

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1452-WQ-E **TCEQ ID:** RN104981212 and RN104976857 **CASE NO.:** 36496

RESPONDENT NAME: Toll Bros., Inc.

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
<p>SITE WHERE VIOLATION(S) OCCURRED: Toll Bros The Enclave at Alta Vista South, northeast of the intersection of Farm-to-Market ("FM") Road 620 and Aria Drive, Lakeway, Travis County ("Site No. 1") and Toll Bros The Ridge at Alta Vista, east of the intersection of FM Road 620 and Lohmans Road, Lakeway, Travis County ("Site No. 2")</p> <p>TYPE OF OPERATION: Residential construction sites</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on June 17, 2008, alleging that sediment was discharging into the Balcones Canyonland Preserve. There is no record of additional pending enforcement actions regarding these facility locations.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 23, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Jim Harrison, Division President, Toll Bros., Inc., 8716 North MOPAC Expressway Suite 100, Austin, Texas 78759 Mr. Thomas J. Murray, Group President, Toll Bros., Inc., 8716 North MOPAC Expressway Suite 100, Austin, Texas 78759 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: June 17, 2008</p> <p>Date of Investigation Relating to this Case: June 17, and July 9, 2008</p> <p>Date of NOV/NOE Relating to this Case: August 29, 2008 (NOE)</p> <p>Background Facts: This was a routine and a complaint investigation.</p> <p>WATER</p> <p>1) Failure to maintain erosion control measures ("ECMs") resulting in discharges of sediment to water in the State at Site No. 1. Specifically, the investigator observed the silt fencing needed repair and sediment was accumulating within the bed of the tributary. The investigator also observed sediment and caliche off-site and leading to a tributary adjacent to the site that flows to Honey Creek [Construction General Permit TXR15BX03, Part III Section F(2)(a)(ii), 30 TEX. ADMIN. CODE § 281.25(a)(4), and TEX. WATER CODE § 26.121].</p> <p>2) Failure to maintain erosion control measures ("ECMs") resulting in discharges of sediment to water in the State at Site No. 2. Specifically, the investigator observed the silt fencing needed repair and sediment was accumulating within the bed of the tributary. The investigator also observed sediment and caliche off-site and leading to a tributary adjacent to the site that flows to Honey Creek [Construction General Permit TXR15BT64, Part III Section F(2)(a)(ii), 30 TEX. ADMIN. CODE § 281.25(a)(4), and TEX. WATER CODE § 26.121].</p>	<p>Total Assessed: \$4,000</p> <p>Total Deferred: \$800 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,200</p> <p>RN104981212 and RN104976857 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on July 23, 2008, the Respondent implemented the following corrective measures at the Sites:</p> <p>a. Repaired and replaced the ECMs that were damaged; and</p> <p>b. Removed construction related pollutant (sediment/caliche) that was discharged off site and into an adjacent tributary that leads to Honey Creek.</p>

Additional ID No(s): TXR15BX03, TXR15BT64



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	8-Sep-2008			
	PCW	16-Sep-2008	Screening	9-Sep-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Toll Bros., Inc. The Enclave at Alta Vista South
Reg. Ent. Ref. No.	RN104981212
Facility/Site Region	11-Austin Major/Minor Source Major

CASE INFORMATION			
Enf./Case ID No.	36496	No. of Violations	1
Docket No.	2008-1452-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$2,500
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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	5.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$125
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Notes: The Respondent was issued one NOV with the same/similar type of violations.

Culpability	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$625
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts \$4
Approx. Cost of Compliance \$2,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$2,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<i>Final Penalty Amount</i>	\$2,000
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$2,000
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$400
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,600
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Screening Date 9-Sep-2008	Docket No. 2008-1452-WQ-E	PCW
Respondent Toll Bros., Inc.	The Enclave at Alta Vista	<small>Policy Revision 2 (September 2002)</small>
Case ID No. 36496		<small>PCW Revision June 12, 2008</small>
Reg. Ent. Reference No. RN104981212		
Media [Statute] Water Quality		
Enf. Coordinator Jorge Ibarra, P.E.		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	<small>Enter Number Here</small>	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

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) 5%

>> 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 was issued one NOV with the same/similar type of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 9-Sep-2008 **Docket No.** 2008-1452-WQ-E **PCW**
Respondent Toll Bros., Inc. The Enclave at Alta Vista South *Policy Revision 2 (September 2002)*
Case ID No. 36496 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN104981212
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Violation Number
Rule Cite(s) Construction General Permit TXR15BX03, Part III Section F(2)(a)(ii), 30 Tex. Admin. Code § 281.25(a)(4) and Tex. Water Code § 26.121
Violation Description Failed to maintain erosion control measures ("ECMs") resulting in discharges of sediment to water in the State, as documented during the investigation conducted on July 9, 2008. Specifically, the investigator observed the silt fencing needed repair and sediment was accumulating within the bed of the tributary. The investigator also observed sediment and caliche off-site and leading to a tributary adjacent to the Site that flows to Honey Creek.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="25%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>		<input type="text"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes Failure to replace or modify ECMs if deemed damaged, performing inadequately or used incorrectly resulted in the release of insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment

Violation Events

Number of Violation Events **Number of violation days**

mark only one with an x

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

Violation Base Penalty

One quarterly event is recommended based on the investigation date of July 9, 2008 to the compliance date of July 23, 2008.

Good Faith Efforts to Comply **Reduction**

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

Notes The Respondent achieved compliance on July 23, 2008, before the August 29, 2008 NOE date.

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 Toll Bros., Inc.
Case ID No. 36496
Reg. Ent. Reference No. RN104981212
Media Water Quality
Violation No. 1

The Enclave at Alta Vista South

Percent Interest	Years of Depreciation
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,000	9-Jul-2008	23-Jul-2008	0.04	\$2	n/a	\$2
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	9-Jul-2008	23-Jul-2008	0.04	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to replace or modify the ECMs as needed and to remove sediment from affected areas. Date required is the investigation date. Final date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$4



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	8-Sep-2008	Screening	9-Sep-2008	EPA Due	
	PCW	16-Sep-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Toll Bros., Inc. The Ridge at Alta Vista
Reg. Ent. Ref. No.	RN104976857
Facility/Site Region	11-Austin Major/Minor Source Major

CASE INFORMATION			
Enf./Case ID No.	36496	No. of Violations	1
Docket No.	2008-1452-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$2,500
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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	5.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$125
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Notes: The Respondent was issued one NOV with the same/similar type of violations.

Culpability	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$625
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts: \$10
 Approx. Cost of Compliance: \$2,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$2,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<i>Final Penalty Amount</i>	\$2,000
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$2,000
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$400
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,600
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Screening Date 9-Sep-2008	Docket No. 2008-1452-WQ-E	PCW
Respondent Toll Bros., Inc.	The Ridge at Alta	<small>Policy Revision 2 (September 2002)</small>
Case ID No. 36496		<small>PCW Revision June 12, 2008</small>
Reg. Ent. Reference No. RN104976857		
Media [Statute] Water Quality		
Enf. Coordinator Jorge Ibarra, P.E.		

Compliance History Worksheet

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

Component	Number of...	<small>Enter Number Here</small>	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	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%
<small>Please Enter Yes or No</small>			
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) 5%

>> **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 was issued one NOV with the same/similar type of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 9-Sep-2008	Docket No. 2008-1452-WQ-E	PCW
Respondent Toll Bros., Inc.	The Ridge at Alta Vista	<i>Policy Revision 2 (September 2002)</i>
Case ID No. 36496		<i>PCW Revision June 12, 2008</i>
Reg. Ent. Reference No. RN104976857		
Media [Statute] Water Quality		
Enf. Coordinator Jorge Ibarra, P.E.		
Violation Number <input type="text" value="1"/>		

Rule Cite(s)	Construction General Permit TXR15BT64, Part III Section F(2)(a)(ii), 30 Tex. Admin. Code § 281.25(a)(4) and Tex. Water Code § 26.121
Violation Description	Failed to maintain erosion control measures ("ECMs") resulting in discharges of sediment to water in the State, as documented during the investigation conducted on June 17, 2008. Specifically, the investigator observed the silt fencing needed repair and sediment was accumulating within the bed of the tributary. The investigator also observed sediment and caliche off-site and leading to a tributary adjacent to the Site that flows to Honey Creek.
Base Penalty	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	X
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="25%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes

Failure to replace or modify ECMs if deemed damaged, performing inadequately or used incorrectly resulted in the release of insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="36"/>	Number of violation days
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mark only one with an x	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>
	monthly	<input type="text"/>	
	quarterly	X	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

One quarterly event is recommended based on the investigation date of June 17, 2008 to the compliance date of July 23, 2008.

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$10"/>	Violation Final Penalty Total <input type="text" value="\$2,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,000"/>	

Economic Benefit Worksheet

Respondent Toll Bros., Inc.
Case ID No. 36496
Reg. Ent. Reference No. RN104976857
Media Water Quality
Violation No. 1

The Ridge at Alta Vista

Percent Interest	Years of Depreciation
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,000	17-Jun-2008	23-Jul-2008	0.10	\$5	n/a	\$5
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	17-Jun-2008	23-Jul-2008	0.10	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to replace or modify the ECMs as needed and to remove sediment from affected areas. Date required is the investigation date. Final date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$10

Compliance History

Customer/Respondent/Owner-Operator: CN602840076 Toll Bros., Inc. Classification: AVERAGE Rating: 1.71
 Regulated Entity: RN104981212 TOLL BROS THE ENCLAVE AT ALTA VISTA SOUTH Classification: AVERAGE Site Rating: 0.33
 ID Number(s): STORMWATER PERMIT TXR15BX03
 Location: NE OF THE INTERSEC OF FM 620 AND ARIA DR, LAKEWAY, TRAVIS COUNTY, TEXAS Rating Date: 9/1/2008 Repeat Violator: NO
 TCEQ Region: REGION 11 - AUSTIN
 Date Compliance History Prepared: September 30, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: September 30, 2003 to September 30, 2008
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

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 approval dates of investigations. (CCEDS Inv. Track. No.)

1	11/30/2006	(515636)
2	08/28/2008	(683677)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	10/25/2006	(515636)			
Self	NO		Classificatio	Minor	
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)				
Rqmt Prov:	PERMIT TPDES CGP				
Description:	Failure to replace or modify a control deemed damaged, performing inadequately or used incorrectly. CGP Part III, Section F(2)(a)(ii).				
 - 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

Compliance History

Customer/Respondent/Owner-Operator:	CN602840076 Toll Bros., Inc.	Classification: AVERAGE	Rating: 1.71
Regulated Entity:	RN104976857 TOLL BROS THE RIDGE AT ALTA VISTA	Classification: AVERAGE	Site Rating: 0.50
ID-Number(s):	STORMWATER PERMIT		TXR15BT64
Location:	E OF INTX OF FM 620 AND LOHMANS RD, LAKEWAY, TRAVIS COUNTY, TEXAS	Rating Date: 9/1/2008	Repeat Violator: NO
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History	September 30, 2008		
Agency Decision Requiring Compliance	Enforcement		
Compliance Period:	September 30, 2003 to September 30, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Jorge Ibarra, P.E.</u>	Phone:	<u>(817) 588-5890</u>

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? | <u>N/A</u> |
| 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 11/30/2006 (515511)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	10/05/2006 (515511)	Self	NO	Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)				
Rqmt Prov:	PERMIT TPDES CGP TXR150000				
Description:	Failure to replace or modify a control if deemed damaged, performing inadequately or used incorrectly. CGP Part III, Section F(2)(a)(ii).				
 - 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
TOLL BROS., INC.
RN104981212 AND RN104976857

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-1452-WQ-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates residential construction sites at the following locations (the "Sites"):
 - a. The Enclave at Alta Vista South: northeast of the intersection of Farm-to-Market ("FM") 620 and Aria Drive, Lakeway, Travis County, Texas ("Site No. 1"); and
 - b. The Ridge at Alta Vista: east of the intersection of FM 620 and Lohmans Road, Lakeway, Travis County, Texas ("Site No. 2").
2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about September 3, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Dollars (\$4,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Two Hundred Dollars (\$3,200) of the administrative penalty and Eight Hundred Dollars (\$800) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. 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.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on July 23, 2008, the Respondent implemented the following corrective measures at the Sites:
 - a. Repaired and replaced the erosion control measures ("ECMs") that were damaged; and
 - b. Removed construction related pollutant (sediment/caliche) that was discharged off site and into an adjacent tributary that leads to Honey Creek.
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 the Respondent has 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

As owner and operator of the Sites, the Respondent is alleged to have:

1. Failed to maintain erosion control measures ("ECMs") resulting in discharges of sediment to water in the State at Site No. 1, in violation of Construction General Permit TXR15BX03, Part III Section F(2)(a)(ii), 30 TEX. ADMIN. CODE § 281.25(a)(4), and TEX. WATER CODE § 26.121, as documented during an investigation conducted on July 9, 2008. Specifically, the investigator observed the silt fencing needed repair and sediment was accumulating within the bed of the tributary. The investigator also observed sediment and caliche off-site and leading to a tributary adjacent to the site that flows to Honey Creek.

2. Failed to maintain erosion control measures ("ECMs") resulting in discharges of sediment to water in the State at Site No. 2, in violation of Construction General Permit TXR15BT64, Part III Section F(2)(a)(ii), 30 TEX. ADMIN. CODE § 281.25(a)(4), and TEX. WATER CODE § 26.121, as documented during an investigation conducted on June 17, 2008. Specifically, the investigator observed the silt fencing needed repair and sediment was accumulating within the bed of the tributary. The investigator also observed sediment and caliche off-site and leading to a tributary adjacent to the site that flows to Honey Creek.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Toll Bros., Inc., Docket No. 2008-1452-WQ-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Sites operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Siddle
For the Executive Director

Date 1/29/2009

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

Thomas J. Murray
Signature

Date 10-21-08

Thomas J. Murray
Name (Printed or typed)
Authorized Representative of
Toll Bros., Inc.

Group President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

