

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0961-MWD-E **TCEQ ID:** RN101916559 **CASE NO.:** 37835
RESPONDENT NAME: City of Follett

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Follett WWTP, located approximately one mile north of State Highway 15 and approximately one mile west of Farm-to-Market Road 1454, Lipscomb County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 30, 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: The Honorable Kevin Wynn, Mayor, City of Follett, P.O. Box 216, Follett, Texas 79034 Mr. Robert R. Williamson, City Manager, City of Follett, P.O. Box 216, Follett, Texas 79034 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 type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 9, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 15, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010508001 before expiration and is continuing to operate [TPDES Permit No. WQ0010508001, Permit Condition No. 4.c., 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), and TEX. WATER CODE § 26.121].</p>	<p>Total Assessed: \$4,160</p> <p>Total Deferred: \$832 <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: \$3,328</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits in expired TPDES Permit No. WQ0010508001;</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application for the Facility;</p> <p>c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and</p> <p>d. Within 300 days after the effective date of this Agreed Order, submit written certification that either authorization to operate the Facility has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0010508001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned PCW	22-Jun-2009	Screening	24-Jun-2009	EPA Due	
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RESPONDENT/FACILITY INFORMATION	
Respondent	City of Follett
Reg. Ent. Ref. No.	RN101916559
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37835	No. of Violations	1
Docket No.	2009-0961-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
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)	Subtotal 1 \$2,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>	
Compliance History	108.0% Enhancement Subtotals 2, 3, & 7 \$2,160
Notes	The Respondent was issued two 1660 Agreed Orders with denial of liability, one NOV without the same/similar type of violations, and self-reported 33 months of effluent violations.
Culpability	No 0.0% Enhancement Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.
Good Faith Effort to Comply Total Adjustments	Subtotal 5 \$0
Economic Benefit	0.0% Enhancement* Subtotal 6 \$0
<small>Total EB Amounts</small> \$187	<small>*Capped at the Total EB \$ Amount</small>
<small>Approx. Cost of Compliance</small> \$2,500	
SUM OF SUBTOTALS 1-7	Final Subtotal \$4,160
OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
Notes	
	Final Penalty Amount \$4,160
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$4,160
DEFERRAL	20.0% Reduction Adjustment -\$832
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
Notes	Deferral offered for expedited settlement.
PAYABLE PENALTY	\$3,328

Screening Date 24-Jun-2009

Docket No. 2009-0961-MWD-E

PCW

Respondent City of Follett

Policy Revision 2 (September 2002)

Case ID No. 37835

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916559

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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)	0	0%
	Other written NOVs	34	68%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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) 108%

>> **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 two 1680 Agreed Orders with denial of liability, one NOV without the same/similar type of violations, and self-reported 33 months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 108%

Screening Date 24-Jun-2009	Docket No. 2009-0961-MWD-E	PCW															
Respondent City of Follett		<small>Policy Revision 2 (September 2002)</small>															
Case ID No. 37835		<small>PCW Revision October 30, 2008</small>															
Reg. Ent. Reference No. RN101916559																	
Media [Statute] Water Quality																	
Enf. Coordinator Jorge Ibarra, P.E.																	
Violation Number 1																	
Rule Cite(s)	Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010508001, Permit Condition No. 4.c., 30 Tex. Admin. Code §§ 305.65 and 305.125(2), and Tex. Water Code § 26.121																
Violation Description	Failed to renew TPDES Permit No. WQ0010508001 before expiration and is continuing to operate.																
	Base Penalty	\$10,000															
>> Environmental, Property and Human Health Matrix																	
	Harm																
	Major	Moderate	Minor														
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Actual</td> <td style="width:50px;"></td> <td style="width:50px;"></td> <td style="width:50px;"></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Actual				Potential				Percent 0%						
Actual																	
Potential																	
>> Programmatic Matrix																	
	Major	Moderate	Minor														
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Falsification</td> <td style="width:50px;"></td> <td style="width:50px;"></td> <td style="width:50px;"></td> </tr> <tr> <td></td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>		Falsification					x			Percent 10%						
Falsification																	
	x																
Matrix Notes	100% of the rule requirement was not met.																
	Adjustment	\$9,000															
			\$1,000														
Violation Events																	
	Number of Violation Events	2	Number of violation days														
		54															
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td></td></tr> <tr><td style="text-align: center;">weekly</td><td></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">quarterly</td><td></td></tr> <tr><td style="text-align: center;">semiannual</td><td></td></tr> <tr><td style="text-align: center;">annual</td><td></td></tr> <tr><td style="text-align: center;">single event</td><td></td></tr> </table>	daily		weekly		monthly	x	quarterly		semiannual		annual		single event			Violation Base Penalty
daily																	
weekly																	
monthly	x																
quarterly																	
semiannual																	
annual																	
single event																	
<small>mark only one with an x</small>			\$2,000														
Two monthly events are recommended. The penalty was calculated from the permit expiration date of May 1, 2009 to the screening date of June 24, 2009.																	
Good Faith Efforts to Comply																	
	0.0% Reduction		\$0														
	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 for this violation.																
	Violation Subtotal		\$2,000														
Economic Benefit (EB) for this violation																	
	Estimated EB Amount	\$187	Violation Final Penalty Total														
			\$4,160														
Statutory Limit Test																	
	This violation Final Assessed Penalty (adjusted for limits)		\$4,160														

Economic Benefit Worksheet

Respondent City of Follett
Case ID No. 37835
Reg. Ent. Reference No. RN101916559
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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				0.00	\$0	n/a	\$0
Permit Costs	\$2,500	1-May-2009	28-Oct-2010	1.49	\$187	n/a	\$187
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to apply and obtain a permit to operate. Date Required is the date the permit expires. Final Date is the expected 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

\$2,500

TOTAL

\$187

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600737811	City Of Follett	Classification: AVERAGE	Rating: 4.87
Regulated Entity:	RN101916559	CITY OF FOLLETT WWTP	Classification: AVERAGE	Site Rating: 4.87
ID Number(s):	WASTEWATER	PERMIT		WQ0010508001
	WASTEWATER	PERMIT		TPDES0066796
	WASTEWATER	PERMIT		TX0066796
	WASTEWATER LICENSING	LICENSE		WQ0010508001
Location:	1 MILE N OF SH15 & APPROXIMATELY 1 MILE W OF FARM TO MARKET ROAD 1454 IN LIPSCOMB COUNTY			
TCEQ Region:	REGION 01 - AMARILLO			
Date Compliance History Prepared:	June 23, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 23, 2004 to June 23, 2009			
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? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | |
|---|----------------------------|
| Effective Date: 12/30/2005 | ADMINORDER 2005-0738-MWD-E |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: Page 2, #1 PERMIT | |
| Description: The facility exceeded their effluent permit limits for BOD5 daily average and TSS daily average. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: Page 6, #7,c PERMIT | |
| Description: The facility failed to notify the TCEQ Regional Office or the appropriate section manager in the Enforcement Division within 5 working days of becoming aware of an effluent exceedence of greater than 40%, for a BOD5 effluent limitation (daily average) for March and April of 2004. | |
| Effective Date: 01/12/2008 | |
| ADMINORDER 2003-1241-MWD-E | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: TPDES 10508-001 PERMIT | |
| Description: Failure to notify TCEQ of a 40% noncomplainece of effluent limits. | |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1) | |

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	08/26/2004	(358286)
2	08/26/2004	(358287)
3	08/26/2004	(358288)
4	08/26/2004	(358289)
5	08/26/2004	(358290)
6	08/26/2004	(358291)
7	08/26/2004	(358292)
8	09/24/2004	(358293)
9	10/19/2004	(358294)
10	12/20/2004	(385264)
11	01/20/2005	(385265)
12	02/16/2005	(385263)
13	03/07/2005	(372458)
14	03/28/2005	(385262)
15	06/13/2005	(444146)
16	07/11/2005	(444145)
17	07/11/2005	(444148)
18	11/21/2005	(474499)
19	11/21/2005	(474500)
20	11/21/2005	(474501)
21	11/21/2005	(474502)
22	11/21/2005	(474503)
23	12/20/2005	(474504)
24	03/24/2006	(474497)
25	03/24/2006	(474498)
26	03/24/2006	(474505)
27	04/24/2006	(502314)
28	06/24/2006	(460321)
29	11/10/2006	(603955)
30	11/10/2006	(603958)
31	11/12/2006	(603957)
32	11/12/2006	(603959)
33	02/13/2007	(583488)
34	02/13/2007	(583489)
35	06/12/2007	(583483)
36	06/12/2007	(583484)
37	06/12/2007	(583485)
38	06/12/2007	(583486)
39	06/12/2007	(583487)
40	07/17/2007	(563623)
41	07/30/2007	(603954)
42	08/27/2007	(603956)
43	10/25/2007	(622790)
44	10/25/2007	(622791)
45	11/07/2007	(622792)

46	01/21/2008	(674279)
47	01/21/2008	(674280)
48	02/20/2008	(619194)
49	04/25/2008	(653808)
50	01/05/2009	(729756)
51	01/05/2009	(729757)
52	01/05/2009	(729758)
53	01/05/2009	(729759)
54	01/05/2009	(729760)
55	01/05/2009	(729761)
56	01/05/2009	(729762)
57	01/05/2009	(729763)
58	01/05/2009	(729764)
59	01/05/2009	(729765)
60	01/05/2009	(729766)
61	01/05/2009	(729767)
62	03/10/2009	(736351)
63	06/15/2009	(748864)

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

Date:	06/30/2004	(358291)	CN600737811	
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2004	(358292)	CN600737811	
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2004	(358293)	CN600737811	
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/30/2004	(358294)	CN600737811	
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2004	(385263)	CN600737811	
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2004	(385265)	CN600737811	
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/28/2005	(385262)	CN600737811	
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/31/2005	(444145)	CN600737811	

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2005 (444146) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2005 (444148) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2005 (474499) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 07/31/2005 (474500) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 08/31/2005 (474501) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 09/30/2005 (474502) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 11/30/2005 (474504) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 12/31/2005 (474505) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 01/31/2006 (474497) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 02/28/2006 (474498) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 03/31/2006 (502314) CN600737811
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 07/31/2006 (603955) CN600737811
Self Report? YES **Classification:** Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 09/30/2006 (603958) CN600737811
Self Report? YES **Classification:** Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 11/30/2006 (583488) CN600737811
Self Report? YES **Classification:** Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 02/28/2007 (583484) CN600737811
Self Report? YES **Classification:** Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 04/30/2007 (583486) CN600737811
Self Report? YES **Classification:** Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 06/30/2007 (603954) CN600737811
Self Report? YES **Classification:** Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 07/18/2007 (563623) CN600737811
Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Monitoring & Reporting Requirements PERMIT
Description: Partial failure by the facility to report noncompliance of greater than 40%. The facility reported all such noncompliances for the past year in one report, therefore, not reporting each occurrence within the permitted timeframe.
Date 07/31/2007 (603956) CN600737811
Self Report? YES **Classification:** Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 08/31/2007 (622790) CN600737811
Self Report? YES **Classification:** Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 09/30/2007 (622791) CN600737811
Self Report? YES **Classification:** Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 11/30/2007 (674279) CN600737811
Self Report? YES **Classification:** Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 02/29/2008 (729757) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 04/30/2008 (729759) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 06/30/2008 (729761) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 09/30/2008 (729764) CN600737811
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0961-MWD-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 City of Follett ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment plant located approximately one mile north of State Highway 15 and approximately one mile west of Farm-to-Market Road 1454 in Lipscomb County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about June 20, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand One Hundred Sixty Dollars (\$4,160) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Three Thousand Three Hundred Twenty-Eight Dollars (\$3,328) of the administrative penalty and Eight Hundred Thirty-Two Dollars (\$832) is deferred contingent upon

the City'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 City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City 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 City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 City has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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 Facility, the City is alleged to have failed to renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010508001 before expiration and is continuing to operate, in violation of TPDES Permit No. WQ0010508001, Permit Condition No. 4.c., 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), and TEX. WATER CODE § 26.121, as documented during a record review conducted on June 9, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City'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: City of Follett, Docket No. 2009-0961-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. It is further ordered that the City shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits in expired TPDES Permit No. WQ0010508001;
 - b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application for the Facility, in accordance with 30 TEX. ADMIN. CODE ch. 305 (relating to Consolidated Permits) to:

Water Quality Applications Team, Permits Administrative Review Section
Registration, Review and Reporting Division, MC 161
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and
- d. Within 300 days after the effective date of this Agreed Order, submit written certification that either authorization to operate the Facility has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification 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 fines 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:

Water Section, Manager
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is 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 the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes 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 the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives 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 the City 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, 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 Szolner
For the Executive Director

11/13/2009
Date

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.

Robert L. Williamson
Signature

9-24-09
Date

Robert L. Williamson
Name (Printed or typed)
Authorized Representative of
City of Follett

City Mgr
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.

