DOCKET NO. 2008-1801-WQ
General Permit No. TXG500000

IN THE MATTER OF THE GENERAL PERMIT TO AUTHORIZE DISCHARGES OF PROCESS WASTEWATER, MINE DEWATERING, STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITIES, CONSTRUCTION STORM WATER, AND CERTAIN NON-STORM WATER DISCHARGES FROM QUARRIES LOCATED GREATER THAN ONE MILE FROM A WATER BODY WITHIN A WATER QUALITY PROTECTION AREA OF THE JOHN GRAVES SCENIC RIVERWAY WITHIN THE STATE OF TEXAS	§ § § § § § § § § § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

COMMISSION RESOLUTION ISSUING THE GENERAL PERMIT

WHEREAS, under Texas Water Code (TWC) Section (§) 26.121, no person may discharge waste or pollutants into or adjacent to any water in the state except as authorized by a rule, permit, or order issued by the Texas Commission on Environmental Quality (TCEQ or Commission);

WHEREAS, under TWC § 26.027, the TCEQ has the authority to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to waters in the state;

WHEREAS, under TWC § 26.040, the TCEQ has the authority to issue a general permit to authorize the discharge of waste into or adjacent to waters in the state;

WHEREAS, under TWC § 26.553, the TCEQ is required to issue a general permit to authorize discharges into or adjacent to waters in the state for any quarry located greater than one mile from any water body within the John Graves Scenic Riverway;

WHEREAS, the general permit (TXG500000) that authorizes discharges of process wastewater, mine dewatering, storm water associated with industrial activity, construction storm water, and certain non-storm water discharges from quarries located greater than one mile from a water body within a water quality protection area in the John Graves Scenic Riverway and proposed by the Executive Director is attached as Exhibit A;

WHEREAS, the TCEQ received public comment on the general permit;

WHEREAS, the Executive Director changed the general permit based on public comment;

WHEREAS, the Executive Director prepared, made available to the public, and filed with the Chief Clerk a written Response to Public Comments on the proposed change to the general permit in accordance with the requirements of 30 Texas Administrative Code (30 TAC) § 205.3(e) and is here attached as Exhibit B;

WHEREAS, the Commission is required by Texas Natural Resources Code § 33.205 and 30 TAC § 205.5(f) to review the requirements of the general permit for consistency with the Texas Coastal Management Program (CMP), the coverage area of the general permit is outside the coastal zone of the state and, therefore, the general permit will not adversely affect any applicable coastal natural resource areas identified in the CMP;

WHEREAS, the Commission has determined in accordance with TWC §§ 26.040(a)(1)-(4) that the general permit would authorize dischargers who engage in the same or substantially similar types of operations, discharge the same types of waste, are subject to the same requirements regarding effluent limitations or operating conditions, and are subject to the same or similar monitoring requirements;

WHEREAS, the Commission finds in accordance with TWC § 26.040(a)(5) that the general permit would apply to dischargers who are more appropriately regulated under a general permit than under individual permits and that:

(A) The general permit has been drafted to assure that it can be readily enforced and that the Commission can adequately monitor compliance with the terms of the general permit through on-site compliance inspections and by submission of an annual report by dischargers; and

(B) The category of discharges covered by the general permit will not include a discharge of pollutants that will cause significant adverse effects to water quality; and

THEREFORE, after consideration of all public comment and the responses to such comment, the Commission, by this resolution, hereby issues the general permit, attached as Exhibit A, as recommended by the Executive Director and as approved by the Commission during its December 10, 2008 public meeting. The Commission, by this resolution, also hereby issues the Executive Director's Response to Comments as approved by the Commission during its December 10, 2008 public meeting as the Commission's Response to Public Comment, attached as Exhibit B.

Furthermore, the Commission directs staff to make any non-substantive changes to the general permit and the Commission's Response to Public Comment to satisfy Texas Register format requirements and requests that the general permit and Commission's

Response to Public Comment be made available to the public in accordance with the requirements of TWC § 26.040(d) and 30 TAC § 205.3(e).

It is so **RESOLVED**.

Date of Adoption:

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

_____

Buddy Garcia, Chairman

EXHIBIT A

TPDES GENERAL PERMIT
NO. TXG500000

This is a new general permit issued pursuant to Section 26.040 of the Texas Water Code and Section 402 of the Clean Water Act.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
P.O. BOX 13087
Austin, TX 78711-3087

GENERAL PERMIT TO DISCHARGE WASTES
under provisions of
Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

Quarries located greater than one mile from a water body within a water quality protection area in the John Graves Scenic Riverway, in the state of Texas,

may discharge process wastewater, mine dewatering, storm water associated with industrial activity, construction storm water, and certain non-storm water discharges into or adjacent to water in the state, including exceptional, high, intermediate, limited, or no significant aquatic life use receiving waters as designated in the Texas Surface Water Quality Standards

only according to effluent limitations, monitoring requirements and other conditions set forth in this general permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the Commission of the TCEQ (Commission). The issuance of this general permit does not grant to the permittee(s) the right to use private or public property for conveyance of wastewater and storm water along the discharge route. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this general permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittees to acquire property rights as may be necessary to use the discharge route.

This general permit and the authorization contained herein expire at midnight five years after the date of issuance.

ISSUED DATE:

EFFECTIVE DATE:

For the Commission

GENERAL PERMIT NUMBER TXG500000 RELATING TO DISCHARGES FROM QUARRIES LOCATED GREATER THAN ONE MILE FROM A WATER BODY WITHIN A WATER QUALITY PROTECTION AREA IN THE JOHN GRAVES SCENIC RIVERWAY

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Part I. Definitions and Commonly Used Acronyms

A. Definitions

All definitions in Texas Water Code (TWC) §26.001; 30 Texas Administrative Code (TAC) Chapters 205; 305; and 311, Subchapter H apply to this general permit and are incorporated by reference. Some specific definitions of words or phrases used in this general permit are as follows:

25-year, 24-hour rainfall event -- The maximum rainfall event with a probable recurrence interval of once in 25 years, with a duration of 24 hours, as defined by the National Weather Service and Technical Paper Number 40, *Rainfall Frequency Atlas of the U.S.*, May 1961, and subsequent amendments; or equivalent regional or state rainfall information.

Aggregates -- Any commonly recognized construction material originating from a quarry or pit by the disturbance of the surface, including dirt, soil, rock asphalt, granite, gravel, gypsum, marble, sand, stone, caliche, limestone, dolomite, rock, riprap, or other nonmineral substance. The term does not include clay or shale mined for use in manufacturing structural clay products.

Best management practices -- Any prohibition, management practice, maintenance procedure, or schedule of activity designed to prevent or reduce the pollution of water in the state. Best management practices include treatment, specified operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.

Construction storm water – Storm water from a construction activity where soil disturbing activities (including clearing, grading, excavating) result in the disturbance of land area.

Daily average limitation -- The arithmetic average of all effluent samples within a period of one calendar month, consisting of at least four separate representative measurements. When four samples are not available in a calendar month, the arithmetic average of the four most recent measurements or the arithmetic average (weighted by flow) of all values taken during the month must be used as the daily average concentration.

Daily maximum concentration -- The maximum concentration measured on a single day, by the sample type specified in the general permit, within a period of one calendar month.

Final stabilization – All soil disturbing activities at the site have been completed and a uniform (e.g. evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

General permit -- A permit issued under the provisions of 30 TAC Chapter 205 authorizing the discharge of waste into or adjacent to water in the state for one or more categories of waste discharge within a geographical area of the state or the entire state as provided by TWC §26.040.

Grab sample -- An individual sample collected in less than 15 minutes.

Highwall – Vertical face remaining from the final cut of a surface mining operation.

Hyperchlorination of waterlines -- Treatment of potable water lines or tanks with chlorine for disinfection purposes, typically following repair or partial replacement of the waterline or tank, and subsequently flushing the contents.

Industrial activities – Manufacturing, processing, material storage, and waste material disposal areas (and similar areas where storm water can contact industrial pollutants related to the industrial activity) at an industrial facility described by the TPDES Multi Sector General Permit, TXR050000, or by another TCEQ or TPDES permit.

John Graves Scenic Riverway -- That portion of the Brazos River Basin and its contributing watershed, located downstream of the Morris Shepard Dam on the Possum Kingdom Reservoir in Palo Pinto County, Texas, and extending to the county line between Parker and Hood Counties, Texas.

Mine dewatering -- Any water that is impounded or collects in the mine and is pumped, drained, or otherwise removed from the mine through the efforts of the mine operator. This provision does not include storm water associated with industrial activity impounded by berms or other structures at surface quarrying operations; or lateral seepage from sand pits located adjacent to surface water bodies.

Non-structural controls – Pollution prevention methods that are not physically constructed, including best management practices, used to prevent or reduce the discharge of pollutants.

Navigable -- Designated by the United States Geological Survey (USGS) as perennial on the most recent topographic map(s) published by the USGS, at a scale of 1:24,000.

Notice of Change (NOC) -- A written submission to the executive director from a permittee authorized under a general permit, providing information on changes to information previously provided to the commission, or any changes with respect to the nature or operations of the regulated entity or the characteristics of the discharge.

Notice of Intent (NOI) -- A written submission to the executive director from an applicant notifying their intent to discharge or dispose of wastes under the provisions of a general permit.

Notice of Termination (NOT) -- A written submission to the executive director from a permittee authorized under a general permit notifying their intent to cease the authorization to discharge or dispose of wastes under the provisions of a general permit.

Operator – Any person engaged in or responsible for the physical operation and control of a quarry.

Outfall -- For the purpose of this general permit, any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, and/or tunnel from which pollutants are or may be discharged, from a regulated facility into surface water in the state.

Overburden -- All materials displaced in an aggregates extraction operation that are not, or reasonably would not be expected to be, removed from the affected area.

Owner -- Any person having title, wholly or partly, to the land on which a quarry exists or has existed.

Pit -- An open excavation from which aggregates have been, or are being, extracted with a depth of five feet or more below the adjacent and natural ground level.

Pollutant – (from TWC §26.001(13)) Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any water in the state.

Pollutant(s) of concern – Includes biochemical oxygen demand (BOD), sediment, or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge.

Process wastewater – Any wastewater used in the slurry transport of mine material, air emissions control, or process exclusive of mining. The term shall include any other water which becomes commingled with such wastewater in a pit, pond, lagoon, mine or other facility used for treatment of such wastewater.

Quarry -- The site from which aggregates for commercial sale are being, or have been, removed or extracted from the earth to form a pit, including the entire excavation, stripped areas, haulage ramps, and the immediately adjacent land on which the plant processing the raw materials is located. The term does not include any land owned or leased by the responsible party not being currently used in the production of aggregates for commercial sale or an excavation to mine clay or shale for use in manufacturing structural clay products.

Quarrying -- The current and ongoing surface excavation and development without shafts, drafts, or tunnels, with or without slopes, for the extraction of aggregates for commercial sale from natural deposits occurring in the earth.

Responsible party -- Any owner, operator, lessor, or lessee who is primarily responsible for overall function and operation of a quarry located in the water quality protection area as defined in this general permit.

Reportable quantity spill -- A discharge or spill of oil, petroleum product, used oil, hazardous substances, industrial solid waste, or other substances into the environment in a quantity equal to or greater than the reportable quantity listed in 30 TAC §327.4 (relating to Reportable Quantities) in any 24-hour period.

Restoration – Those actions necessary to change the physical, chemical, and/or biological qualities of a receiving water body in order to return the water body to its background condition. Restoration

includes on- and off-site stabilization to reduce or eliminate an unauthorized discharge, or substantial threat of an unauthorized discharge from the permitted site.

Storm water associated with industrial activity – Storm water runoff that exits any conveyance that is used for collecting and conveying storm water that is directly related to manufacturing, processing, material storage, and waste material disposal areas (and similar areas where storm water can contact industrial pollutants related to the industrial activity) at an industrial facility described by one or more of Sectors A through AD of the Texas Pollutant Discharge Elimination System Multi-Sector General Permit (TXR050000).

Structural controls (or practice) -- Physical, constructed features that prevent or reduce the discharge of pollutants. Structural controls include, but are not limited to, sedimentation/detention ponds; velocity dissipation devices such as rock berms, vegetated berms, buffers; and silt fencing.

Surface water in the state -- Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark (MHWM) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems that are authorized by state or federal law, regulation, or permit, and that are created for the purpose of waste treatment are not considered to be water in the state.

Temporary stabilization -- A condition where exposed soils or disturbed areas are provided a protective cover, which is required to be maintained, which may include temporary seeding, geotextiles, and mulches, or where structural controls are employed to reduce or eliminate erosion until either final stabilization can be achieved or until further mining activities take place.

Texas Land Application Permit (TLAP) -- A permit issued by the TCEQ for the land application and disposal of wastewater that does not result in a discharge to water in the State.

Texas Pollutant Discharge Elimination System (TPDES) -- The state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under Clean Water Act §§307, 402, 318 and 405; the Texas Water Code; and Texas Administrative Code regulations.

Total maximum daily load (TMDL) – The total amount of a substance that a water body can assimilate and still meet the Texas Surface Water Quality Standards.

Water body – Any navigable watercourse, river, stream, or lake within the water quality protection area.

Water quality protection area – The Brazos River and its contributing watershed within Palo Pinto and Parker Counties, Texas, downstream from the Morris Shepard Dam, and extending to the county line between Parker and Hood Counties, Texas.

B. Commonly Used Acronyms

BMP	Best Management Practice
MGD	Million Gallons per Day
MG/L	Milligrams per Liter
NOC	Notice of Change
NOI	Notice of Intent
NOT	Notice of Termination
TLAP	Texas Land Application Permit
TPDES	Texas Pollutant Discharge Elimination System Permit
TMDL	Total Maximum Daily Load

Part II. Permit Applicability and Coverage

A. Discharges Covered

This general permit regulates the following discharges from quarries located greater than one mile from a water body within a water quality protection area in the John Graves Scenic Riverway:

1. process wastewater;

2. mine dewatering;

3. storm water associated with industrial activity;

4. construction storm water;

5. vehicle and equipment wash water; and

6. certain non storm water discharges as listed below.

    a. potable water sources (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);

    b. water from the routine external washing of buildings, conducted without the use of detergents or other chemicals;

    c. water from the routine washing of pavement conducted without the use of detergents or other chemicals and where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed);

    d. uncontaminated air conditioner condensate, compressor condensate, and steam condensate;

e. uncontaminated water used for dust suppression; and

f. springs and other uncontaminated ground water.

B. Limitations on Coverage

1. This general permit does not apply to:

   a. a quarry located outside a water quality protection area within the John Graves Scenic Riverway;

   b. a quarry located *within* one mile from a water body within a water quality protection area in the John Graves Scenic Riverway;

   c. a quarry, or associated processing plant, located greater than one mile from a waterbody within a water quality protection area that:

      i. mines clay and shale for use in manufacturing structural clay products; or

      ii. since on or before January 1, 1994, has been in regular operation without cessation of operation for more than 30 consecutive days and under the same ownership.

   d. the construction or operation of a municipal solid waste facility regardless of whether the facility includes a pit or quarry that is associated with past quarrying;

   e. return flows from mining operations authorized by the U.S. Army Corps of Engineers under 33 CFR §323.2(d)(1)(ii); and

   f. discharges from facilities that are regulated by the Railroad Commission of Texas.

2. Compliance with Water Quality Standards

   Discharges to surface water in the state that would cause or contribute to a violation of water quality standards or that would fail to protect and maintain existing designated uses are not eligible for coverage under this general permit. The executive director may require an application for an individual permit (see Part II, Section F) to authorize discharges to surface water in the state from any activity that is determined to cause a violation of water quality standards or is found to cause, or contribute to, the loss of a designated use.

3. Discharges to Water Quality-Impaired Receiving Waters

   New sources or new discharges of the pollutants of concern to impaired waters are not authorized by this general permit unless otherwise allowable under 30 TAC Chapter

305 and applicable state law. Impaired waters are those that do not meet applicable water quality standards and are listed on the EPA approved Clean Water Act (CWA) §303(d) list. Pollutants of concern are those for which the water body is listed as impaired.

Discharges of the pollutants of concern to impaired water bodies for which there is a total maximum daily load (TMDL) implementation plan are not eligible for this general permit unless they are consistent with the approved TMDL and the implementation plan.

4. Protection of Streams and Watersheds by Other Governmental Entities

This general permit does not limit the authority or ability of federal, other state, or local governmental entities from placing additional or more stringent requirements on activities or discharges. For example, this permit does not limit the authority of a home-rule municipality provided by Texas Local Government Code §401.002.

5. Endangered Species

Discharges that would adversely affect a listed endangered or threatened species or its critical habitat are not authorized by this general permit. Federal requirements related to endangered species apply to all TPDES permitted activities, and site-specific controls may be required to ensure that protection of endangered or threatened species is achieved.

C. Deadlines for Obtaining Authorization

1. Existing Quarries

Owners of existing quarries currently operating under the TPDES Multi-Sector General Permit (MSGP), TXR050000 and/or the TPDES Construction General Permit, TXR150000, and in accordance with 30 TAC §311.82(a), shall submit an NOI and other required documents for authorization under this general permit within 90 days of the issuance date of this general permit. During the period of time between NOI submittal and authorization provided by the Executive Director, as a requirement of this TPDES general permit, the quarry must continue to meet the conditions and requirements of the TPDES MSGP and/or Construction General Permit.

Within 30 days of the effective date of authorization under this general permit, the permittee shall submit a Notice of Termination (NOT) to the executive director for current authorizations held under TXR050000 and/or TXR150000.

2. New Quarries

Owners of new quarries shall submit an NOI and receive confirmation of coverage and an authorization number under this general permit prior to commencement of any on-site activities (including construction activities).

D. Obtaining Authorization

1. Application for Coverage

   a. Applicants seeking authorization to discharge under this general permit shall submit to the TCEQ Water Quality Division, at the address specified on the NOI form:

      i. a completed NOI on a form approved by the Executive Director;

      ii. a Restoration Plan as described in Part III;

      iii. proof of financial assurance for restoration as described in Part IV; and

      iv. a Pollution Prevention Plan (P3) as described in Part V.

   b. Following review of the NOI, Restoration Plan, financial assurance for restoration, and P3, the executive director may determine that:

      i. the submission is complete and confirm coverage by providing a notification and an authorization number;

      ii. the NOI, Restoration Plan, financial assurance for restoration, and/or P3 are incomplete and send a notice of deficiency to obtain additional information to allow the submission to become complete; or

      iii. deny coverage. Denial of coverage under this general permit is subject to the requirements of 30 TAC §205.4(c).

2. Change of Ownership or Operational Control

   Authorization under this general permit is not transferable. If the owner or operator of the regulated entity changes, the present permittee shall submit an NOT and the new owner and operator shall submit an NOI along with the other documents required in Section D.1(a). The NOT and NOI must be submitted concurrently no later than 10 days prior to the change in owner or operator status. Any change in a permittee's Charter Number, as registered with the Texas Secretary of State, is considered a change in ownership of the company, and would require the new owner and operator to apply for permit coverage as stated above.

3. Notice of Change (NOC)

   A NOC form must be submitted with supplemental or corrected information within 14 days following:

a. the time when the owner or operator becomes aware that it failed to submit any relevant facts or incorrect information in the NOI or NOI attachments; or

b. the time when relevant facts in the NOI change (e.g., phone number or P.O. Box).

4. Signatory Requirements for NOI, NOC, and NOT Forms

NOI, NOC, and NOT forms must be signed and certified consistent with 30 TAC §305.44(a) and (b) (relating to Signatories to Applications).

5. Contents of the NOI

The NOI must, at a minimum, include:

a. the legal name and address of the owner and operator;

b. the facility name and address;

c. the location of the quarry.

E. Terminating Coverage

1. Applicants seeking to terminate authorization under this general permit shall submit:

a. a completed Notice of Termination (NOT) on a form approved by the Executive Director, and

b. a Stabilization Report, in accordance with the requirements in Part VII of this general permit.

2. The NOT and Stabilization Report must be submitted to the TCEQ Water Quality Division, at the address specified on the NOT form.

3. Following review of the NOT and Stabilization Report the executive director may determine that:

a. the submission is complete and acknowledge termination by providing a notification;

b. the NOT and Stabilization Report are complete, but a site visit is necessary to confirm stabilization prior to confirming termination and providing notification;

c. the NOT and Stabilization Report are incomplete and send a notice of deficiency to obtain additional information to allow the submission to become complete; or

d. deny termination.

4. **The permittee shall continue to meet the requirements of this general permit until authorization under the general permit is terminated.**

Financial assurance for restoration must be maintained until the executive director provides notification acknowledging the NOT.

F. Alternative TPDES/TLAP Coverage

1. Individual Permit Alternative

Any discharge eligible for coverage under this general permit may alternatively be authorized under an individual TPDES or TLAP permit according to 30 TAC Chapter 305 (relating to Consolidated Permits).

2. Individual Permit Required

The executive director may suspend or deny an authorization under this general permit in accordance with the procedures of 30 TAC Chapter 205 (relating to General Permits for Waste Discharges), including the requirement that the executive director provide written notice to the permittee. The executive director may require a quarry, otherwise eligible for authorization under this general permit, to apply for an individual TPDES/TLAP permit in the following circumstances:

a. the conditions of an approved total maximum daily load (TMDL) limitation or TMDL implementation plan on the receiving stream require conditions/restrictions that are inconsistent with or more restrictive than this general permit;

b. the activity has been determined to cause a violation of water quality standards or is found to cause, or contribute to, the loss of a designated use of surface water in the state; or

c. other consideration defined in 30 TAC Chapter 205, (relating to General Permits for Waste Discharges) including 30 TAC §205.4(c)(3)(D), which allows the commission to deny authorization under the general permit and require an individual permit if a discharger "has been determined by the executive director to have been out of compliance with any rule, order, or permit of the commission, including non-payment of fees assessed by the Executive Director."

3. Additionally, the executive director may cancel, revoke, or suspend authorization to discharge under this general permit based on a finding of historical and significant noncompliance with the provisions of this general permit, relating to 30 TAC §60.63 (Use of Compliance History). Denial of authorization to discharge under this general

permit or suspension of a permittee's authorization under this general permit must be done according to commission rule in 30 TAC Chapter 205 (relating to General Permits for Waste Discharges).

4. When an individual permit is issued for a discharge that is currently authorized under this general permit, the permittee shall submit an NOT to the Executive Director.

G. Permit Expiration

1. This general permit is effective for five years from the date of issuance. Authorizations for discharge under the provisions of this general permit may be issued until the expiration date of the general permit. This general permit may be amended, revoked, or canceled by the commission or renewed by the commission for an additional term or terms not to exceed five years.

2. If the executive director proposes to reissue this general permit before the expiration date, the general permit must remain in effect for those existing discharges covered by the general permit in accordance with 30 TAC Chapter 205. The general permit must remain in effect for these discharges until the date on which the commission takes final action on the proposal. No new NOIs will be accepted and no new authorizations will be processed under the general permit after the expiration date.

3. Upon issuance of the renewed or amended general permit, all permittees, including those covered under the expired general permit, will be required to submit an NOI according to the requirements of the new general permit or to obtain an individual permit for those discharges.

4. If the commission determines not to reissue this general permit within 90 days before the expiration date, permittees shall apply for authorization under an individual permit or an alternative general permit. If the application for an individual permit or alternative general permit is submitted before the expiration date, authorization under this expiring general permit remains in effect until the issuance or denial of an individual permit or an alternative general permit.

Part III. Restoration Plan

A. The permittee shall submit a Restoration Plan with the NOI. The Restoration Plan must include a proposed plan of action for how the applicant will restore the receiving waters to background conditions in the event of an unauthorized discharge that affects those receiving waters. The Restoration Plan, at a minimum, must:

1. identify receiving waters at risk of an unauthorized discharge from the quarry;

2. describe the process to be used in documenting the existing physical, chemical, and biological background conditions of each of the receiving waters;

3. provide a schedule for completing the determination of background conditions of each of the receiving waters and for updating background conditions in the future, as appropriate;

4. identify the potential environmental impacts to receiving waters from an unauthorized discharge from the quarry;

5. identify the goals and objectives of potential restoration actions;

6. provide a reasonable range of restoration alternatives and the preferred restoration alternative that may be implemented to return the affected waters to background conditions in the event of an unauthorized discharge; including estimated time it will take for restoration activities to be initiated and completed;

7. describe the process for monitoring the effectiveness of the preferred restoration action, including performance criteria, that will be used to determine the success of the restoration or need for interim site stabilization;

8. identify a process for public involvement in the selection of the restoration alternative to be implemented to restore the receiving waters to background conditions; and

9. provide a detailed estimate of the maximum probable costs required to complete a restoration action, given the size, location, and description of the quarry and the nature of the receiving waters. The maximum probable cost must be based on the costs to an independent third party conducting the action without a financial interest or ownership in the quarry.

B. Certification of the Restoration Plan must be provided by a licensed Texas professional engineer or a licensed Texas professional geoscientist within the appropriate area or discipline. Components of the Restoration Plan may be independently certified, as appropriate.

C. It is the responsibility of the permittee to initiate restoration activities in accordance with the developed Restoration Plan when impacts to receiving waters have occurred due to quarrying activities. The executive director reserves the right to require the permittee to initiate restoration actions, in addition to the permittee's responsibilities under the Restoration Plan.

Part IV. Financial Assurance for Restoration

A. The applicant shall submit proof of financial assurance for restoration with the NOI.

B. Financial assurance must be established and maintained in accordance with Chapter 37, Subchapter W (relating to Financial Assurance for Quarries).

C. The amount of financial assurance required must be in an amount no less than the cost estimate in the Restoration Plan, as required by Part III(A)(9) of this permit, that is approved by the executive director.

D. **Financial assurance for restoration must be maintained until the executive director provides notification acknowledging the NOT.**

Part V. Pollution Prevention Plan (P3)

A P3 must be prepared and implemented that covers the entire quarry. The P3 must be submitted along with the NOI for review and approval by the Executive Director. Minimum contents of the P3 are as follows:

A. Pollution Prevention Team

1. Team Members and Responsibilities

   The P3 must identify a specific individual or individuals at the quarry as members of a Pollution Prevention Team responsible for development, implementation, maintenance, and revision of the P3.

2. Employee Training

   An employee training program must be developed to educate personnel responsible for implementing any component of the P3, or otherwise responsible for pollution prevention, with the provisions of the P3. The P3 must identify how often employee training will occur, but it must occur on an annual basis at a minimum. Training for existing employees must occur no later than three months following authorization under this general permit. New employees must receive training prior to actively participating in quarrying activities.

B. Description of Potential Pollutant Sources

The P3 must provide a description of potential pollutant sources (activities and materials) that may reasonably be expected to affect the quality of discharges from the quarry. The following must be developed, at a minimum, in support of developing this description.

1. Site Map - The permittee shall develop and submit a topographic map with the following identified:

   a. property boundaries and the area(s) where quarrying will occur;

   b. outfall locations;

   c. the drainage area and direction of flow to the outfalls;

   d. surface waters (including wetlands) either adjacent to and within one mile of the

quarry's property boundaries;

e. areas where soil disturbance will occur;

f. areas that will not be disturbed;

g. slopes for pre- and post- disturbed areas;

h. locations of all major structural controls planned or in place;

i. locations where stabilization practices are expected to be used;

j. locations of materials, waste, overburden, or stock-piles;

k. locations of equipment storage areas, material processing areas, and vehicle and equipment maintenance areas; and

l. location of onsite water wells and any offsite water wells within 500 feet of the property boundary.

2. Site Description - A site description must be developed to include:

a. a description of activities, potential pollutants and their sources at the quarry;

b. a description of the intended schedule or sequence of quarry activities that will disturb soils;

c. the number of acres of the entire quarry property and the total number of acres where quarrying will occur; and

d. data describing the soil types and anticipated quality of any discharge from the quarry.

3. Inventory of Exposed Materials – An inventory must be developed listing materials handled at the site that may have contact with wastewater or may be exposed to storm water.

4. Spills and Leaks – The permittee shall develop, maintain, and update a list of significant spills and leaks of toxic or hazardous pollutants that occur in areas that may have contact with wastewater or be exposed to storm water.

C. Measures and Controls

The P3 must include a description of management controls to regulate pollutants identified in the P3's Description of Potential Pollutant Sources, and a schedule for implementation of the measures and controls. This must include, at a minimum:

1. Good Housekeeping - Good housekeeping measures must be developed and implemented to maintain the quarry in a clean, orderly manner.

   a. Vehicle and Equipment Storage and Maintenance Areas - The storage of vehicles and equipment awaiting maintenance with actual or expected fluid leaks, and the areas where maintenance activities occur, must be confined to designated areas (delineated on the site map). The P3 must describe measures that prevent or minimize contamination of wastewater or storm water from these areas. The permittee shall consider the use of drip pans under vehicles and equipment, indoor storage of vehicles and equipment, performing maintenance activities indoors, installation of berms or dikes in storage areas, cleaning pavement surface to remove oil and grease, proper handling and disposal methods for drained fluids, using dry cleanup methods for spills, collecting contaminated storm water from these areas for disposal or additional treatment, and other equivalent measures.

   b. Fueling Areas - The P3 must describe measures to prevent or minimize contamination of wastewater and storm water from areas where fueling occurs. The facility must consider covering fueling areas, using dry cleanup methods for spills, collecting contaminated storm water runoff for additional treatment, or other equivalent measures.

   c. Material Processing And Storage Areas - Material processing and storage areas must be maintained in good condition to minimize pollutants in storm water runoff. The P3 must describe measures that prevent or minimize contamination of wastewater and storm water in material processing and storage areas. The permittee shall consider indoor storage of materials, minimizing runon/runoff in these areas, dry cleanup methods for spills, minimizing the duration final product is kept onsite prior to offsite transport, placement of waste and unusable product with overburden, and collecting contaminated wastewater and storm water for additional treatment.

   d. Overburden Areas – Overburden developed during quarry activities must be placed to minimize the amount of surface area exposed to rainfall, and where practicable be placed in previously quarried areas. Overburden must be returned to the quarry pit when quarrying has ceased in that area as soon as practicable to allow for stabilization activities to commence. Alternatively, where placing overburden into the quarry pit is undesireable, overburden may be used to grade the quarry area as soon as practicable to allow for stabilization activities to commence.

      In no case may overburden piles remain after quarry activities have ceased and stabilization is complete.

   e. Vehicle and Equipment Cleaning Areas - The P3 must describe measures that prevent or minimize contamination of wastewater and storm water from vehicle and equipment cleaning activities. The permittee shall consider performing these

activities indoors, covering the activities, minimizing the volume of water used in cleaning activities, the frequency of cleaning activities, the types of cleaning agents used in cleaning activities, and collecting contaminated storm water and wastewater for additional treatment.

f. General Daily Activities – On a daily basis, employees shall ensure all trash and other materials that have the potential to be transported offsite by wind or storm water runoff, are collected and properly disposed.

2. Preventive Measures - A preventive maintenance program must include routine inspection and maintenance of wastewater and storm water management controls (including oil/water separators, catch basins, drip pans, berms, dikes, sedimentation ponds, and other similar controls) as well as inspecting and testing facility equipment and systems to discover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters and ensuring appropriate maintenance and performance of such equipment and systems.

3. Spill Prevention and Response Procedures - Areas where potential spills can contribute pollutants to wastewater and storm water must be identified in the P3. Procedures for cleaning up spills must be identified in the P3 and made available to the appropriate personnel.

D. Erosion and Sediment Controls

1. Structural Controls

a. The P3 must include a description of any structural control practices used to divert flows away from exposed soils, to limit the contact of storm water with disturbed areas, or to lessen the off-site transport of eroded soils.

b. Erosion and sediment controls must be designed to retain sediment on-site to the maximum extent practicable with consideration for local topography, soil types, and rainfall.

c. Control measures must be properly selected, installed, and maintained according to the manufacturer's or designer's specifications. If periodic inspections or other information indicates a control has been used incorrectly, or that the control is performing inadequately, the permittee shall replace or modify the control.

i. Runoff Control. Runoff control berms are required to be constructed to direct runoff from quarrying activities into sedimentation ponds prior to discharge, and to prevent runon from adjacent property. Berms must be covered with vegetation or impermeable material to prevent erosion and to prevent offsite runoff from becoming a source of pollution. Runoff from undisturbed areas of the property must be directed away from the sedimentation pond(s), and are not subject to effluent limitations in Part VIII, Section A. As quarrying activities progress, berms may be removed and relocated to minimize

entrance of runoff from stabilized areas of the quarry.

ii. Runoff Retention and Treatment. Sedimentation pond(s) are required to be constructed upgradient of each discharge point/outfall to allow for retention of sediment at the quarry. Sedimentation pond(s) must be designed with a minimum capacity to retain the volume of runoff resulting from 100% of the 25-year 24-hour storm event for that area, with an additional two foot reserved for freeboard. The capacity of the sedimentation pond(s) must be increased should dry weather flows (e.g, vehicle wash water) be directed into these structures. This additional capacity must be calculated based on dry weather flows resulting from a 30 day period. Side slopes of the sedimentation pond(s) must be constructed with a minimum 3:1 width to height ratio. The final capacity of sedimentation pond(s) must be certified by a licensed Texas professional engineer. Calculations utilized in determining the sedimentation pond(s) capacities must be maintained in the P3.

d. Sediment must be removed from sediment traps and sedimentation ponds no later than the time that design capacity has been reduced by 50%. Remaining volume capacities must be determined on a quarterly basis and recorded in the P3.

In leiu of removing sediment from ponds, the permittee may construct additional retention capacity (i.e. new sedimination ponds or expansion of existing sedimentation ponds).

e. If significant quantities of sediment escape the quarry or if notified by the Executive Director, accumulations must be removed in accordance with the Restoration Plan.

2. Stabilization Practices

The P3 must include a description of interim and permanent stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans must ensure that existing vegetation is preserved where it is possible.

a. Stabilization practices may include but are not limited to: establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of existing trees and vegetation, use of compost to enhance vegetative growth, and other similar measures.

b. The following records must be maintained and either attached to or referenced within this P3 and made readily available upon request to the Executive Director:

i. the dates when major grading activities occur;

ii. the dates when quarrying temporarily or permanently ceases on a portion of the site; and

iii. the dates when stabilization measures are initiated and completed.

c. Stabilization measures must be initiated in portions of the site where quarry activities have temporarily or permanently ceased, and except as provided in (i) through (iii) below, must be initiated no more than seven (7) days after quarrying has temporarily or permanently ceased.

i. Where the initiation of stabilization measures by the 7th day after quarrying has temporarily or permanently ceased is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.

ii. Where the initiation of stabilization measures by the 7th day after quarrying has temporarily or permanently ceased is precluded by drought conditions, stabilization measures must be initiated as a soon as practicable.

iii. Where quarrying on a portion of the site has temporarily ceased and quarrying activities will be resumed within twenty-one (21) days, temporary stabilization measures do not have to be initiated on that portion of the site.

3. Permanent Storm Water Controls

A description of any measures that will be installed to control pollutants in storm water discharges after quarry operations cease must be included in the P3. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site.

4. Other Controls

Off-site vehicle tracking of sediments and the generation of dust must be minimized.

5. Maintenance

All erosion and sediment control measures and other protective measures identified in the P3 must be maintained in effective operating condition. If through inspections the permittee discovers that BMPs are not operating effectively, maintenance must be performed before the next anticipated storm event or as necessary to maintain the continued effectiveness of erosion and sediment controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable. Documentation must be maintained in the P3 on all maintenance activities.

E. Inspections and Compliance Evaluations

1. Inspections of Erosion and Sediment Controls

a. A member of the Pollution Prevention Team shall inspect disturbed areas of the quarry that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, all structural control measures for effectiveness and necessary maintenance, and locations where vehicles enter or exit the site for evidence of off-site sediment tracking. Inspections must occur at least once every seven (7) calendar days, on a specifically defined day (e.g., Monday) and must be documented in the P3.

b. A member of the Pollution Prevention Team shall inspect all accessible outfalls, when discharges are occurring, to determine if erosion and sediment control measures are effective in preventing significant release of sediment. Additionally, a member of the Pollution Prevention Team shall observe the discharge route to determine if accumulation of sediment is occurring. These inspections must occur at a minimum frequency of once per month and must be documented in the P3. Should no discharge occur during a calendar month, this requirement is waived.

c. The P3 must be modified based on the results of inspections, as necessary, to better control pollutants in runoff. Revisions to the P3 must be completed within seven (7) calendar days following the inspection. If existing BMPs are modified or if additional BMPs are necessary, an implementation schedule must be described in the P3 and wherever possible those changes implemented before the next storm event. If implementation before the next anticipated storm event is impracticable, changes must be implemented as soon as practicable.

2. Inspections of Equipment and Vehicle Maintenance and Storage Areas

A member of the Pollution Prevention Team shall inspect designated equipment and vehicle maintenance and storage areas at least on a quarterly basis and inspections must be documented in the P3. At a minimum, inspections must include areas where vehicles and equipment are stored awaiting maintenance, fueling areas, vehicle and equipment maintenance areas (both indoor and outdoor areas), and vehicle and equipment cleaning areas. Follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections.

3. Comprehensive Site Compliance Evaluation

a. A Texas licensed professional engineer or Texas licensed professional geoscientist shall conduct a comprehensive site compliance inspection/evaluation at an interval that is defined in the P3, but on a yearly basis at a minimum. The evaluation must include the following:

i. A complete review of the P3 to determine compliance with inspection, record keeping, and other requirements established in this general permit;

ii. A review of all discharge monitoring data to determine compliance with

effluent limitations established in the general permit;

iii. A determination of the remaining capacity of the sedimentation pond(s);

iv. An evaluation of the conditions of the runoff control berms;

v. A visual observation of the discharge outfall(s) and an assessment of the discharge route to determine if significant quantities of sediment have been released from the quarry;

vi. An assessment of temporary and/or permanent stabilization efforts at the quarry; and

vii. A review of restoration activities conducted in receiving waters, if applicable.

b. A report summarizing the scope of the comprehensive site compliance evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the P3, and actions taken in response to the findings of the evaluation must be completed and maintained as a part of the P3 for at least 3 years from the date of the evaluation. The report must identify any incidents of noncompliance. Where the report does not identify incidences of noncompliance, the report must contain a statement that the evaluation did not identify an incidence, and the report must be signed according to 30 TAC §305.128 (relating to Signatories to Reports).

c. The Comprehensive Site Compliance Evaluation may substitute for one of the required inspections delineated in Section D(4) (Inspections) of this general permit.

F. Compliance with Permit Requirements

The P3 must specifically address how compliance with Permit Requirements listed in Part VIII Item A, Numeric Effluent Limitations; Item B, Other Requirements; and Item C, Additional Requirements Applicable to On-Site Dust Suppression, Soil Compaction, Irrigation , and Fire Protection will be achieved and maintained for the duration of the authorization.

G. Additional P3 Contents

The P3 must contain the following additional documents;

1. A copy of the signed NOI submitted to the Executive Director;

2. The acknowledgement certificate or other document received from the executive director identifying authorization has been granted;

3. If applicable, a copy of any notice of change (NOC) submitted to the Executive Director; and

4. Any other correspondence received from the executive director related to quarry operations.

Part VI. Revisions to the Restoration Plan, Proof of Financial Assurance for Restoration, and P3

A. Notice of Non-Compliance

The executive director may notify the permittee at any time that the Restoration Plan, proof of financial assurance for restoration, and/or P3 does not meet one or more of the minimum requirements of this general permit. Within 30 days after receiving such notification and identification of the provisions of the general permit that are not being met by the Restoration Plan, proof of financial assurance for restoration, and/or P3, the permittee shall make the required changes, and submit the revised Restoration Plan, proof of financial assurance for restoration, and/or P3 to the executive director for approval prior to implementation.

B. Revisions of the Restoration Plan, Proof of Financial Assurance for Restoration, and/or P3

The permittee shall revise the Restoration Plan and/or P3 whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the potential for the discharge of pollutants, if the Restoration Plan and/or P3 proves to be ineffective in eliminating or significantly minimizing pollutants in the discharge from the quarry or if the cost estimate related to financial assurance increases.

The permittee shall submit the revised Restoration Plan, proof of financial assurance for restoration, and/or P3 to the executive director for approval prior to implementation.

Part VII. Stabilization Report

A. The permittee shall submit a Final Stabilization Report with the NOT. The executive director will review and approve the Final Stabilization Report along with the NOT.

The permittee shall continue to meet the requirements of this general permit until authorization under the general permit is terminated.

The permittee shall maintain financial assurance for Restoration until the executive director notifies the permittee in writing that authorization under this general permit has been terminated.

B. The Final Stabilization Report must, at a minimum, demonstrate the following:

1. Vegetative Cover

a. The permittee shall establish perennial vegetative cover in all areas except where ponds, highwalls, permanent structures, or paved areas exist.

b. Perennial vegetative cover must be uniform (i.e. evenly distributed with no large bare areas) and have a density of at least 70% of the native background vegetative cover for the area.

2. Vehicle and Equipment Storage and Maintenance Areas

a. The permittee shall remove fluids from, and thoroughly clean all vehicles and equipment remaining on-site.

b. All fuel and chemicals must be removed from maintenance areas.

c. Maintenance areas must be thoroughly cleaned and cleared. If maintenance areas are unpaved, these areas must have vegetative cover established as required by Part VII.B(1) (above).

3. Structural Controls

a. All temporary structural controls must be removed from the site.

b. Remaining permanent structural controls must be adequate to manage remaining on-site drainage.

4. Highwalls

The permittee shall demonstrate that all remaining highwalls are stable and safe.

5. Waste

All waste must be removed from the site and disposed in accordance with applicable TCEQ rules.

6. The Final Stabilization Report must be signed and certified by Texas licensed professional engineer or a Texas licensed professional geoscientist.

C. The executive director may choose to conduct an investigation in addition to the review of the Final Stabilization Report, prior to terminating authorization under the general permit.

Part VIII. Permit Requirements

A. Numeric Effluent Limitations

Eligible discharges of process wastewater, mine dewatering, storm water associated with industrial activity, construction storm water, and certain non-storm water discharges are subject to the following effluent limitations:

Parameter	Daily Average Limitation	Sample Type	Monitoring Frequency
Flow	Report MGD	Estimate	1/day (*1)
Total Suspended Solids	45 mg/L	Grab	1/day (*1) (*2)
pH	6.0 – 9.0 Std. Units	Grab	1/day (*1) (*2)

(*1) When discharging
(*2) Not applicable to discharges resulting from a rainfall event greater than the 25-year, 24-hour rainfall event. Monitoring is required when discharges result from a rainfall event greater than the 25-year, 24-hour event, however, compliance with effluent limitations is not required.

Parameter	Daily Average Limitation	Daily Maximum Limitation	Sample Type	Monitoring Frequency
Arsenic, Total	0.1 mg/L	0.3 mg/L	Grab	1/year (*1)
Barium, Total	1.0 mg/L	4.0 mg/L	Grab	1/year (*1)
Cadmium, Total	0.05 mg/L	0.2 mg/L	Grab	1/year (*1)
Chromium, Total	0.5 mg/L	5.0 mg/L	Grab	1/year (*1)
Copper, Total	0.04 mg/L	0.09 mg/L	Grab	1/year (*1)
Lead, Total	0.35 mg/L	0.75 mg/L	Grab	1/year (*1)
Manganese, Total	1.0 mg/L	3.0 mg/L	Grab	1/year (*1)
Mercury, Total	0.002 mg/L	0.004 mg/L	Grab	1/year (*1)
Nickel, Total	1.0 mg/L	3.0 mg/L	Grab	1/year (*1)
Selenium, Total	0.02 mg/L	0.04 mg/L	Grab	1/year (*1)
Silver, Total	0.03 mg/L	0.06 mg/L	Grab	1/year (*1)
Zinc, Total	0.31 mg/L	0.66 mg/L	Grab	1/year (*1)

(*1) When discharging

Sampling to determine compliance with effluent limitations must be conducted following the final treatment unit(s) (e.g., sedimentation pond) and prior to leaving quarry property. Sampling must be conducted during actual discharges.

B. Other Requirements

1. The permittee shall install a permanent rain gauge at the plant site and keep daily records of rainfall. Monitoring records must be retained on site, or be readily available

for review by a TCEQ representative for a period of three years from the date of the record.

2. This general permit does not authorize the operation of, or discharge from a domestic sewage treatment facility. All domestic sewage must be disposed of by an on-site domestic wastewater system authorized under 30 TAC Chapter 285 (relating to On-Site Sewage Systems), or by other methods authorized by the commission.

3. Quarrying is prohibited within 500 feet of any onsite or offsite water supply well.

4. During quarrying activities, should an artificial penetration (e.g. drilled water well) be encountered, quarrying in that area must immediately cease, and the well must be plugged in accordance with 16 TAC Chapter 76. Documentation of well plugging must be maintained in the P3 and quarrying may commence following proper documentation.

5. If blasting is conducted at the quarry, the date and time of blasting must be recorded in the P3.

6. This general permit is applicable to quarrying activities only. If another industrial manufacturing activity is conducted at the quarry site (e.g., concrete production) authorization under an individual wastewater permit or another general permit is required.

7. New quarries applying for coverage under this general permit are not required to comply with either the effluent limitations under Part VIII.A or the Erosion and Sediment Controls conditions under Part V.D(1) during initial operations of the site to allow for excavation and construction of the sedimentation pond(s). During this time period, the permittee is prohibited from any sale, transfer, or processing (crushing or splitting) of aggregates. This initial time period must not exceed 180 days from the date of executive director approval of the NOI. All other terms and conditions of this general permit are applicable following NOI approval by the Executive Director.

8. Existing quarries authorized under the Multisector Storm Water General Permit (TXR050000), Construction General Permit (TXR150000), and/or an individual TPDES permit are granted a 90 day compliance period from the date the executive director grants authorization of the NOI to achieve compliance with all terms and conditions of this general permit.

9. This general permit may be reopened and amended, or permittees authorized under this general permit may be required to obtain authorization under an individual permit based on inspections and/or water quality sampling conducted in the John Graves Scenic Riverway in accordance with Texas Water Code §26.555.

10. In addition to other conditions and requirements of this general permit, permittees authorized under this general permit are subject to compliance and enforcement provisions under Texas Water Code §§26.556 and 26.558.

C. Additional Requirements Applicable to On-Site Dust Suppression, Soil Compaction, Irrigation, and Fire Protection

The following requirements are applicable to the use of process wastewater, mine dewatering, and storm water associated with industrial activity for on-site dust suppression, soil compaction, irrigation, and fire protection. These requirements are in addition to all other requirements outlined in this general permit.

1. Dust suppression, soil compaction, and irrigation practices must be designed and managed so as to prevent runoff, ponding of effluent, contamination of ground and surface waters, and occurrence of nuisance conditions in the area.

2. Application of process wastewater, mine dewatering, storm water associated with industrial activity, construction storm water, and certain non-storm water discharges for soil compaction and irrigation must be accomplished only when the area specified is not in use. This restriction does not apply to dust suppression activities. Using process wastewater, mine dewatering, storm water associated with industrial activity, construction storm water, and certain non-storm water discharges for dust suppression, soil compaction, and irrigation with effluent must not occur during times when the ground is frozen, the ground has standing water, the ground is saturated, or within 24 hours of a rainfall event of 0.5 inches or greater during a 24-hour duration. Best management practices must be used to prevent off site tracking of mud resulting from dust suppression activities.

3. Spray fixtures for the dust suppression, soil compaction, irrigation, and fire protection systems must be designed so that they cannot be operated by unauthorized personnel.

4. Adequate signs must be erected stating that water used for dust suppression, soil compaction, irrigation, and fire protection systems are from a non-potable water supply. Such signs must consist of a red slash superimposed over the international symbol for drinking water accompanied by the message "Do not drink the water" in both English and Spanish.

D. General Requirements

1. There must be no discharge of floating solids or visible foam other than in trace amounts, and no discharge of visible oil.

2. The discharge must not contain a concentration of taste or odor producing substances that interferes with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish, including shellfish, result in offensive odors arising from the receiving waters, or otherwise interfere with reasonable uses of water in the state.

3. Solid wastes, including clean-up wastes, must be disposed of according to TCEQ rules and Texas Health and Safety Code Chapter 361.

4. The disposal of waste and wastewater must be done in such a manner as to prevent nuisance conditions.

5. Facilities that generate industrial solid wastes, as defined in 30 TAC §335.1, must comply with the provisions of 30 TAC Chapter 335 (relating to Industrial Solid Waste and Municipal Hazardous Waste). If the requirements of 30 TAC Chapter 335 do not apply, the solid wastes shall be disposed of in accordance with the Texas Health and Safety Code Chapter 361.

6. Air emissions for any regulated entity must comply with either 30 TAC §106.533 (relating to Water and Soil Remediation) or 30 TAC Chapter 116 (relating to Control of Air Pollution by Permits for New Construction or Modification), as appropriate.

7. The permittee shall provide the following noncompliance notifications:

   a. Any noncompliance that may endanger human health or safety, or the environment must be reported by the permittee to the TCEQ. Report of such information must be provided orally or by facsimile transmission (FAX) to the appropriate TCEQ Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information must also be provided by the permittee to the appropriate TCEQ Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission must contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance and to mitigate its adverse effects.

   b. In addition, any effluent violation that deviates from the permitted effluent limitation by more than 40% must be reported by the permittee in writing to the appropriate TCEQ Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.

   c. Any noncompliance other than that specified in paragraphs (a) and (b) above, or any required information not submitted or submitted incorrectly, must be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances must be reported on the approved DMR form.

Part IX. Standard Permit Conditions

A. The permittee has a duty to comply with all conditions in this general permit. Failure to comply with any condition is a violation of the general permit and the statutes under which the general permit was issued. Any violation may be grounds for enforcement action, for

terminating coverage under this general permit, or for requiring a permittee to apply for and obtain either a TPDES individual permit, or a Texas Land Application Permit (TLAP).

B. It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted discharge to maintain compliance with conditions of the general permit.

C. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with conditions of the general permit. Proper operation and maintenance also includes adequate laboratory and process controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with conditions of the general permit.

D. The permittee shall furnish at the request of the executive director any information that is necessary to determine whether cause exists for revoking, suspending, or terminating authorization under this general permit. The requested information must be provided within a reasonable time frame and in no case later than 30 days from the date of the request.

E. The permittee shall give notice to the executive director before physical alterations or additions to the permitted facility if such alterations would result in a violation of the general permit requirements.

F. Inspection and entry must be allowed under TWC Chapters 26-28; THSC §§361.032, 361.033 and 361.037; and 40 CFR §122.41(i). The statement in TWC § 26.014 that commission entry of a regulated entity must occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection is not grounds for denial or restriction of entry to any part of the regulated entity, but merely describes the commission's duty to observe appropriate rules and regulations during an inspection.

G. Standard monitoring and reporting requirements are as follows:

1. samples must be collected, and measurements must be taken at times and in a manner so as to be representative of the monitored discharge;

2. all samples must be collected according to the latest edition of *Standard Methods for the Examination of Water and Wastewater* (prepared and published jointly by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation), or the Environmental Protection Agency's, *Methods for Chemical Analysis of Water and Wastes* (1979), or the Environmental Protection Agency's, *Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents* (1973);

3. sample containers, holding times, preservation methods, and analytical methods, must either follow the requirements in 40 CFR Part 136 (as amended), or the latest edition of *Standard Methods for the Examination of Water and Wastewater*;

4. the permittee shall ensure that properly trained and authorized personnel monitor and sample the discharge;

5. the sampling point must be downstream of any treatment unit or technique;

6. monitoring results must be provided at the intervals specified in the permit on an approved DMR (EPA Form 3320-1) that is signed and certified as required by Part IV.8. Unless otherwise specified, the self-report form must be submitted on a monthly basis to the TCEQ's Enforcement Division (MC 224). The self-report form for any given month must be due by the 20th day of the following month for each discharge that is described by this permit whether or not a discharge is made for the month. If noncompliance with a discharge limitation occurs, the permittee shall provide notification according to Part III.E.7.

7. the permittee shall retain all records related to the application, monitoring, or certification for a period of three years from the date of termination of the discharge. This period may be extended at the request of the Executive Director; and

8. records of monitoring activities must include:

   a. date, time, and place of sample or measurement;

   b. identity of individual who collected the sample or made the measurement;

   c. date of laboratory analysis;

   d. identity of the individual and laboratory who performed the analysis;

   e. the technique or method of analysis; and

   f. the results of the analysis or measurement.

H. All NOIs, NOTs, and NOCs must meet the requirements of 30 TAC §305.44(a) (relating to Signatories to Applications). All reports requested by the executive director must meet the requirements of 30 TAC §305.128 (relating to Signatories to Reports).

I. Authorization under this general permit may be suspended or revoked for the reasons stated in 30 TAC §205.4. Notifying the TCEQ of planned changes or an anticipated noncompliance does not stay any general permit condition.

J. This general permit does not convey any property rights of any sort, or any exclusive privilege.

K. If the permittee becomes aware that it failed to submit any relevant facts in an NOI, or submitted incorrect information in an NOI or in any report to the Executive Director, it shall promptly submit such facts or information.

L. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§7.051, 7.101, 7.148, and 7.149 for violations including, but not limited to, the following:

1. violating the CWA §§301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a general permit issued under CWA §402, or any requirement imposed in a pretreatment program approved under CWA §402(a)(3) or 402(b)(8);

2 intentionally or knowingly tampering with, modifying, disabling, or failing to use pollution control or monitoring devices, systems, methods, or practices required under this general permit; and

3. intentionally or knowingly makes or causes to be made a false material statement, representation, or certification in, or omits or causes to be omitted material information from: an application, notice, record, report, plan, or other document, including monitoring device data, filed or required to be maintained by this general permit.

Part X. Fees

A. Application Fee

An NOI must include a $1,215 application fee. A fee is not required for submission of an NOT or NOC.

B. Annual Water Quality Fee

Facilities having an active authorization on September 1 of each year (have not submitted an NOT prior to this date) will be billed $800 for the following fiscal year.

FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

For proposed Texas Pollutant Discharge Elimination System (TPDES) General Permit No. TXG500000 to discharge into or adjacent to water in the state.

Issuing Office:	Texas Commission on Environmental Quality P.O. Box 13087 Austin, TX 78711
Prepared by:	Kimberly Wilson Wastewater Permitting Section Water Quality Division (512) 239-4644
Date:	October 23, 2008
Permit Action:	New General Permit TXG500000

I. Summary

The Texas Commission on Environmental Quality (TCEQ) is proposing to issue a new TPDES general permit authorizing discharges of process wastewater, mine dewatering, storm water associated with industrial activity, construction storm water, and certain non-storm water discharges from quarries located greater than one mile from a water body within a water quality protection area in the John Graves Scenic Riverway. This general permit has been developed to comply with Texas Water Code Chapter 26 Subchapter M and 30 TAC Chapter 311 Subchapter H resulting from passage of Senate Bill 1354 of the 79th Legislative Session. Specifically, TWC §26.553(b) requires quarries greater than one mile from a water body to obtain a general permit.

II. Executive Director's Recommendation

The executive director has made a preliminary decision that this general permit, if issued, meets all statutory and regulatory requirements. It is proposed that the general permit be issued to expire five years from date of issuance in accordance with the requirements of 30 TAC §205.5(a).

III. Permit Applicability

A. This general permit authorizes the discharge of process wastewater, mine dewatering, storm water associated with industrial activity, construction storm water, and certain non-storm water discharges from quarries located greater than one mile from a water body within a water quality protection area in the John Graves Scenic Riverway. The permit specifies which facilities may be authorized under this general permit and those which must be authorized by individual permit.

B. This general permit does not apply to:

1. A quarry located outside a water quality protection area within the John Graves Scenic Riverway.

2. A quarry located within one mile from a water body within a water quality protection are in the John Graves Scenic Riverway. Quarries within one mile of a water body are required to obtain an individual TPDES permit.

3. A quarry or associated processing plant located greater than one mile from a water body within a water quality protection area that mines clay and shale for use in manufacturing structural clay products; or since on or before January 1, 1994, has been in regular operation without cessation of operation for more than 30 consecutive days and under the same ownership.

4. The construction or operation of a municipal solid waste facility regardless of whether the facility includes a pit or quarry that is associated with past quarrying.

5. Return flows from mining operations authorized by the US Army Corps of Engineers under 33 CFR §323.2(d)(1)(iii).

6. Discharges that are regulated by the Railroad Commission of Texas.

C. The following discharges are not eligible for general permit coverage:

1. Discharges of the constituent(s) of concern to impaired water bodies for which there is a total maximum daily load (TMDL) implementation plan are not eligible for this permit unless they are consistent with the approved TMDL. The executive director may amend this general permit or develop a separate general permit for discharges to these water bodies. For discharges not eligible for coverage under this general permit, the discharger must apply for and receive an individual or other applicable general permit prior to discharging.

2 Discharges that do not maintain existing uses of receiving waters, as determined by the executive director.

3 Discharges that would adversely affect a listed endangered or threatened species or its critical habitat are not authorized by this general permit. Federal requirements related to endangered species apply to all TPDES permitted activities, and site-specific controls may be required to ensure that protection of endangered or threatened species is achieved.

4 Sites that are classified as a poor performer as required under 30 TAC §60.3(a)(3)(A)(i).

IV. Permit Effluent Limitations

A. Effluent discharged under the authority of this general permit must meet the following effluent limitations:

Parameter	Daily Average Limitations	Daily Maximum Limitations	Sample Type	Monitoring Frequency
Flow	Report MGD	N/A	Estimate	One/day [1]
Total Suspended Solids	45 mg/L	N/A	Grab	One/day [1, 2]
pH	6.0-9.0 su	N/A	Grab	One/day [1, 2]
Arsenic, Total	0.1 mg/L	0.3 mg/L	Grab	One/year [1]
Barium, Total	1.0 mg/L	4.0 mg/L	Grab	One/year [1]
Cadmium, Total	0.05 mg/L	0.2 mg/L	Grab	One/year [1]
Chromium, Total	0.5 mg/L	5.0 mg/L	Grab	One/year [1]
Copper, Total	0.04 mg/L	0.09 mg/L	Grab	One/year[1]
Lead, Total	0.35 mg/L	0.75 mg/L	Grab	One/year [1]
Manganese, Total	1.0 mg/L	3.0 mg/L	Grab	One/year [1]
Mercury, Total	0.002 mg/L	0.004 mg/L	Grab	One/year [1]
Nickel, Total	1.0 mg/L	3.0 mg/L	Grab	One/year [1]
Selenium, Total	0.02 mg/L	0.04 mg/L	Grab	One/year [1]
Silver, Total	0.03 mg/L	0.06 mg/L	Grab	One/year [1]
Zinc, Total	0.31 mg/L	0.66 mg/L	Grab	One/year [1]

1 When discharging.
2 Not applicable to discharges resulting from a rainfall event greater than the 25-year, 24-hour rainfall event. Monitoring is required when discharges result from a rainfall event greater than the 25-year, 24-hour event, however compliance with effluent limitations is not required.

B. The following best management practices (BMPs) and other non-numerical conditions/requirements are included in the draft general permit:

1. Quarries authorized under this general permit must develop a pollution prevention plan (P3) that covers the entire quarry. The P3 is required to be submitted along with the Notice of Intent (NOI) for review and approval. Minimum contents of the P3 include establishing a pollution prevention team with associated training, a description of potential pollutant sources, a description of management controls to regulate pollutants in discharges (including good housekeeping measures, preventative measures, and spill prevention and response procedures), erosion and sediment controls (including structural controls, stabilization practices, permanent storm water controls, other controls, and maintenance), and inspections and compliance evaluations.

2. Specifically under the requirements of the P3, runoff control berms are required to be constructed to direct runoff from quarrying activities into sedimentation ponds prior to discharge.

3. Specifically under the requirements of the P3, a sedimentation pond(s) is required to be constructed upgradient of each discharge point/outfall to allow for retention of the sediment at the quarry. A sedimentation pond(s) must be designed to retain the 25-year, 24- hour storm event.

4. Quarries authorized under this general permit must submit a restoration plan with the NOI. Minimum requirements of the restoration plan include, identifying receiving waters at risk of unauthorized discharges, documenting background conditions of receiving waters, identifying potential environmental impacts to receiving waters from unauthorized discharges, identifying goals and objectives of potential restoration actions, identifying a range of restoration alternatives, monitoring of the effectiveness of restoration activities, identifying a process for public involvement in restoration activities, and providing cost estimates for restoration.

5. Quarries authorized under this general permit must submit with the NOI and maintain proof of financial assurance for restoration.

6. Quarries authorized under this general permit must submit a final stabilization report with the notice of termination when quarrying activities are completed.

V. Changes from Existing General Permit

Although this is a first time issuance of this general permit, existing quarries subject to this general permit are currently operating under the Multisector Storm Water General Permit (TXR050000). The following conditions proposed in this general permit are changes when compared to TXR050000:

A. Numeric effluent limitations are included in this general permit. The MSGP includes benchmark monitoring requirements with numeric target levels, which are not effluent limitations.

B. The MSGP includes the requirement to develop a storm water pollution prevention plan, similar to the requirements proposed in this general permit. The P3 requirements included in this general permit are specific to quarrying activities and more closely regulate the associated discharges from a quarry.

C. Specific BMPs are included in this general permit, including the requirement for construction of runoff control berms and sedimentation ponds, which are optional BMPs under the MSGP.

D. Specific requirements are included in this general permit as a result of the passage of legislation and the adoption of Chapter 26 Subchapter M of the Texas Water Code. These requirements include establishing a restoration plan and maintaining financial assurance.

VI. Addresses

A. Comments on this proposed general permit should be sent to:

Office of the Chief Clerk (MC-105)
TCEQ
P.O. Box 13087
Austin, TX 78711-3087
(512) 239-3300

B. Questions concerning this draft general permit should be directed to:

Kimberly Wilson
TCEQ
Wastewater Permitting Section (MC-148)
Water Quality Division
P.O. Box 13087 Austin, TX 78711-3087
(512) 239-4644
kwilson@tceq.state.tx.us

Supplementary information on this fact sheet is organized as follows:

VII. Legal Basis
VIII. Regulatory Background
IX. Permit Coverage
X. Technology-based Requirements
XI. Water Quality-based Requirements
XII. Monitoring
XIII. Additional Permit Conditions
XIV. Procedures for Final Decision
XV. Administrative Record

VII. Legal Basis

Section 26.121 of the Texas Water Code (TWC) makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission. TWC, §26.027 authorizes the commission to issue general permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state. TWC, §26.040 provides the commission with authority to amend rules adopted under §26.040 prior to amendment of the statute enacted by House Bill (HB) 1542 in 1997, and to authorize waste discharges by general permit. On September 14, 1998, the TCEQ received authority from the United States Environmental Protection Agency (EPA) to administer the Texas Pollutant

Discharge Elimination System (TPDES). The TCEQ and the EPA have signed a Memorandum of Agreement, which authorizes the administration of the National Pollutant Discharge Elimination System (NPDES) program by the TCEQ as it applies to the State of Texas. TWC §§26.551-26.562 are specific to water quality protection areas and are applicable to quarrying operations.

CWA §§301, 304, and 401 (33 United States Code (USC) §§1331, 1314, and 1341) include provisions that state that NPDES permits must include effluent limitations requiring authorized discharges to: (1) meet standards reflecting levels of technological capability; (2) comply with EPA-approved state water quality standards; and (3) comply with other state requirements adopted under authority retained by states under CWA §510, and 33 USC §1370.

Two types of technology-based effluent limitations must be included in the general permit. With regard to conventional pollutants, (i.e., pH, biochemical oxygen demand (BOD), oil and grease, total suspended solids (TSS), and fecal coliform bacteria), CWA, §301(b)(1)(E) requires effluent limitations based on "best conventional pollutant control technology" (BCT). With regard to nonconventional and toxic pollutants, CWA §301(b)(2)(A), (C), and (D) requires effluent limitations based on "best available technology economically achievable" (BAT), a standard that generally represents the best performing existing technology in an industrial category or subcategory. BAT and BCT effluent limitations may never be less stringent than corresponding effluent limitations based on best practicable control technology (BPT), a standard applicable to similar discharges before March 31, 1989 under CWA §301(b)(1)(A).

Frequently, EPA adopts nationally applicable guidelines identifying the BPT, BCT, and BAT standards to which specific industrial categories and subcategories are subject. Until such guidelines are published, however, CWA §402(a)(1) requires that appropriate BCT and BAT effluent limitations be included in permitting actions on the basis of its best professional judgment (BPJ).

VIII. Regulatory Background

The commission was given authority to issue general permits in place of authorizations by rule through legislation, HB 1542, passed during the 75th Legislative Session. Further clarification of this general permit authority was provided in subsequent legislation, HB 1283, passed during the 76th Legislative Session. 40 CFR §122.26(b)(14) defines categories of industrial activities that must obtain an NPDES permit, quarries are included in this definition. Authorization to discharge storm water associated with industrial activity was initially provided by EPA in issuance of the NPDES multisector storm water general permit in the Federal Register, Volume 60, No. 189, September 29, 1995. The TCEQ (previously the Texas Natural Resource Conservation Commission) was provided authority to administer the NPDES program as the TPDES program on September 14, 1998. TCEQ reissued the MSGP as a TPDES general permit on August 20, 2001. Quarries are regulated under Sector J – Mineral Mining and Dressing. Senate Bill 1354 was passed during the 79th Legislative Session in 2005 and Chapter 26 of the Texas Water Code was amended to include Subchapter M (Water Quality Protection Areas) effective June 17, 2005. This section of the Texas Water Code requires quarries located greater than one mile from a water body to obtain a general permit and identifies specific requirements that were not included in TCEQ's 2001 MSGP. 30 TAC Chapter 311 Subchapter H was effective August 3, 2006. It implements the revisions to the

TWC. The MSGP was renewed by TCEQ on August 14, 2006 and Section J.4 specifically directs quarries located in the John Graves Scenic Riverway to obtain alternative permit authorizations.

IX. Permit Coverage

The purpose of this general permit is to regulate the surface discharges of process wastewater, mine dewatering, storm water associated with industrial activity, construction storm water, and certain non-storm water discharges into or adjacent to water in the state from quarries located greater than one mile from a water body within a water quality protection area in the John Graves Scenic Riverway. To obtain authorization to discharge under this general permit, an applicant will need to use the following guidelines.

A. Applicants seeking authorization to discharge under this general permit must submit a completed NOI on a form approved by the executive director. The NOI shall, at a minimum, include: the legal name and address of the owner and operator, the facility name and address, specific description of its location, type of facility or discharges, and the receiving waters. This general permit also requires the submittal of technical documents for review and approval by the executive director, including a pollution prevention plan, proof of financial assurance, and a restoration plan.

B. An existing quarry operating under the MSGP must submit an NOI within 90 days of issuance of this general permit to continue quarry activities. A new quarry must submit an NOI and obtain authorization prior to commencing quarry activities, including construction activities at the quarry location.

C. Submission of an NOI is an acknowledgment that the conditions of this general permit are applicable to the proposed discharge, and that the applicant agrees to comply with the conditions of this general permit. The NOI must be submitted to the address indicated on the NOI form. Following review of the NOI, the executive director shall either confirm coverage by providing a notification and an authorization number to the applicant or notify the applicant that coverage under this general permit is denied. Applicants seeking authorization to discharge to a municipal separate storm sewer system (MS4) must provide a copy of the NOI to the operator of the MS4 at the same time an NOI is submitted to the TCEQ.

D. Authorization under this general permit is not transferable. If the owner or operator of the regulated entity changes, the present owner and operator must submit a Notice of Termination (NOT) and the new owner and operator must submit an NOI. The NOT and NOI must be submitted not later than 10 days before the change. Permittees discharging to a MS4 must submit a copy of the NOT to the operator of the MS4 at the same time the NOT is submitted to the TCEQ.

E. If the owner or operator becomes aware that it failed to submit any relevant facts or submitted incorrect information in an NOI, the correct information must be provided to the executive director in a Notice of Change (NOC) within 14 days after discovery. If relevant information provided in the NOI changes (for example, phone number or PO box number) an NOC must be submitted within 14 days after the change. Permittees discharging to a

MS4 must submit a copy of any NOC to the operator of the MS4 at the same time the NOC is submitted to the TCEQ.

F. Within 30 days after the effective date of authorization under this general permit, the permittee shall submit an NOT to the executive director for current authorizations held under TXR050000 (MSGP) and/or TXR150000 (Storm Water Construction General Permit).

X. Technology-Based Requirements

The limitations and conditions of the general permit have been developed to comply with the technology-based standards of the Clean Water Act. There are currently no nationally applicable effluent limitation guidelines in 40 CFR Chapter I Subchapter N that identify the BPT, BCT, and BAT standards. National effluent limitation guidelines at 40 CFR Part 436 Subpart B (Crushed Stone Subcategory), Subpart C (Construction Sand and Gravel Subcategory), and Subpart D (Industrial Sand Subcategory) were considered when establishing technology-based limitations in this general permit. Technology-based effluent limitations included in this general permit are based on BPJ and rules included at 30 TAC §311.79 and §319.22. The parameters selected for BCT/BAT limits are the primary pollutants of concern for discharges authorized in the general permit. The limitations for these parameters are: 45 mg/L total suspended solids and between 6.0 to 9.0 standard units pH as established at 30 TAC §311.79. Additionally technology-based limitations are included for arsenic, barium, cadmium, chromium, lead, manganese, and nickel as established at 30 TAC §319.22. These effluent limitations are economically achievable based on inclusion in current state regulations.

XI. Water Quality-Based Requirements

The Texas Surface Water Quality Standards found at 30 TAC Chapter 307 state that "surface waters will not be toxic to man, or to terrestrial or aquatic life." The methodology outlined in the *Procedures to Implement the Texas Surface Water Quality Standards* is designed to insure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to insure that no source will be allowed to discharge any wastewater or storm water that: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation that threatens human health.

TPDES permits contain technology-based effluent limits reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included in the permits. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other toxicity data bases to determine the adequacy of technology-based permit limits and the need for additional water-quality based controls. A review by the TCEQ's Water Quality Standards Team determined that the proposed technology-based and water quality-based effluent limits are protective of water quality. Water quality based effluent limits for copper, mercury, selenium, silver, and zinc, which are more stringent than the technology-based limitations at 30 TAC §319.22, are established in this general permit.

The daily average and daily maximum effluent limitations for copper, mercury, selenium, silver, and zinc were developed based on the protection for acute freshwater aquatic life toxicity in situations where little or no dilution occurs. Chronic aquatic life and human health evaluation was not required based on the restriction of this general permit only applying to discharges greater than one mile from a waterbody, e.g. discharges may only occur to intermittent streams and discharges would likely only occur during and following significant rainfall events. Water quality based effluent limitations were evaluated for protection of receiving water bodies in Segments 1206 and 1207 of the Brazos River Basin, the two segments that have the potential to receive discharges authorized under this general permit.

Water quality based effluent limitations for these five metals are calculated in Appendix 1 of this fact sheet.

In order to achieve compliance with Texas Surface water quality standards, permittees must meet the following narrative water quality requirements:

A. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

B. Concentration of taste and odor producing substances shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the waters, or otherwise interfere with the reasonable use of the water in the state.

The Texas Water Quality Standards also require that discharges must not be acutely toxic to aquatic life, as determined by requiring greater than 50% survival in 100% effluent using a 24-hour acute toxicity test. This requirement is typically only required for continuously flowing discharges or discharges with the potential to exert toxicity in the receiving stream, according to the state's implementation procedures.

The discharges authorized under this general permit are not typically continuous flowing discharges and the limitations for pollutants of concern in the permit should preclude toxicity instream.

XII. Monitoring

Monitoring is required by 40 CFR §122.44(i) for each pollutant limited in a permit to ensure compliance with the permit limits. The general permit has the following criteria established for monitoring.

A. The permittee shall ensure that properly trained and authorized personnel monitor and sample the discharge.

B. The sampling point must be downstream of any treatment unit or technique.

C. All samples must be collected according to the latest edition of *Standard Methods for the Examination of Water and Wastewater* (prepared and published jointly by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation), or EPA's, *Methods for Chemical Analysis of Water and Wastes* (1979), or EPA's, *Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents* (1973).

D. Sample containers, holding times, preservation methods, and analytical methods, shall either follow the requirements in 40 CFR Part 136, or *Standard Methods for the Examination of Water and Wastewater*.

E. All analytical results shall be reported on a Discharge Monitoring Report (DMR) (EPA Form 3320-1). The analytical results must be submitted to the TCEQ's Enforcement Division (MC-224), on a quarterly basis, and the DMR must arrive by the 20th day in the months of April, July, October, and January. The DMR for any given month is required for each discharge that is described by this permit whether or not a discharge is made for the month. If noncompliance with a discharge limitation occurs, the permittee shall provide notification according to Part VIII.D.8.

XIII. Additional Permit Conditions

Additional permit conditions are proposed in this draft general permit for the purpose of water quality protection and compliance with enacted legislation and associated revisions to the Texas Water Code and Texas Administrative Code applicable to quarries in the John Graves Scenic Riverway.

A pollution prevention plan (P3) is required to be developed and implemented by permittees authorized under this general permit. The P3 is structured similar to the storm water pollution prevention plan (SWP3) required in the MSGP, however the conditions in this general permit are tailored specifically to quarry operations in the John Graves Scenic Riverway. Specific best management practices (BMPs) and structural controls are proposed as part of the P3 to address the prevention of unauthorized discharges and to retain sediment onsite. Runoff control berms are required to be installed around the entire perimeter of the active quarry to direct storm water runoff into sedimentation pond(s). The sedimentation pond(s) must be sized to capture the resulting runoff from the 25-year 24-hour storm event. These requirements should ensure that all runoff containing sediment and other pollutants will be controlled and treated to remove sediment prior to controlled releases into receiving waters and will assist in discharges complying with the total suspended solids and other effluent limitations proposed in the general permit.

The proposed general permit includes the requirement for permittees to develop a restoration plan that would be implemented should unauthorized discharges occur from the quarry that impact receiving waters. The restoration plan is required under Texas Water Code Section 26.553(f)(1) and Title 30 Texas Administrative Code Section 311.76.

The proposed general permit includes the requirement for permittees to maintain proof of financial assurance for restoration. This is required in Texas Water Code §26.553(f)(2) and 30 TAC §311.81(a) and Chapter 37 Subchapter W.

A final stabilization report is required to be submitted with the notice of termination (NOT) for review and approval by the executive director. The purpose of the stabilization report is to ensure that the quarry location does not continue to be a source of pollution after quarrying activities have ceased and requires the permittee to maintain compliance with the conditions of the general permit until the plan is approved.

XIV. Procedures for Final Decision

The memorandum of agreement between the EPA and TCEQ provides that EPA has 90 days to comment, object, or make recommendations to the general permit before it is published in the *Texas Register*. According to 30 TAC Chapter 205, when the draft general permit is proposed, notice must be published, at a minimum, in a newspaper of general circulation. The commission may also publish notice in one or more additional newspapers of statewide or regional circulation. Mailed notice must also be provided to the following:

A. The county judge of the county or counties in which the discharges under the general permit could be located;
B. if applicable, state and federal agencies for which notice is required in 40 CFR §124.10(c);
C. persons on a relevant mailing list kept under 30 TAC §39.407, relating to Mailing Lists; and
D. any other person the executive director or chief clerk may elect to include.

After notice of the general permit is published in the *Texas Register* and the newspaper(s), the public will have 30 days to provide public comment on the proposed permit.

Based on previous significant public interest in quarrying activities in this geographic region of the state, the executive director has determined that holding a public meeting is warranted. A public comment hearing is intended for the taking of public comment, and is not a contested case proceeding under the Texas Administrative Procedure Act. The public meeting on this general permit will be held in Mineral Wells, Texas.

The commission will give notice of the date, time, and place of the meeting, as required by commission rule. The executive director shall prepare a response to all significant public comments on the draft general permit raised during the public comment period. The executive director shall make the response available to the public. The general permit will then be filed with the commission to consider final authorization of the general permit. The executive director's response to public comment shall be made available to the public and filed with the chief clerk at least ten days before the commission acts on the general permit.

XV. Administrative Record

The following section is a list of the fact sheet citations to applicable statutory or regulatory provisions and appropriate supporting references.

A. 40 CFR Citations

40 CFR §122

40 CFR §124
40 CFR §136
40 CFR §436
40 CFR Chapter I Subchapter N

B. TCEQ Rules

30 TAC Chapter 311 Suchapter H – *Regulation of Quarries in the John Graves Scenic Riverway*
30 TAC Chapter 37 Suchapter W – *Financial Assurance for Quarries*
30 TAC Chapters 39, 60, 205, 281, 305, 307, 309, 319, 321, 331, and 335

C. Letters/Memoranda/Records of Communication

Memo from the TCEQ's Water Quality Standards Team dated May 29, 2008.

D. TPDES General Permit TXR050000 - Multisector General Permit, issued August 14, 2006

E. TPDES General Permit TXR150000 – Construction General Permit, effective March 5, 2008

F. Miscellaneous

1. Texas Surface Water Quality Standards, 30 TAC §§307.1 – 307.10
2. Texas Water Code Chapter 26 Subchapter M
3. Senate Bill 1354, 79th Legislative Session
4. *Procedures to Implement the Texas Surface Water Quality Standards*, TCEQ, January 2003.

Fact Sheet and Executive Director's Preliminary Decision
TPDES General Permit No. TXG500000

Appendix 1

TEXTOX MENU #1 - INTERMITTENT STREAM

The water quality-based effluent limitations demonstrated below are calculated using:

Table 1, 1997 Texas Surface Water Quality Standards (30 TAC 307) for Freshwater Aquatic Life
Table 3, 2000 Texas Surface Water Quality Standards for Human Health
Procedures to Implement the Texas Surface Water Quality Standards, Texas Commission on Environmental Quality, January 2003.

TPDES Permit No:	TXG500000
Permittee Name:	N/A
Outfall No:	N/A
Prepared By:	N/A
Date:	6/27/2008

DISCHARGE INFORMATION:

Immediate Receiving Waterbody:	Lake Granbury & Brazos River Below Possum Kindom Lake
Segment No:	1205 & 1206 (the lowest TSS, pH, hardness, and chloride ambient values are used below)
TSS:	5
pH:	7.5
Hardness:	104
Chloride:	460
Effluent Flow for Aquatic Life (MGD):	N/A
Critical Low Flow [7Q2] (cfs):	0
Acute Effluent % for Aquatic Life:	100

CALCULATE TOTAL/DISSOLVED RATIO:

Stream/River Metal	*Intercept (b)*	*Slope (m)*	*Partitioning Coefficient (Kpo)*	*Dissolved Fraction (Cd/Ct)*		*Water Effects Ratio (WER)*	
Aluminum	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Arsenic	5.68	-0.73	147826.36	0.57		1	Assumed
Cadmium	6.6	-1.13	645897.93	0.24		1	Assumed
Chromium (Total)	6.52	-0.93	741238.38	0.21		1	Assumed
Chromium (+3)	6.52	-0.93	741238.38	0.21		1	Assumed
Chromium (+6)	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Copper	6.02	-0.74	318245.45	0.39		1	Assumed
Lead	6.45	-0.8	777721.31	0.20		1	Assumed
Mercury	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Nickel	5.69	-0.57	195698.32	0.51		1	Assumed
Selenium	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Silver	6.38	-1.03	457152.29	0.30		1	Assumed
Zinc	6.1	-0.7	408057.15	0.33		1	Assumed

AQUATIC LIFE
CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS

Parameter	*Acute Standard (ug/L)*	*WLAa*	*LTAa*	*Daily Avg. (ug/L)*	*Daily Max. (ug/L)*
Aldrin	3	3.00	1.72	2.53	5.35
Aluminum(d)	991	991.00	567.84	834.73	1765.99

Arsenic(d)	360	626.09	358.75	527.36	1115.71
Cadmium(d)	35.215	148.94	85.34	125.45	265.42
Carbaryl	2	2.00	1.15	1.68	3.56
Chlordane	2.4	2.40	1.38	2.02	4.28
Chlorpyrifos	0.083	0.08	0.05	0.07	0.15
Chromium (+3)(d)	1793.20	8439.14	4835.62	7108.37	15038.79
Chromium (+6)(d)	16	16.00	9.17	13.48	28.51
Copper(d)	19.916	51.61	29.57	43.47	91.97
Cyanide (free)	45.78	45.78	26.23	38.56	81.58
4,4'-DDT	1.1	1.10	0.63	0.93	1.96
Dementon	N/A	N/A	N/A	N/A	N/A
Dicofol	59.3	59.30	33.98	49.95	105.67
Dieldrin	2.5	2.50	1.43	2.11	4.46
Diuron	210	210.00	120.33	176.89	374.23
Endosulfan I (alpha)	0.22	0.22	0.13	0.19	0.39
Endosulfan II (beta)	0.22	0.22	0.13	0.19	0.39
Endosulfan sulfate	0.22	0.22	0.13	0.19	0.39
Endrin	0.18	0.18	0.10	0.15	0.32
Guthion	N/A	N/A	N/A	N/A	N/A
Heptachlor	0.52	0.52	0.30	0.44	0.93
Hexachlorocyclohexane (Lindane)	2	2.00	1.15	1.68	3.56
Lead(d)	85.825	419.56	240.41	353.40	747.68
Malathion	N/A	N/A	N/A	N/A	N/A
Mercury	2.4	2.40	1.38	2.02	4.28
Methoxychlor	N/A	N/A	N/A	N/A	N/A
Mirex	N/A	N/A	N/A	N/A	N/A
Nickel(d)	1466.091	2900.65	1662.07	2443.24	5169.04
Parathion (ethyl)	0.065	0.07	0.04	0.05	0.12
Pentachlorophenol	14.99175	14.99	8.59	12.63	26.72
Phenanthrene	30	30.00	17.19	25.27	53.46
Polychlorinated Biphenyls (PCBs)	2	2.00	1.15	1.68	3.56
Selenium	20	20.00	11.46	16.85	35.64
Silver, (free ion)	0.92	33.66	19.29	28.35	59.98
Toxaphene	0.78	0.78	0.45	0.66	1.39
Tributlytin (TBT)	0.13	0.13	0.07	0.11	0.23
2,4,5 Trichlorophenol	136	136.00	77.93	114.55	242.36
Zinc(d)	120.976	367.80	210.75	309.80	655.43

EXHIBIT B

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT ON TCEQ GENERAL PERMIT NUMBER TXG500000

The executive director of the Texas Commission on Environmental Quality (commission or TCEQ) files this Response to Public Comment (Response) on Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXG500000, for quarries located greater than one mile from a water body within a water quality protection area in the John Graves Scenic Riverway. Prior to issuing a general permit, the executive director must comply with the provisions in Texas Water Code (TWC), §26.040(d) and 30 Texas Administrative Code (TAC) §205.3(e). Both provisions require the executive director to prepare a response to all timely, relevant and material, or significant public comments received. The executive director must make these responses publicly available and must file them with the commission's Office of the Chief Clerk at least ten days before the commission considers the approval of the general permit.

The Office of the Chief Clerk received timely public comments from one individual. This Response addresses the comment received. If you need more information about this general permit or the general wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found on our website at *www.tceq.state.tx.us*.

BACKGROUND

Regulatory Background

Senate Bill (SB) 1354, 79th Legislature, 2005, Regular Session, effective June 17, 2005, enacted TWC, Chapter 26, Subchapter M, Water Quality Protection Areas addressing permitting, financial responsibility, inspections, water quality sampling, enforcement, cost recovery, and interagency cooperation with regard to quarry operations within a water quality protection area in the John Graves Scenic Riverway. TWC, Chapter 26, Subchapter M also required rulemaking by the TCEQ, which was

completed and effective August 3, 2006, in 30 TAC Chapter 311 (Watershed Protection), Subchapter H and Chapter 37 (Financial Assurance), Subchapter W. The legislation, statute, and rules all require quarries located one mile or greater from a water body in the John Graves Scenic Riverway to obtain authorization under a general permit, TPDES General Permit Number TXG500000.

This general permit is issued under the statutory authority of the TWC as follows: (1) TWC, §26.121, which makes it unlawful to discharge pollutants into or adjacent to water in the state except as authorized by a rule, permit, or order issued by the commission, (2) TWC, §26.027, which authorizes the commission to issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state, (3) TWC, §26.040, which provides the commission with authority to amend rules to authorize waste discharges by general permit and 4) TWC §26.533, which requires quarries located within the water quality protection area of the John Graves Scenic Riverway and located more than one mile from a water body to obtain authorization under a general permit.

Introduction

General Permit Number TXG500000 authorizes the discharges of process wastewater, mine dewatering, storm water associated with industrial activity, construction storm water, and certain non-storm water discharges from quarries located greater than one mile from a water body that is within a water quality protection area in the John Graves Scenic Riverway. Facilities applying for authorization under this general permit are required to submit a Notice of Intent (NOI), Pollution Prevention Plan, Restoration Plan, and proof of financial assurance for Restoration to obtain authorization for discharge. The general permit authorizes discharges for five years from the effective date of the permit.

Procedural Background

The Office of the Chief Clerk received the permit file on August 8, 2008. Notice of availability and an announcement of the public meeting for this permit were published in the *Weatherford Democrat* and *Mineral Wells Index* on August 17, 2008. Notice of availability and an announcement of the public meeting for this permit were also published in the *Dallas Morning News* and the *Fort Worth Star-Telegram* on August 18, 2008. Mailed notice was also provided in accordance with 30 TAC §205.3(b). A public meeting was held in Weatherford, Texas on September 23, 2008, and the comment period ended at the close of the public meeting.

COMMENT AND RESPONSE

COMMENT: One individual commented on the requirements of the Comprehensive Site Compliance Inspection/Evaluation. The general permit requires a Texas licensed professional engineer or Texas licensed professional geoscientist to conduct the comprehensive compliance inspection/evaluation. This individual suggested that it would be satisfactory to allow a qualified professional to conduct the comprehensive compliance inspection/evaluation and have it certified by the licensed professional.

RESPONSE: The executive director reviewed the comment and still believes that the Comprehensive Site Compliance Inspection/Evaluation should be conducted by a Texas licensed professional engineer or Texas licensed professional geoscientist. However, the executive director modified the requirement such that the Comprehensive Site Compliance Inspection/Evaluation is only required once per year.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

CHANGE NUMBER 1: Part V.E.3.(a) of the general permit was changed to read as follows:

3. Comprehensive Site Compliance Evaluation

a. A Texas licensed professional engineer or Texas licensed professional geoscientist shall conduct a comprehensive site compliance inspection/evaluation at an interval that is defined in the P3, but on a yearly basis at a minimum. The evaluation must include the following:

i. A complete review of the P3 to determine compliance with inspection, record keeping, and other requirements established in this general permit;

ii. A review of all discharge monitoring data to determine compliance with effluent limitations established in the general permit;

iii. A determination of the remaining capacity of the sedimentation pond(s);

iv. An evaluation of the conditions of the runoff control berms;

v. A visual observation of the discharge outfall(s) and an assessment of the discharge route to determine if significant quantities of sediment have been released from the quarry;

vi. An assessment of temporary and/or permanent stabilization efforts at the quarry; and

vii. A review of restoration activities conducted in receiving waters, if applicable.