# EXECUTIVE SUMMARY - ENFORCEMENT MATTER DOCKET NO.: 2008-1452-WQ-E TCEQ ID: RN104981212 and RN104976857 CA RESPONDENT NAME: Toll Bros., Inc.

Page 1 of 2 CASE NO.: 36496

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

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")

TYPE OF OPERATION: Residential construction sites

SMALL BUSINESS: \_\_\_\_ Yes \_\_\_\_ X\_\_ No

**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.

**INTERESTED PARTIES:** A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The Texas Register comment period expired on February 23, 2009. No comments were received.

#### 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

# RESPONDENT NAME: Toll Bros., Inc. DOCKET NO.: 2008-1452-WQ-E

VIOLATION SUMMARY CHART	Г:	· · · · · · · · · · · · · · · · · · ·
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation:	Total Assessed: \$4,000	Corrective Actions Taken:
X Complaint X Routine Enforcement Follow-up Records Review	<b>Total Deferred:</b> \$800 <u>X</u> Expedited Settlement Financial Inability to Pay	The Executive Director recognizes that on July 23, 2008, the Respondent implemented the following corrective measures at the Sites:
Date(s) of Complaints Relating to this Case: June 17, 2008	SEP Conditional Offset: \$0	a. Repaired and replaced the ECMs that were damaged; and
Date of Investigation Relating to this Case: June 17, and July 9, 2008	Total Paid to General Revenue: \$3,200 RN104981212 and RN104976857	b. Removed construction related pollutant (sediment/caliche) that was discharged off
Date of NOV/NOE Relating to this Case: August 29, 2008 (NOE)	Site Compliance History Classification HighAveragePoor	site and into an adjacent tributary that leads to Honey Creek.
<b>Background Facts:</b> This was a routine and a complaint investigation.	Person Compliance History Classification HighX_AveragePoor	
WATER	Major Source: X Yes No	
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].	Applicable Penalty Policy: September 2002	
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].		

Additional ID No(s) .: TXR15BX03, TXR15BT64

Policy Revision 2 (S		alty Calcul	ation Wor	ksheet (F	•	Revision June 12, 2008
TCEQ DATES Assigne PC	ad 8-Sep-2008	creening 9-Sep-	2008   EPA D	ue		
			•		-	
RESPONDENT/FACILI	nt Toll Bros., Inc.	The Fi	nclave at Alta Visi	ta South		
	o. RN104981212		noiave at Aita Visi		<u> </u>	
Facility/Site Regio			Maj	or/Minor Source	e Major	
CASE INFORMATION						
Enf./Case ID N	o. 36496		1	No. of Violation	s 1	
	o. 2008-1452-WQ-E			Order Type	e 1660	
Media Program(				ment/Non-Profi		
Multi-Med	ia				r Jorge Ibarra, P.E.	- 0
Admin. Penalty	\$ Limit Minimum	\$0 Maximu	m \$10,000		Enforcement Tean	ng
					-	
		Penalty Cal	lculation Se	ection		
OTAL BASE PEN	ALTY (Sum of vio	plation base pe	nalties)		Subtotal 1	\$2,500
DJUSTMENTS (+/ Subtotals 2-7 are ob	tained by multiplying the To		tal 1) by the indicated	percentage		
Compliance Hi	CONTRACTOR AND AND AND A CONTRACT AND A CONT	, ,	5.0% Enhanceme		totals 2, 3, & 7	\$12
	The Desideration	tiving inquired and NI				
Note	es i ne Responden	t was issued one N violatio		e/similar type of		
				<u> </u>		
Culpability	No		0.0% Enhanceme	ent	Subtotal 4	\$0
Note	es The Resp	oondent does not m	eet the culpability	/ criteria.		
						·
Cood Foith Eff	ort to Comply Total	Adjustmente			Cubtotal F	
Good Faith En	ort to Comply Total	Aujustments			Subtotal 5	\$62
						÷ .
Economic Ben			0.0% Enhancemen		Subtotal 6	\$0
Appro	Total EB Amounts x. Cost of Compliance	\$4 *	Capped at the Total E	=B \$ Amount		
	<u> </u>					
SUM OF SUBTOTA	LS 1-7				Final Subtotal	\$2,000
	AC HIGTICE MAY		<u> </u>	10/	A.P	¢r
OTHER FACTORS . educes or enhances the Final			0.0	1%	Adjustment	\$0
		percentage.			N. C.	
Notes						
		<u> </u>				
			н	Final Pe	nalty Amount	\$2,000
TATUTORY LIMIT				F: 1 A		000 53
	AUJUSTINENT			rinai ASS	essed Penalty	\$2,000
DEFERRAL			20.0	% Reduction	Adjustment	-\$400
Reduces the Final Assessed P	enalty by the indicted perc	entage. <i>(Enter number c</i>				÷ , • • •
Nataa	De	ferral offered for ex	nedited sottlamor	<b>1</b>	· ·	
Notes		ienal oneleu lui ex	pearlea settienter	IL. Santa (Santa Santa Santa Santa Santa Sant	4	
					_	
PAYABLE PENALT	Y				1. S. 1997	\$1,600

	Screen	ing Date 9-Sep-2008 Docket No. 2008-1452-WQ-E			PCW
		pondent Toll Bros., Inc. The Enclave at Alta Vista		evision 2 (Sep	-
Rec		se ID No. 36496 · ence No. RN104981212	PC	CW Revision J	lune 12, 2008
	Contraction of A contraction and a second second second	[Statute] Water Quality			
	Enf. Coo	o <b>rdinator</b> Jorge Ibarra, P.E.			
		Compliance History Worksheet			
>> Comj	pliance History Component	/ Site Enhancement (Subtotal 2)	Enter Number Here	Adjust.	공원은 사람
	Component	Written NOVs with same or similar violations as those in the current enforcement action			
	NOVs	(number of NOVs meeting criteria)	1	5%	
		Other written NOVs Any agreed final enforcement orders containing a denial of liability (number of orders	0	0%	
-		meeting criteria)	0	0%	
	Orders	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		ò%	
	Judgments	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%	
	and Consent Decrees	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%	
	a set of the set of th	Any criminal convictions of this state or the federal government (number of counts)	0	0%	
	Emissions	Chronic excessive emissions events ( <i>number of events</i> ) Letters notifying the executive director of an intended audit conducted under the Texas		0%	
	Audits	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 ( <i>number of audits for which violations were disclosed</i> )	0	0%	
			se Enter Yes or No		1
		Environmental management systems in place for one year or more	No	0%	
	Other	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%	1. I.
,		Adjustment P	ercentage (Su	btotal 2)	5%
SS Popo	eat Violator (Su	-		Ìæserer	
IVebe					
	No	Adjustment P	ercentage (Su	ibtotal 3)	0%
>> Com	pliance History	/ Person Classification (Subtotal 7)			
	Average P	erformer Adjustment P	ercentage (Su	btotal 7)	0%
>> .Com	pliance History	/ Summary			
	Compliance History Notes	The Respondent was issued one NOV with the same/similar type of violations			
		n an	ten e en la lacera e		

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

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Sc	reening Date	9-Sep-2008		Docket No. 2008-	-1452-WQ-E	PCW
	the second second second second second	Toll Bros., Inc.	The Encla	ave at Alta Vista Sout	h	Policy Revision 2 (September 2002,
Reg Ent R	Case ID No. eference No.					PCW Revision June 12, 2008
	edia [Statute]					
Enf	. Coordinator	Jorge Ibarra, P.E.				
Vi	iolation Number		ala ana an 10 an 10 an 10 an 1			<u> </u>
	Rule Cite(s)			X03, Part III Section I and Tex. Water Code	F(2)(a)(ii), 30 Tex. Adr § 26.121	nin.
Violat	tion Description	to water in the State Specifically, the inv accumulating within	e, as documented du vestigator observed the bed of the tribut	tring the investigation the silt fencing neede ary. The investigator a	ng in discharges of sec conducted on July 9, d repair and sediment also observed sedime that flows to Honey C	2008. was nt and
					Base P	enalty \$10,000
>> Environmenta	I, Property an		Matrix			
	Release		erate Minor			
OR	Actual Potential		<b>x</b>	Perce	ent 25%	
>>Programmatic						
	Falsification	Major Mod	erate Minor	Perce	ent 0%	
Matrix Notes		elease of insignifican	t amounts of polluta	nts which do not exce	uately or used incorrected levels that are protected levels that are protected by the prote	
		of	human health or the	e environment.		n da sin Statianski
			n na seni silili	Adjustr	nent \$	57,500
						\$2,500
Violation Events				A the second		
	Number of Vi	olation Events	1	15 Numb	er of violation days	
	1	daily				
	• mark only one	monthly quarterly	x		Violation Base Pe	enalty \$2,500
	with an x	semiannual			Violation Buberry	
		annual single event		en e		
	1				·	
	One quarterly	event is recommende			9, 2008 to the complia	ance
			date of July 23	, 2008.		
Good Faith Effort	s to Comply	· ·	25.0% Reduction			\$625
			and and a second s	P/Settlement Offer		
×		Extraordinary Ordinary				
		N/A	x (mark with x)			
		The R	espondent achieved	compliance on July 2	23, 2008, before	
		Notes		t 29, 2008 NOE date.		
		<u>Entering</u>			Violation Sul	btotal \$1,875
Economic Benefi	t (EB) for this	violation		Statu	Itory Limit Test	
		d EB Amount	\$	_	olation Final Penalty	Total \$2,000
		<u>.</u>		_	-	· · · · · · · · · · · · · · · · · · ·
			This violatic	n rinai Assessed Pe	enalty (adjusted for li	imits) \$2,000

Case ID No. Reg. Ent. Reference No.		The	e Enclave at Alta V	√ista Sout	the second se	ne en barra avversa de parte de ante da a	i dan meneraka arayara 1 dan
Media Violation No.					Percent Interest	Years of Depreciation	
			S.		1. Autoria	5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$		la na sana sa	ې مېښنې و ند د		44276 (A)	
Delayed Costs Equipment		1		0.00	\$0	\$0	\$0
Buildings		the second s	Angeland and a second	0.00	\$0 \$0	\$0 \$0	\$0
Other (as needed)				0.00	\$0	\$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
<b>.</b>						10/a	Ψυ
Other (as needed) Notes for DELAYED costs	\$1,000 Estimated c			0.04	\$2 and to remove se	n/a n/a	\$2
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	Estimated c	ost to replace or m required is	odify the ECMs as the investigation	0.04 s needed date. Fina entering 1 0.00 0.00 0.00	\$2 and to remove se al date is the com item (except for \$0 \$0 \$0 \$0 \$0	diment from affecter pliance date.	\$2 d areas. Date :osts) \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated c	ost to replace or m required is	odify the ECMs as the investigation	0.04 s needed date. Fina needed date. Fina needed 0.00 0.00 0.00 0.00	\$2 and to remove se al date is the com item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	diment from affecter pliance date.	\$2 d areas. Date 50 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	Estimated c	ost to replace or m required is	odify the ECMs as the investigation	0.04 s needed date. Fina entering I 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00	\$2 and to remove se al date is the com item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	diment from affecter pliance date. one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$2 d areas. Date :osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated c	ost to replace or m required is	odify the ECMs as the investigation	0.04 s needed date. Fina needed date. Fina needed 0.00 0.00 0.00 0.00	\$2 and to remove se al date is the com item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	diment from affecter pliance date.	\$2 d areas. Date 50 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

		alty Calc	ulatio	n Work	sheet (F	,	
Policy Revision 2 (Se)	btember 2002)					P¢W R	evision June 12, 2008
DATES Assigned PCW		creening 9-S	ep-2008	EPA Due	•	1	
RESPONDENT/FACILITY							
Respondent	Toll Bros., Inc.		The	Ridge at Alta	i Vista	and the second	
Reg. Ent. Ref. No.							
Facility/Site Region	111-Austin	<u></u>		Major	/Minor Source	Major	
CASE INFORMATION							
Enf./Case ID No.				No	o. of Violations	<b>1</b>	
	2008-1452-WQ-E				Order Type		
Media Program(s)					ent/Non-Profit	· · · · · · · · · · · · · · · · · · ·	5
Multi-Media			Nobile di di Se	En		r Jorge Ibarra, P.E. Enforcement Team	3
Admin. Penalty \$	Limit Minimum	\$0 Maxii	mum [	\$10,000			· • • · · · · · · · · · · · · · · · · ·
	•	Penalty C	alcula	tion Sec	ction		
FOTAL BASE PENA	LTY (Sum of vic	lation base	penaltie	s)		Subtotal 1	\$2,500
ADJUSTMENTS (+/-)	IO SUBTOTAL ined by multiplying the To	. 1 Hel Dana Danatha (2	ubtatel d\ b.	Abo in dia sta d			
Compliance Hist		tal base Penalty (S		Enhancement		otals 2, 3, & 7	\$12
esimplication inte						]	<b>V12</b>
Notes	The Respondent		e NOV wit lations.	h the same/s	imilar type of	-	
					<u>al di pitat</u>		
Culpability	No		0.0%	Enhancement		Subtotal 4	\$0
							····
Notes	The Resp	ondent does no	t meet the	culpability c	riteria.	a l	
	<u> Kyster Suterbaltseet (</u>	<u>1984 - 1997 - 1987 - 1987 - 1987 - 1987 - 1987 - 1987 - 1987 - 1987 - 1987 - 1987 - 1987 - 1987 - 1987 - 1987</u> El constante de la constante de	and a statement		alene i a cliaisteara		
Good Faith Effor	t to Comply Total /	Adjustments				Subtotal 5	\$625
				'			
Economic Benef	14		0.0%	- 1		Culture C	
Economic Dener	Total EB Amounts	\$10	***************************************	Enhancement* at the Total EB	\$ Amount	Subtotal 6	\$0
Approx.	Cost of Compliance	\$2,000					
SUM OF SUBTOTAL	C 1 7					-	£2.000
DUNI OF SUBIDIAL	51-1				, , , ,	Final Subtotal	\$2,000
OTHER FACTORS A	S JUSTICE MAY			0.0%	]	Adjustment	\$0
Reduces or enhances the Final S		• • • • • • • • • • • • • • • • • • •	L				
Notes							
					Einal Da	]	¢2.000
·					rinai rei	nalty Amount	\$2,000
STATUTORY LIMIT A	DJUSTMENT				Final Asse	essed Penalty	\$2,000
DEFERRAL				20.0%		Adjustment	-\$400
educes the Final Assessed Per	alty by the indicted perce	ntage. <i>(Enter num</i> l	ber only; e.g.	20 for 20% red	uction.)	]	
Notes	Def	erral offered for	expedited	settlement.			
PAYABLE PENALTY							<b>*</b> 4 <b>*</b> **
		7440kr/1010/00/00/00	agente de la compañía	STATUS CONTRACTOR			\$1,600

Screen	ing Date 9-Sep-2008 Docket No. 2008-1452-WQ-E			PCW
Res	pondent Toll Bros., Inc. The Ridge at Alta	Policy Re	evision 2 (Septe	mber 2002)
	se ID No. 36496	PC	CW Revision Jui	ne 12, 2008
en la sue you de Martin de La de Martin de La	ence No. RN104976857			
and the second	[Statute] Water Quality			
Ent. Coc	ordinator Jorge Ibarra, P.E.			
	Compliance History Worksheet			
	Site Enhancement (Subtotal 2)	Enter Number Here	Adjust.	
Component	Written NOVs with same or similar violations as those in the current enforcement action			
NOVs	(number of NOVs meeting criteria)	<b>1</b> 1	5%	
	Other written NOVs	0	0%	
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%	
Orders	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	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</i> <i>criteria</i> )	ο	0%	ng ng Ta
and Consent Decrees	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%	
	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%	
	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%	
	Plea	se Enter Yes or No	·····	
	Environmental management systems in place for one year or more	No	0%	
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%	
걸려 주말 같	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%	
En service control of a cont	Adjustment P	ercentage (Su	ıbtotal 2)	5%
>> Repeat Violator (Su	ibtotal 3)			
				01/
Nc	Adjustment P	ercentage (St	idtotal 3)	0%
	/ Person Classification (Subtotal 7)			
Average P	erformer Adjustment P	ercentage (Su	ıbtotal 7)	0%
>> Compliance Histor	/ Summary			
Compliance History Notes	The Respondent was issued one NOV with the same/similar type of violations			
	Total Adjustment Percentage	(Subtotale 3	3 & 7)	5%
·			., 0, 4 //	0 /0

Screening Date	9-Sep-2008	Docket No. 2008-1452-WQ-E	PCW
Respondent Case ID No.		The Ridge at Alta Vista	Policy Revision 2 (September 2002)
Reg. Ent. Reference No.			PCW Revision June 12, 2008
Media [Statute]			
Enf. Coordinator	Jorge Ibarra, P.E	•	
Violation Number			····
Rule Cite(s)	Construction (	Seneral Permit TXR15BT64, Part III Section F(2)(a)(ii), 30 Tex. / Code § 281.25(a)(4) and Tex. Water Code § 26.121	Admin.
Violation Description	to water in the 2008. Specifical was accumulating	n erosion control measures ("ECMs") resulting in discharges of State, as documented during the investigation conducted on Ju ly, the investigator observed the silt fencing needed repair and s g within the bed of the tributary. The investigator also observed f-site and leading to a tributary adjacent to the Site that flows to Creek.	ne 17, ediment sediment
	<u>C</u>	Base	> Penalty \$10,000
>> Environmental, Property an	d Human Hea	lth Matrix	
Release	Major N	Harm Aoderate Minor	
OR Actual			
Potential		Percent 25%	
>Programmatic Matrix			
Falsification	Major N	Adderate Minor	
		Percent 0%	
		CMs if deemed damaged, performing inadequately or used inco cant amounts of pollutants which do not exceed levels that are p of human health or the environment.	
			\$7.500
		Adjustment	\$7,500
			\$2,500
/iolation Events			
Number of Vie	olation Events	Number of violation days	
mark only one with an x	daily monthly quarterly semiannual single event	x Violation Base	Penalty \$2,500
One quarterly e	vent is recommer	nded based on the investigation date of June 17, 2008 to the cor date of July 23, 2008.	npliance
Sood Faith Efforts to Comply		25.0% Reduction	\$625
	Extraordinary	efore NOV NOV to EDPRP/Settlement Offer	
	Ordinary	X X	
	N/A	[(mark with x)	
	Notes	e Respondent achieved compliance on July 23, 2008, before the August 29, 2008 NOE date.	
		Violation	Subtotal \$1,875
Economic Benefit (EB) for this	violation	Statutory Limit Tes	t dan kerdan
Estimated	d EB Amount	\$10 Violation Final Pena	
		This violation Final Assessed Penalty (adjusted fo	or limits) \$2,000

		conomic I	Benefit W	/orks	sheet		
Respondent Case ID No.			The Ridge a	t Alta Vis	sta		
Reg. Ent. Reference No. Media	RN104976857 Water Quality						Years of
Violation No.	*	a kada kuna muja kuna ara garjakaya a kata ta anggo				Percent Interest	Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings			ande, eduction de l'Arthouse Saulte de la company de la company de la com-	0.00	\$0	\$0	\$0
Other (as needed)		a ann ann an Air Meilteachailteach		0.00	\$0	\$0.	\$0
Engineering/construction			endel de la colenção	0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	<u>(</u>			0.00	\$0	n/a	\$0
Training/Sampling			ingen inder her he	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	<u>\$0</u>
Other (as needed)	\$1,000	17-Jun-2008	23-Jul-2008	0.10	\$5	n/a	\$5
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]		required is	the investigation	date, Fin entering 0.00 0.00 0.00 0.00 0.00	al date is the com item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0	one-fime avoided c \$0 \$0 \$0 \$0 \$0 \$0	osts) \$0 \$0 \$0 \$0 \$0 \$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							
				n de la composition Espectra composition	es-stellar, ka kette Parkkit		ارد. مىرىيە كېچى <u>ر تولار</u>

# Compliance History

Customer/Respondent/Owner-Op	erator:	CN602840076	Toll Bros., Inc.	·	Classification: AVERAG	E Rating: 1.71
Regulated Entity:		RN104981212	TOLL BROS THE ENC	LAVE AT	Classification: AVERAGE	E Site Rating: 0.33
ID Number(s): Location:		STORMWATER NE OF THE INTER LAKEWAY, TRAVIS	SEC OF FM 620 AND AR S COUNTY, TEXAS	PERMIT RIA DR,	Rating Date: 9/1/2008 R	TXR15BX03 epeat Violator: NO
TCEQ Region:		REGION 11 - AUST	ĨN			
Date Compliance History Prepare	d:	September 30, 2008	3			
Agency Decision Requiring Comp	liance History:	Enforcement				
Compliance Period:		September 30, 2003	3 to September 30, 2008			
TCEQ Staff Member to Contact for	r Additional Inf	ormation Regarding t	his Compliance History			
Name: Jorge Ibarra, P.	E.	Pho	one: (817) 588-589	0		
		Site Comp	liance History Compo	onents		
1. Has the site been in existence a	and/or operatio	n for the full five year	compliance period?	No		
2. Has there been a (known) chan	ge in ownershi	p of the site during th	e 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 owr	nership occur?			N/A		
Components (Multimedia) fo	or the Site :		· · · · · · · · · · · · · · · · · · ·		•	
A. Final Enforcement Orders,	court judgeme	nts, and consent dec	rees of the state of Texas	and the fede	ral government.	
N/A B. Any criminal convictions of	f the state of Te	exas and the federal g	overnment.			- - - 4
N/A						
C. Chronic excessive emission N/A	ons events.					
D. The approval dates of inve	stigations. (CC	EDS Inv. Track. No.)				
1 11/30/20 2 08/28/20	•					
E. Written notices of violation	•					
	Date: 10/25		· .			
	Self Citation:	-	Classif 1, SubChapter A 281.25(a		Dr .	
	Ramt Prov: Description:				erforming inadequately or	
F. Environmental audits.						
N/A						
G. Type of environmental ma	nagement syst	ems (EMSs).				
N/A						
H. Voluntary on-site compliar	ice assessmen	t dates.				
N/A						
I. Participation in a voluntary	pollution reduc	tion program.				
N/A						
J. Early compliance. N/A						
Sites Outside of Texas						
N/A						÷
•						

# Compliance History

0.50

Customer/Respo	, ndent/Owner-C	perator:	CN602840076	Toll Br	os., Inc.		Classificat	ion: AVERAGE	Rating: 1.71
Regulated Entity:			RN104976857	TOLL . VISTA	BROS THE RIDG	SE AT ALTA	Classificat	ion: AVERAGE	Site Rating:
ID Number(s):			STORMWATER			PERMIT			TXR15BT64
Location:			E OF INTX OF FM TRAVIS COUNTY			), LAKEWAY,	Rating Da	te: 9/1/2008 Rep	eat Violator: NC
TCEQ Region:			REGION 11 - AUS	STIN					
Date Compliance	History		September 30, 20	08					
Agency Decision	Requiring Con	ipliance	Enforcement						
Compliance Perio	od:		September 30, 20	03 to Se	otember 30, 2008	3			
TCEQ Staff Mem	ber to Contact	for Additional I	nformation Regardi	ng this C	ompliance Histor	У			
Name:	Jorge Ibarra, I	P.E.	Pho	one:	(817) 588-589	0			
			Site Co	omplian	ce History Co	mponents			
1. Has the site be	en in existence	e and/or operat	tion for the full five y	ear com	pliance period?	No			
			hip of the site durin			No			
3. If Yes, who is t	he current own	er?				N/A			
4. if Yes, who wa						N/A			
5. When did the	change(s) in o	wherebin occur	·?			N/A			
· .									
Components (	-		nents, and consent	decrees	of the state of Te	was and the fed	leral governm	nent ·	
A. Final Enfo N/A		s, court judger	nents, and consent	0001003			ierar governin	iont.	
	nal convictions	of the state of	Texas and the fede	ral gover	nment.				
N/A					• •				
C. Chronic e N/A	xcessive emiss	ions events.							
D. The appro	oval dates of in	vestigations. (C	CCEDS Inv. Track.	No.)					
	1 11/30/20	06 (51551	1)						
E. Written no	otices of violation	ons (NOV). (CO	CEDS Inv. Track. No	o.)					
		Date: 10/05/2	2006 (515511)					,	
· .			10			fication: Min	or		
		Citation: Rqmt Prov:	30 TAC Chapter 2 PERMIT TPDES (			(a)(4)			
		Description:	Failure to replace used incorrectly. C	or modify	/ a control if dee		performing i	nadequately or	
F. Environme	ental audits.		,,,,,,,,,,,,						
N/A		i.			I	•			
G. Type of e	nvironmental n	anagement sy	vstems (EMSs).						
N/A									
H. Voluntary	on-site compli	ance assessm	ent dates.						
N/A									
I. Participatio	on in a voluntar	y pollution redu	uction program.						
N/A									
J. Early com	pliance.								-
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

**လ လ လ လ** 

## 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:

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.

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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**

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.

Toll Bros., Inc. DOCKET NO. 2008-1452-WQ-E Page 4

## SIGNATURE PAGE

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Executive Director

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

• TCEO seeking other relief as authorized by law.

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

Name (Printed or typed) Authorized Representative of Toll Bros., Inc. 10-21-09 Date

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.