid the administrative penalty in full.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondents shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, maintain flow from the Facility at or below 5,000 gallons per day.</li> <li>2. Within 45 days, submit written certification of compliance with Ordering Provision No. 1.</li> <li>3. Within 730 days, tie onto a permitted collection and treatment system and properly abandon the OSSF.</li> <li>4. Within 745 days, submit certification of compliance with Ordering Provision No. 3.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

**TCEQ**

<b>DATES</b>	Assigned	19-Dec-2005	Screening	10-Jan-2006	EPA Due	
	PCW	30-Mar-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	American Golf Corporation
Reg. Ent. Ref. No.	RN104402714
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	27886	No. of Violations	1
Docket No.	2005-2084-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	Subtotal 1	\$2,000
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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.

<b>Compliance History</b>	10% Enhancement	Subtotals 2, 3, & 7	\$200
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Notes: The Respondent has two NOV's with violations same or similar to those cited in this action.

<b>Culpability</b>	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$279	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$2,000	*Capped at the Total EB \$ Amount		

<b>SUM OF SUBTOTALS 1-7</b>	Final Subtotal	\$2,200
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$2,200
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<b>STATUTORY LIMIT ADJUSTMENT</b>	Final Assessed Penalty	\$2,200
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<b>DEFERRAL</b>	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement

<b>PAYABLE PENALTY</b>	\$2,200
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PCW - A

Screening Date 10-Jan-2006

Docket No. 2005-2084-MWD-E

PCW

Respondent American Golf Corporation

Policy Revision 2 (September 2002)

Case ID No. 27886

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN104402714

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	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	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) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has two NOVs with violations same or similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 10-Jan-2006

Docket No. 2005-2084-MWD-E

PCW

Respondent American Golf Corporation

Policy Revision 2 (September 2002)

Case ID No. 27886

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN104402714

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.42(a) and Tex. Water Code § 26.121

Violation Description Failed to obtain proper authorization for the treatment and disposal of wastewater. Specifically, the Respondent treats and disposes of more than 5,000 gallons of sewage per day on once piece of property, which requires a consolidated Texas Pollution Discharge Elimination System ("TPDES") permit.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

54 Number of violation days

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

Violation Base Penalty \$2,000

Two monthly events are recommended based on the investigation date (November 17, 2005) through the date of screening (January 10, 2006).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$279

Violation Final Penalty Total \$2,200

This violation Final Assessed Penalty (adjusted for limits) \$2,200

## Economic Benefit Worksheet

**Respondent** American Golf Corporation  
**Case ID No.** 27886  
**Reg. Ent. Reference No.** RN104402714  
**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				0.0	\$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	\$2,000	21-Sep-2004	7-Jul-2007	2.8	\$279	n/a	\$279
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a TPDES permit for the Facility. Date required is the investigation date. Final date is the expected date of compliance.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				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 \$2,000

TOTAL \$279

# Compliance History

Customer/Respondent/Owner-Operator: CN600854582 American Golf Corporation Classification: AVERAGE Rating: 2.34  
Regulated Entity: RN104402714 OSSF 1000 BOYD RD Classification: AVERAGE Site Rating: 1.00  
ID Number(s): ON SITE SEWAGE FACILITY PERMIT 0610306  
Location: 1000 BOYD RD, THE COLONY, DENTON COUNTY, TEXAS Rating Date: 9/1/2005 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: December 28, 2005  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: December 28, 2000 to December 28, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Brent Hurta Phone: 512-239-6589

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? \_\_\_\_\_
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 approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 12/15/2005 (438022)
- 2 09/14/2005 (418716)
- 3 04/05/2005 (375716)
- 4 12/17/2004 (344548)

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

Date: 12/16/2004 (344548)

Classification: Moderate

Self Report? NO

Citation: TWC Chapter 26 26.039

Description: Failing and unpermitted OSSF.

Date: 10/08/2004 (335903)

Classification: Major

Self Report? NO

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

30 TAC Chapter 285, SubChapter A 285.1(a)

Description: Failure to operate an OSSF in a manner that prevents the discharge of sewage into or adjacent to any water in the state.

Classification: Major

Self Report? NO

Citation: 30 TAC Chapter 285, SubChapter I 285.91(3)

Description: Complete failure to submit or maintain required data, documents, notifications, plans or reports.

Classification: Major

Self Report? NO

Citation: 30 TAC Chapter 285, SubChapter D 285.33(d)(2)(D)

30 TAC Chapter 285, SubChapter D 285.34(d)

Description: Failure by an owner either to perform maintenance or to obtain a maintenance contract on an OSSF.

F. Environmental audits.

N/A

CH-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 2 (September 2002)

PCW Revision March 19, 2007

**TCEQ**

DATES	Assigned	19-Dec-2005	Screening	10-Jan-2006	EPA Due	
	PCW	30-Mar-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Wynnwood Peninsula Golf, LLC
Reg. Ent. Ref. No.	RN104402714
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	27886	No. of Violations	1	
Docket No.	2005-2084-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen	
Multi-Media		EC's Team	EnforcementTeam 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,000
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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	10% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$200
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Notes: The Respondent has two NOVs with violations same or similar to those cited in this action.

Culpability	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	<b>Subtotal 5</b>	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$279	0% Enhancement*	<b>Subtotal 6</b>	\$0
Approx. Cost of Compliance	\$2,000	*Capped at the Total EB \$ Amount		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,200
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	\$2,200
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,200
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<b>DEFERRAL</b>		Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement

<b>PAYABLE PENALTY</b>	\$2,200
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PCW-B

Screening Date 10-Jan-2006

Docket No. 2005-2084-MWD-E

PCW

Respondent Wynwood Peninsula Golf, LLC

Policy Revision 2 (September 2002)

Case ID No. 27886

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN104402714

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	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	0%
Please Enter Yes or No			
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The Respondent has two NOVs with violations same or similar to those cited in this action.

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

Screening Date 10-Jan-2006

Docket No. 2005-2084-MWD-E

PCW

Respondent Wynnwood Peninsula Golf, LLC

Policy Revision 2 (September 2002)

Case ID No. 27886

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN104402714

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.42(a) and Tex. Water Code § 26.121

Violation Description

Failed to obtain proper authorization for the treatment and disposal of wastewater. Specifically, the Respondent treats and disposes of more than 5,000 gallons of sewage per day on once piece of property, which requires a consolidated Texas Pollution Discharge Elimination System ("TPDES") permit.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

54 Number of violation days

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

Violation Base Penalty \$2,000

Two monthly events are recommended based on the investigation date (November 17, 2005) through the date of screening (January 10, 2006).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$279

Violation Final Penalty Total \$2,200

This violation Final Assessed Penalty (adjusted for limits) \$2,200

## Economic Benefit Worksheet

**Respondent** Wynnwood Peninsula Golf, LLC  
**Case ID No.** 27886  
**Reg. Ent. Reference No.** RN104402714  
**Media** Water Quality  
**Violation No.:** 1

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

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

### Delayed Costs

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	\$2,000	21-Sep-2004	7-Jul-2007	2.8	\$279	n/a	\$279
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a TPDES permit for the Facility. Date required is the investigation date. Final date is the expected date of compliance.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				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

\$2,000

**TOTAL**

\$279

# Compliance History

Customer/Respondent/Owner-Operator: CN603168972 Wynnwood Peninsula Golf, LLC Classification: AVERAGE Rating: 1.00  
Regulated Entity: RN104402714 OSSF 1000 BOYD RD Classification: AVERAGE Site Rating: 1.00  
ID Number(s): ON SITE SEWAGE FACILITY PERMIT 0610306  
Location: 1000 BOYD RD, THE COLONY, DENTON CO, TX Rating Date: September 01 05  
Repeat Violator: NO  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: March 29, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: December 28, 2000 to December 28, 2005  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Lynley Doyen Phone: 512-239-1364

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Wynnwood Peninsula Golf, LLC
4. If Yes, who was/were the prior owner(s)? American Golf Corporation
5. When did the change(s) in ownership occur? 09/01/2004

## 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 approval dates of investigations. (CCEDS Inv. Track. No.)  
1 12/17/2004 (344548)  
2 04/05/2005 (375716)  
3 09/14/2005 (418716)  
4 12/15/2005 (438022)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/08/2004 (335903)

Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 285, SubChapter A 285.1(a)  
Description: Failure to operate an OSSF in a manner that prevents the discharge of sewage into or adjacent to any water in the state.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 285, SubChapter I 285.91(3)  
Description: Complete failure to submit or maintain required data, documents, notifications, plans or reports.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 285, SubChapter D 285.33(d)(2)(D)  
30 TAC Chapter 285, SubChapter D 285.34(d)  
Description: Failure by an owner either to perform maintenance or to obtain a maintenance contract on an OSSF.

Date: 12/16/2004 (344548)

Self Report? NO Classification: Moderate  
Citation: TWC Chapter 26 26.039  
Description: Failing and unpermitted OSSF.

- F. Environmental audits.  
N/A

CH-B

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 AMERICAN GOLF  
CORPORATION AND  
WYNNWOOD  
PENINSULA GOLF, LLC;  
RN104402714

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2005-2084-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 American Golf Corporation ("American") and Wynnwood Peninsula Golf, LLC ("Wynnwood") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and American Golf Corporation, represented by Patrick Larkin of the law firm of Strasburger & Price, L.L.P., and Wynnwood Peninsula Golf, LLC, represented by Steven R. Morton of the law firm of Moltz, Morton & O'Toole, L.L.P., appear before the Commission and together stipulate that:

1. American operates and Wynnwood owns an unauthorized on-site sewage facility ("OSSF") at 1000 Boyd Road, The Colony, Denton 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, American and Wynnwood agree that the Commission has jurisdiction to enter this Agreed Order, and that American and Wynnwood are subject to the Commission's jurisdiction.
4. American received notice of the violations alleged in Section II ("Allegations") on or about December 10, 2005.

5. Wynnwood received notice of the violations alleged in Section II ("Allegations") upon receipt of the Executive Director's Preliminary Report and Petition ("EDPRP"), on August 28, 2007.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by American and Wynnwood of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
7. An administrative penalty in the amount of two thousand two hundred dollars (\$2,200.00) is assessed against American by the Commission in settlement of the violations alleged in Section II ("Allegations"). American has paid two thousand two hundred dollars (\$2,200.00) of the administrative penalty. An administrative penalty in the amount of two thousand two hundred dollars (\$2,200.00) is assessed against Wynnwood by the Commission in settlement of the violations alleged in Section II ("Allegations"). Wynnwood has paid two thousand two hundred dollars (\$2,200.00) of the administrative penalty.
8. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
9. The Executive Director of the TCEQ, American, and Wynnwood have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that American and Wynnwood have not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

American and Wynnwood are alleged to have violated 30 TEX. ADMIN. CODE § 305.42(a) and TEX. WATER CODE § 26.121 by failing to obtain proper authorization for the treatment and disposal of wastewater, as documented during an investigation conducted on November 17, 2005.

Specifically, American and Wynnwood treated and disposed of more than 5,000 gallons of sewage per day on one piece of property, requiring a consolidated Texas Pollution Discharge Elimination System permit.

### III. DENIALS

American and Wynnwood generally deny each allegation in Section II ("Allegations").

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that American and Wynnwood pay an administrative penalty as set forth in Section I, Paragraph seven above. The payment of this administrative penalty and American and Wynnwood'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: American Golf Corporation and Wynnwood Peninsula Golf, LLC, Docket No. 2005-2084-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. American and Wynnwood shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, American and Wynnwood shall maintain flow from the Facility at or below 5,000 gallons per day;
  - b. Within 45 days after the effective date of this Agreed Order, American and Wynnwood shall submit written certification of compliance with Ordering Provision No. 2.a. as detailed in Ordering Provision No. 2.e. below.
  - c. Within 730 days after the effective date of this Agreed Order, American and Wynnwood shall tie onto a permitted collection and treatment system and properly abandon the OSSF in accordance with 30 TEX. ADMIN. CODE Chapter 285, Subchapter D; and

- d. Within 745 days after the effective date of this Agreed Order, American and Wynnwood shall submit certification of compliance with Ordering Provision No. 2.c. as detailed in Ordering Provision No. 2.e. below.
- e. The certifications required by Ordering Provision Nos. 2.b. and 2.d. shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

- 3. The provisions of this Agreed Order shall apply to and be binding upon American and Wynnwood. American and Wynnwood are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If American and Wynnwood fail 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, American and Wynnwood's failure to comply is not a violation of this Agreed Order. American and Wynnwood shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. American and Wynnwood shall notify the Executive Director within seven days American and Wynnwood become 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 American and Wynnwood shall be made in writing to the Executive Director. Extensions are not effective until American and Wynnwood receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against American and Wynnwood in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This 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.
8. 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 American and Wynnwood, or three days after the date on which the Commission mails notice of the Order to American and Wynnwood, 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

*Wynnwood Peninsula*

For the Executive Director

5/27/08

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 the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

*Christina Chang*  
Signature

04/03/08  
Date

Christine Chang  
Name (Printed or typed)

Authorized representative of  
American Golf Corporation

Assistant Secretary  
Title

*Kent C*  
Signature

03.31.08  
Date

KRISTIAN TELEKI  
Name (Printed or typed)

Authorized representative of  
Wynnwood Peninsula Golf, LLC

SENIOR VICE PRESIDENT  
Title