

2008 OCT 10 PM 4:12

CHIEF CLERKS OFFICE

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 10, 2008

LaDonna Castañuela, Chief Clerk  
TCEQ Office of Chief Clerk MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: JOCO Holding Corporation  
TCEQ Permit No. WQ0002730000  
Docket No. 2006-2167-IWD  
Executive Director's Response to Requests for Reconsideration

Dear Ms. Castañuela:

I am enclosing for filing with the Texas Commission on Environmental Quality (Commission) an original and 7 copies of the "*Executive Director's Response to Requests for Reconsideration*" regarding JOCO Holding Corporation, Permit No. WQ0002730000.

Please file stamp these documents and return one to Timothy J. Reidy, Staff Attorney, Environmental Law Division, MC 173. If you have any questions, please do not hesitate to contact me at (512) 239-0969.

Sincerely,

A handwritten signature in black ink that reads "Tim Reidy".

Timothy J. Reidy  
Staff Attorney  
Environmental Law Division

**TCEQ DOCKET NO. 2006-2167-IWD**

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**APPLICATION BY** § **BEFORE THE**  
§  
**JOCO HOLDING CORPORATION** § **TEXAS COMMISSION ON** CHIEF CLERKS OFFICE  
§  
§ **ENVIRONMENTAL QUALITY**

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**EXECUTIVE DIRECTOR'S RESPONSE TO REQUESTS FOR RECONSIDERATION**

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**I. INTRODUCTION**

The Executive Director of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to the Requests for Reconsideration (RFR) filed by Mr. Tim Davis and Ms. Bennie Faye Woods (Requestor) on the application by JOCO Holding Corporation (Applicant) for Texas Land Application Permit (TLAP) No. WQ0002730000. The Executive Director respectfully recommends that these Requests for Reconsideration be denied.

Attached for Commission consideration are the following:

- Attachment A – Technical Summary & Draft Permit
- Attachment B – Executive Director's First Amended Response to Public Comment
- Attachment C – Compliance History
- Attachment D – GIS Map
- Attachment E – CCN Map

**II. BACKGROUND**

Description of Facility

The Applicant filed an amended application with the TCEQ for a renewal of its permit authorizing the disposal of domestic wastewater by evaporation and irrigation of coastal bermuda grass at an application rate not to exceed 3.80 acre-feet per year per acre irrigated. This permit renewal will not authorize a discharge of pollutants into water in the state. The facility and land application site are on the east side of Interstate Highway 35 West, approximately 2000 feet southeast of the Bethesda Road overpass and approximately 5.1 miles southeast of the City of Burleson, Johnson County, Texas. The facility and land application site are located in the drainage areas of the Upper Trinity River, Segment No. 0805 of the Bays and Estuaries, and Lake Arlington, Segment No. 0828 of the Bays and Estuaries.

Procedural Background

The Applicant, which operates a motel and restaurant complex, originally applied for a major amendment to its existing TLAP permit seeking authorization to discharge treated domestic and food wastewaters at a daily average flow of 10,000 gallons per day. The TCEQ received the amendment application on October 20, 2004, and declared it administratively complete on January 8, 2005. The original Notice of Application and Intent to Obtain a Water Quality Permit (NORI) was published on February 9, 2005 in the *Burleson Star*. The original Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published on November 2, 2005 in the *Burleson Star*. Notice of a Public Meeting was published on May 14, 2006 in the *Burleson Star*. A public meeting was held on June 22, 2006 in the Chamber of Commerce Building, 1044 S.W. Wilshire Blvd., Burleson, TX. 76028. To correct an error in the original notices regarding the location of the application for public review, the second NAPD was published on August 23, 2006 in the *Burleson Star*. The public comment period ended on September 22, 2006. The Executive Director's Response to Public Comment (RTC) was filed on November 2, 2006. The Executive Director's Final Decision Letter was mailed on November 7, 2006, and the period for timely filing a Request for Reconsideration or Contested Case Hearing Request ended on December 7, 2006. Two timely Requests for Reconsideration were received, and set to be considered by the Commissioners at the March 28, 2007 Agenda. The Applicant filed a letter with the Executive Director on March 21, 2007, withdrawing the major amendment portion of the permit application and seeking a renewal of the land application portion of the permit only. On March 23, 2007, the file was remanded to the Executive Director for processing as a renewal application.

A subsequent technical review was performed and a revised draft permit was developed, reflecting the revised request for disposal by evaporation only of the effluent generated at the facility. The Combined NORI/NAPD on the renewal application was published on February 20, 2008 in the *Burleson Star*. The second public comment period ended on March 21, 2008. No public comments were received during the second public comment period. The Executive Director's First Amended Response to Public Comment was filed on April 25, 2008, and the Executive Director's Final Decision Letter was mailed on May 5, 2008. The second period for timely filing a Request for Reconsideration or Contested Case Hearing Request ended on June 6, 2008. No Contested Case Hearing Requests or additional Requests for Reconsideration were received. This application was declared administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76<sup>th</sup> Legislature, 1999.

### **III. ANALYSIS OF REQUEST FOR RECONSIDERATION**

According to Section 55.209(f) of Title 30 of the Texas Administrative Code (TAC) responses to Requests for Reconsideration (RFR) should address the issues raised in the request.

**A. Executive Director's Analysis of Ms. Bennie Faye Woods' Request for Reconsideration**

On November 27, 2006, the TCEQ Office of the Chief Clerk received a letter from Ms. Bennie Faye Woods requesting that the TCEQ reconsider the issuance of the discharge permit. A copy of the Combined NORI/NAPD was mailed to Ms. Woods on February 6, 2008, informing her that the discharge portion of the application had been withdrawn and notifying her that the renewal portion of the application was being processed. Ms. Woods did not withdraw or amend her RFR, or submit any additional comments. In her RFR, Ms. Woods raised the following issues:

**Issue 1:**

**There is no series of ditches that leads to Quil Miller Creek from Interstate Highway 35, her land is in a flood zone, and all of the water that comes from the direction of the motel/restaurant stops on her property.**

The Applicant has withdrawn its request for a major amendment to discharge wastewater. The renewal application seeks authorization to dispose of domestic wastewater via evaporation and irrigation. The proposed permit renewal would not authorize the Applicant to discharge wastewater along a discharge route or into Quil Miller Creek. The facility and land application site are located on the Applicant's property.

**Issue 2:**

**The impact the discharge will have on grazing cattle and attracting mosquitoes/pests.**

The Applicant has withdrawn its request for a major amendment to discharge wastewater. The renewal application seeks authorization to dispose of treated effluent via evaporation from a storage pond and irrigation of 20 acres of coastal bermuda grass. The facility and land application site are located on the Applicant's property, and should not affect neighboring cattle.

**Issue 3:**

**Whether the discharge will reach Lake Arlington.**

The Applicant has withdrawn its request for a major amendment to discharge wastewater. The renewal application seeks authorization to dispose of domestic wastewater via evaporation and irrigation. The proposed permit renewal would not authorize the Applicant to discharge wastewater along a discharge route or into Lake Arlington.

**Issue 4:**

**The City of Burleson should be responsible for providing sewer service or the hotel should put in a septic system.**

According to TCEQ maps, the Certificate of Convenience and Necessity (CCN) for the City of Burleson's sewer service area (CCN No. 20358) does not include the Applicant's facility. Section 26.0283 of the Texas Water Code (TWC) provides that in considering the renewal of a permit to discharge waste, the Commission may deny or alter the terms and conditions of the proposed renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed regional waste collection treatment, and disposal systems not designated as such by Commission order. The renewal application seeks authorization to dispose of domestic wastewater via evaporation and irrigation, rather than discharging into water in the state. As such, the Applicant was not required to address regionalization concerns in the renewal application.

**B. Executive Director's Analysis of Mr. Tim Davis' Request for Reconsideration**

On November 29, 2006, the TCEQ Office of the Chief Clerk received a letter from Mr. Tim Davis requesting that the TCEQ reconsider the issuance of the discharge permit. A copy of the Combined NORI/NAPD was mailed to Mr. Davis on February 6, 2008, informing him that the discharge portion of the application had been withdrawn and notifying him that the renewal portion of the application was being processed. Mr. Davis did not withdraw or amend his RFR, or submit any additional comments. In his RFR, Mr. Davis raised the following issues:

**Issue 1:**

**The series of ditches goes through the middle of his property and his property does not drain well. Since his property does not drain well, the water will be stagnate and attract mosquitoes.**

The Applicant has withdrawn its request for a major amendment to discharge wastewater. The renewal application seeks authorization to dispose of domestic wastewater via evaporation and irrigation. The proposed permit renewal would not authorize the Applicant to discharge wastewater along a discharge route. The facility and land application site are located on the Applicant's property.

**Issue 2:**

**The impact the discharge will have on cattle grazing near or drinking the discharge. The RTC stated that the discharge would meet the standards set by the Texas Surface Water Quality Standards and that it "should not pose a problem to cattle." This means it could or would possibly pose a threat to his livestock.**

The Applicant has withdrawn its request for a major amendment to discharge wastewater. The renewal application seeks authorization to dispose of treated effluent via evaporation from a storage pond and irrigation of 20 acres of coastal bermuda grass. The facility and land application site are located on the Applicant's property, and should not affect neighboring cattle.

**Issue 3:**

**The impact the discharge will have on his children.**

The Applicant has withdrawn its request for a major amendment to discharge wastewater. The renewal application seeks authorization to dispose of domestic wastewater via evaporation and irrigation. The proposed permit renewal would not authorize the Applicant to discharge wastewater along a discharge route.

**Issue 4:**

**Potential problems of the discharge traveling 25 miles to Lake Arlington.**

The Applicant has withdrawn its request for a major amendment to discharge wastewater. The renewal application seeks authorization to dispose of domestic wastewater via evaporation and irrigation. The proposed permit renewal would not authorize the Applicant to discharge wastewater along a discharge route or into Lake Arlington.

**Issue 5:**

**The City of Burleson should handle the waste.**

According to TCEQ maps, the Certificate of Convenience and Necessity (CCN) for the City of Burleson's sewer service area (CCN No. 20358) does not include the Applicant's facility. Section 26.0283 of the Texas Water Code (TWC) provides that in considering the renewal of a permit to discharge waste, the Commission may deny or alter the terms and conditions of the proposed renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed regional waste collection treatment, and disposal systems not designated as such by Commission order. The renewal application seeks authorization to dispose of domestic wastewater via evaporation and irrigation, rather than discharging into water in the state. As such, the Applicant was not required to address regionalization concerns in the renewal application.

**IV. EXECUTIVE DIRECTOR'S RECOMMENDATION**

The issues raised by Ms. Woods and Mr. Davis do not address the renewal application at hand, but rather stem from the Applicant's original application for a major amendment seeking authorization to discharge treated domestic wastewater. The proposed renewal complies with the applicable statutes and regulations, and no additional information was

provided that would cause the Executive Director to alter his recommendation to renew the permit. Consequently, the Executive Director respectfully recommends denial of the Requests for Reconsideration.

Respectfully submitted,

Texas Commission on Environmental  
Quality

Mark Vickery, P.G.  
Executive Director

Robert Martinez, Director  
Environmental Law Division

By 

Timothy J. Reidy, Staff Attorney

Environmental Law Division

State Bar No. 24058069

P.O. Box 13087, MC 173

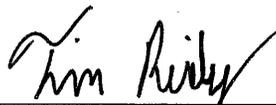
Austin, Texas 78711-3087

(512) 239-0969

REPRESENTING THE EXECUTIVE  
DIRECTOR OF THE TEXAS  
COMMISSION ON ENVIRONMENTAL  
QUALITY

**CERTIFICATE OF SERVICE**

I certify that on October 10, 2008, an original and seven copies of the "Executive Director's Response to Requests for Reconsideration" of Permit No. WQ0002730000 were filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was served by first-class mail, agency mail, or facsimile to all persons on the attached mailing list.



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Timothy J. Reid, Staff Attorney  
Environmental Law Division  
State Bar No. 24058069

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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CHIEF CLERKS OFFICE

# **Attachment A – Technical Summary & Draft Permit**

## TECHNICAL SUMMARY AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

### DESCRIPTION OF APPLICATION

Applicant: JOCO Holding Corporation; Permit No. WQ0002730000.

Regulated Activity: Industrial Wastewater Permit.

Type of Application: Renewal Only.

Request: Renewal.

Authority: Texas Water Code § 26.027; 30 TAC Chapter 305, Subchapters C-F, Chapters 307, 309, and 319, Commission Policies and EPA Guidelines.

### EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed the permit be issued to expire September 1, 2011 in accordance with 30 TAC Section 305.71, Basin Permitting.

### REASON FOR PROJECT PROPOSED

The applicant has applied to the TCEQ for a renewal of its existing permit.

### PROJECT DESCRIPTION AND LOCATION

The applicant operates a motel and restaurant complex.

The motel and restaurant process wastewater is treated by an activated sludge plant operated in the extended aeration mode at a daily average flow not to exceed 30,000 gallons per day. Treatment units include a lift station, bar screen, aeration basin, and a final clarifier. Treated effluent is transferred to a storage pond with an approximate total surface area of 1.7 acres and a minimum volume of 16 acre-feet prior to disposal via evaporation and irrigation of 20 acres of coastal bermuda. Sludge generated from the treatment facility is hauled by a registered transporter to the City of The Colony, Stewart Creek Wastewater Treatment Facility, Permit No. 11570-001 to be digested, dewatered and then disposed of with the bulk of the sludge from the plant accepting the sludge.

The plant site is located on the east side of Interstate Highway 35 West, approximately 2000 feet southeast of the Bethesda Road overpass and approximately 5.1 miles southeast, Johnson County, Texas.

The facility and disposal site are located in the drainage area of Upper Trinity River and Lake Arlington in Segment No. 0805 and 0828 of the Trinity River Basin. The designated uses for Segment No. 0805 and 0828 are (805) has high aquatic life use and contact recreation; (828) has high aquatic life use, contact recreation and public water supply. All determinations are preliminary and subject to additional review and/or revisions.

### SUMMARY OF EFFLUENT DATA

The permittee indicates that no irrigation has occurred in the past five years; therefore no current information is available.

TECHNICAL SUMMARY AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION  
Permit No. WQ0002730000

PROPOSED PERMIT CONDITIONS

The draft permit authorizes the disposal of domestic wastewater by evaporation and irrigation of 20 acres of coastal bermuda grass at an application rate not to exceed 3.80 acre-feet per year per acre irrigated.

The following limitations have been established in the draft permit:

<u>Parameter</u>	<u>Effluent Limitation</u>	<u>Monitoring Frequency</u>	<u>Sample Type</u>
Flow, MGD (*1)	0.03	1 / day	Estimate
Biochemical Oxygen Demand, 5-day, (BOD <sub>5</sub> )	30 mg/l (*2) Max.	1 / month	Grab
pH, Standard Units	6.0 Min. / 9.0 Max.	1 / month	Grab
(*1) Million Gallons per Day (*2) Milligrams per Liter			

The flow monitoring requirements have been required to maintain accurate records of the flow volumes routed to the evaporation pond and to ensure suitable capacities are maintained. Monitoring requirements for biochemical oxygen demand (5-day) has been required based on the characteristics of the wastewater routed to the evaporation pond and to determine if nuisance conditions are occurring. The pH monitoring requirement has been required to ensure pond liner is protected.

SUMMARY OF CHANGES FROM APPLICATION

The following changes have been made from the application which makes the draft more stringent.

1. The permittee indicated that 20 acres is the current acreage available for irrigation; as a result of this change a new water balance was performed and a more stringent maximum application rate of 3.80 Ac-ft/ac/yr now applies.

See the next section for additional changes to the existing permit.

SUMMARY OF CHANGES FROM EXISTING PERMIT

The following additional changes have been made to the draft permit.

The draft permit has been updated with general language; to be consistent with current TCEQ policies and practices.

BASIS FOR PROPOSED DRAFT PERMIT

The following items were considered in developing the proposed permit draft:

1. Application received October 20, 2004 and additional information received March 21, 2007.
2. Existing permits: TCEQ Permit No. WQ0002730000 issued August 14, 2001.
3. TCEQ Rules.
4. 30 TAC Chapter 309.
5. Texas Water Development Board Lake Evaporation and Precipitation data for Quadrangle 510.
6. Consistency with the Coastal Management Plan: "N/A"

TECHNICAL SUMMARY AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION  
Permit No. WQ0002730000

PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for review and copying in the county where the facility is or will be located. This application will be in a public place throughout the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice informs the public about the application, and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

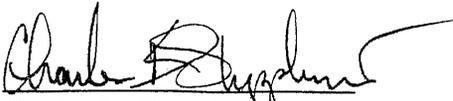
Once a draft permit is completed, it is sent, along with the Executive Director's preliminary decision, as contained in the technical summary or fact sheet, to the Chief Clerk. At that time, Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application. This notice sets a deadline for public comment.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding. After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's Response to Comments and Final Decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If the Executive Director calls a public meeting or the Commission grants a contested case hearing as described above, the Commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the Commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application contact Charles K. Shepphard at (512) 239-4487.

  
Charles K. Shepphard

1/29/08  
Date

ATTACHMENT A  
WATER BALANCE BASED EFFLUENT REQUIREMENTS

TABLE 1: WATER BALANCE CALCULATIONS, all units in inches											
Facility Name: JOCO Holding Corp. WQ0002730000											
Month	Avg Prec	Avg Runoff	Avg Infil Rainfall	Evapo trans	Req Leach	Total Water Needs	Effl Needed Root Zn	Net Evap Res. Ft.	Net Evap. Res. Surf	Efflnt Needed Based on Irrigation Efficiency	Consump. from Reserv. (Including Res. Evap.)
January	1.76	0.83	0.93	0.81	0.00	0.81	0.00	0.03	0.03	0.00	0.03
February	2.22	1.21	1.01	1.17	0.03	1.20	0.19	0.02	0.02	0.22	0.24
March	2.51	1.46	1.05	2.79	0.28	3.07	2.02	0.13	0.13	2.38	2.51
April	3.41	2.27	1.14	3.42	0.36	3.78	2.65	0.12	0.12	3.12	3.24
May	4.49	3.29	1.20	6.12	0.78	6.90	5.70	0.05	0.05	6.70	6.75
June	3.19	2.07	1.12	6.93	0.93	7.86	6.74	0.31	0.32	7.93	8.24
July	2.21	1.20	1.01	7.11	0.97	8.08	7.08	0.52	0.53	8.32	8.86
August	2.30	1.28	1.02	4.95	0.63	5.58	4.56	0.47	0.48	5.36	5.84
September	3.32	2.19	1.13	5.13	0.64	5.77	4.64	0.23	0.23	5.46	5.69
October	3.54	2.39	1.15	3.51	0.38	3.89	2.74	0.11	0.11	3.22	3.34
November	2.29	1.27	1.02	1.62	0.10	1.72	0.70	0.07	0.07	0.82	0.89
December	2.28	1.26	1.02	0.72	0.00	0.72	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>33.52</b>	<b>20.75</b>	<b>12.77</b>	<b>44.28</b>	<b>5.08</b>	<b>49.36</b>	<b>37.00</b>	<b>2.06</b>	<b>2.10</b>	<b>43.53</b>	<b>45.64</b>
Crop is	Bermuda										
CN	89.00	Max. Appl = <input type="text" value="3.80"/> Ac-in/ac/month									
Ce	1.03										
CL	7.50										
PND AREA	1.70	ACRES									
PND CAPACITY	16	AC-FEET									
IRR. AREA	20.00	ACRES									
Irr. Eff., K	0.85										
Design Flow	0.030	MGD									
Effluent Avail.	0.03										
Application=	1.68	IN/AC/MONTH									
TABLE 2: STORAGE CALCULATIONS											
JOCO Holding Corp. WQ0002730000											
Month	Effluent Application	Rain Dist	Rain Worst Year	Field Runoff Worst Year	Infil Rain Check	Infil. Rain	Avail Water	Net Low Evap. Mean Dist	Net Low Evap Res. Surf	Storage	Accum Storage
	(inches)		(inches)	(inches)	(inches)	(inches)	(inches)			(inches)	
January	1.68	5.24	2.74	1.66	1.07	1.07	2.75	1.28	0.00	1.68	2.68
February	1.68	6.61	3.45	2.31	1.14	1.14	2.82	1.17	0.00	1.61	4.36
March	1.68	7.49	3.91	2.74	1.17	1.17	2.85	6.40	0.02	-0.57	5.97
April	1.68	10.18	5.31	4.07	1.24	1.24	2.92	5.95	0.02	-1.33	Hand-Calc
May	1.68	13.41	7.00	5.71	1.29	1.29	2.97	2.35	0.01	-4.93	Hand-Calc
June	1.68	9.51	4.96	3.74	1.23	1.23	2.91	15.11	0.06	-6.17	Hand-Calc
July	1.68	6.58	3.43	2.30	1.14	1.14	2.82	25.36	0.09	-6.58	Hand-Calc
August	1.68	6.87	3.59	2.44	1.15	1.15	2.83	22.71	0.08	-3.61	Hand-Calc
September	1.68	9.89	5.16	3.93	1.23	1.23	2.92	10.99	0.04	-3.69	Hand-Calc
October	1.68	10.56	5.51	4.26	1.25	1.25	2.93	5.12	0.02	-1.44	Hand-Calc
November	1.68	6.84	3.57	2.42	1.15	1.15	2.83	3.49	0.01	1.00	Hand-Calc
December	1.68	6.81	3.55	2.41	1.15	1.15	2.83	0.06	0.00	1.68	1.00
Low Net Evap. =	20.16	99.99	52.19	37.99	14.21	14.21	34.37	99.99	0.37	-22.38	5.97
Max. Annual Rain =		0.36 feet									
		52.20 Inches						9.95	Ac-Ft		
											Storage Requirements =



PERMIT NO. WQ0002730000

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
P. O. Box 13087  
Austin, Texas 78711-3087

This is a renewal of TCEQ Permit No. WQ0002730000, issued on August 14, 2001.

PERMIT TO DISCHARGE WASTES

under provisions of Chapter 26  
of the Texas Water Code

I. Name of Permittee:

A. Name: JOCO Holding Corporation

B. Address: P. O. Box 10  
Burlleson, Texas 76097-0010

II. Nature of Business Producing Waste:

a motel and restaurant complex. (SIC 5812, 7011)

III. General Description and Location of Waste Disposal System:

Description: The motel and restaurant process wastewater is treated by an activated sludge plant operated in the extended aeration mode at a daily average flow not to exceed 30,000 gallons per day. Treatment units include a lift station, bar screen, aeration basin, and a final clarifier. Treated effluent is transferred to a storage pond with an approximate total surface area of 1.7 acres and a minimum volume of 16 acre-feet prior to disposal via evaporation and irrigation of 20 acres of coastal bermuda. Sludge generated from the treatment facility is hauled by a registered transporter to the City of The Colony, Stewart Creek Wastewater Treatment Facility, Permit No. 11570-001 to be digested, dewatered and then disposed of with the bulk of the sludge from the plant accepting the sludge.

Location: on the east side of Interstate Highway 35 West, approximately 2000 feet southeast of the Bethesda Road overpass and approximately 5.1 miles southeast, Johnson County, Texas.

Drainage Basin: Upper Trinity River and Lake Arlington, in Segment No. 0805 and 0828, of the Trinity River Basin. No discharge of pollutants into water in the state is authorized by this permit.

This permit and the authorization contained herein shall expire at midnight on September 1, 2011.

ISSUED DATE:

\_\_\_\_\_  
For the Commission

IV. CONDITIONS OF THE PERMIT:

Character: Treated domestic wastewater from a motel and restaurant complex.

Volume: Not to exceed a daily average flow of 0.03 Million Gallons per Day (MGD)

Quality: The wastewater disposed of by irrigation or evaporation shall not exceed the following limitations and shall be monitored at the following frequencies. Records of these samples shall be readily available for inspection by authorized representatives of the TCEQ for a minimum of three years. Samples shall be taken at the plant site before being routed to the irrigation field.

<u>Parameter</u>	<u>Effluent Limitation</u>	<u>Monitoring Frequency</u>	<u>Sample Type</u>
Flow, MGD (*1)	0.03	1 / day	Estimate
Biochemical Oxygen Demand, 5-day, (BOD <sub>5</sub> )	30 mg/l (*2)	1 / month	Grab
pH, Standard Units	6.0 Min. / 9.0 Max.	1 / month	Grab
(*1) Million Gallons per Day (*2) Milligrams per Liter			

Results from the analyses shall be retained on site for five years and available for inspection by authorized representatives of the TCEQ. This data shall be submitted to the Enforcement Division (MC 224), Industrial Permits Team (MC-148) of the Water Quality Division, and the Regional Office of the Texas Commission on Environmental Quality (TCEQ) during the month of September of each calendar year.

V. SPECIAL PROVISIONS:

A. For the purpose of Part IV of this permit, the following definitions shall apply:

1. A grab sample means an individual sample collected in less than 15 minutes.
2. Grab sample quality means the quality determined by measuring the concentration in milligrams per liter, parts per million or other appropriate units of measurement in a single grab sample of the defined waste.
3. Daily average flow volume means the arithmetic average of all determinations of the daily flow measurement within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily discharge, the determination shall be the arithmetic average of all instantaneous measurements taken during that month.

B. Irrigation practices shall be designed and managed to prevent contamination of ground or surface waters and to prevent the occurrence of nuisance conditions. Tail water control facilities shall be provided, where necessary, to prevent the discharge of any wastewater which might drain from irrigated lands to water in the state.

C. A readily accessible sampling point and flow measuring device shall be provided by the permittee.

- D. The permittee shall maintain a perennial crop of coastal bermuda grass or a similar vegetation cover over the irrigated area. The irrigated fields shall be mowed at least once each year, and all resulting hay shall be removed from the fields. Fertilizers shall be used if required to maintain healthy grass on the irrigated fields.
- E. No wastewater may be applied within twenty-four hours after a measured rainfall of 0.5 inches or greater, or to any zone containing standing water.
- F. Adequate signs shall be erected stating that the irrigation water is from a non-potable water supply. Said signs shall 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.
- G. Once per year, the permittee shall take representative soil samples and determine the sodium-adsorption ratio (SAR) for the irrigation tract. If the SAR is 10 or greater, amendments (e.g. lime, gypsum, calcium chloride) shall be added to the soil to adjust the SAR to less than 10. Composite sampling techniques should be used when sampling the soils of the wastewater application area. Individual soil types, as defined by the USDA Soil Conservation Service soil survey, should be sampled individually at zones of 0-6, 6-18, and 18-30 inches. Each composite sample shall represent no more than 80 acres with no less than 15 subsamples representing each composite sample. Subsamples shall be composited by individual site, zone and soil type for analysis and reporting.

The samples shall be analyzed for pH, electrical conductivity, nitrate nitrogen, phosphorus, potassium, sodium, magnesium, calcium, and sodium adsorption ratio (SAR) (not to exceed an SAR of 10). The nutritive parameters should be analyzed in extractable or available form.

The permittee shall submit the results of the soil sample analyses and the report to the TCEQ Enforcement Division (MC 224), Water Quality Assessment (MC 150) and the Region 4 Office (MC Region 4) during September of each year.

- H. The permittee shall tabulate the volume and quality of the wastewater used for irrigation, the acreage which has been irrigated, and the soil sampling results for the preceding year. This data shall be submitted to the Water Quality Management Information Systems Team (MC 224), Enforcement Division of the Texas Commission on Environmental Quality (TCEQ), and the Regional Office during the month of September of each calendar year.
- I. All wastewater retention ponds shall be operated in such a manner as to maintain a minimum freeboard of two feet.
- J. These treatment facilities shall be operated and maintained by a certified plant operator.
- K. The permittee shall provide adequate maintenance of the treatment and irrigation facilities to ensure that the facilities are in working condition. No treatment or irrigation facilities shall be removed from service without prior notification of the Executive Director of the TCEQ.
- L. This permit does not authorize the discharge of any pollutant from the irrigation site. The wastewater disposal system shall be designed and operated to prevent:
1. Discharge from the irrigated property.
  2. Recharge of groundwater resources which supply or may potentially supply domestic raw water.
  3. The occurrence of nuisance conditions.

M. The permittee shall maintain an operating log which records the volume of wastewater used for irrigation each day, the hours the wastewater is applied each day, and the actual surface area wetted each day. Results from the analyses required in Part IV and the operating log shall be retained on site for five years and available for inspection by authorized representatives of the TCEQ.

N. Storm water drainage shall be prevented from entering all ponds and from running onto the irrigation tract.

O. Ponds:

1. All wastewater irrigation ponds shall be lined in compliance with one of the following requirements:
  - a. Soil Liner: The soil liner shall contain at least two feet of clay-rich (liquid limit greater than or equal to 30 and plasticity index greater than or equal to 15) soil material along the sides and bottom of the pond compacted in lifts of no more than 9 inches; to 95% standard proctor density at the optimum moisture content to achieve a permeability equal to or less than  $1 \times 10^{-7}$  cm/sec.
  - b. Synthetic/Plastic/Rubber Liner: The liner shall be either a plastic or rubber membrane liner at least 30 mils in thickness which completely covers the sides and the bottom of the pond and which is not subject to degradation due to reaction with wastewater with which it will come into contact. If this lining material is vulnerable to ozone or ultraviolet deterioration it shall be covered with a protective layer of soil of at least six inches. A leak detection system is also required.
  - c. Alternate Liner: The permittee shall submit plans for any other pond lining method. Pond liner plans must be approved in writing by the Executive Director of the Texas Commission on Environmental Quality (TCEQ) prior to pond construction.

The permittee shall furnish certification by a Licenced Professional Engineer that the completed pond lining meets the appropriate criteria prior to utilization of the facilities.

P. Application rates to the irrigated land shall not exceed 3.80 acre-feet per year per acre irrigated. The permittee is responsible for providing equipment to determine application rates and maintaining accurate records of the volume of effluent applied. These records shall be made available for review by the TCEQ and shall be maintained for at least five years.

Q. The permittee shall submit a cropping plan on an annual basis. This plan shall include, but shall not be limited to the following:

1. A soils map depicting the location of the crops currently being grown. These locations shall be identified by field and crop.
2. List the crops and acreage of each crop.
3. Growing seasons of each crop.
4. Nutrient requirements of each crop.
5. Supplemental watering requirements.
6. Salt tolerances of each crop.
7. Harvesting methods.
8. Number of harvests per year per crop.

This plan shall be submitted to the TCEQ's Wastewater Permitting Section (MC-148) and the Water Quality Assessment (MC 150) during the month of September of each calendar year.

**VI. STANDARD PERMIT CONDITIONS**

This permit is granted in accordance with the Texas Water Code and the rules and other Orders of the Commission and the laws of the State of Texas.

**DEFINITIONS**

All definitions in Section 26.001 of the Texas Water Code and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

**1. Flow Measurements**

- a. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- b. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with a 1 million gallons per day or greater permitted flow.
- c. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.

**2. Concentration Measurements**

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
  - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.
  - ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.

**3. Sample Type**

- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).
- b. Grab sample - an individual sample collected in less than 15 minutes.

4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids which have not been classified as hazardous waste separated from wastewater by unit processes.
6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

**MONITORING REQUIREMENTS**

1. Monitoring Requirements

Monitoring results shall be collected at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling in accordance with 30 TAC §§ 319.4 - 319.12.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Texas Water Code, Chapters 26, 27, and 28, and Texas Health and Safety Code, Chapter 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record or other document submitted or required to be maintained under this permit, including monitoring reports, records or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

2. Test Procedures

Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§319.11 - 319.12. Measurements, tests and calculations shall be accurately accomplished in a representative manner.

3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, and records of all data used to complete the application for this permit shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, or application. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
  - i. date, time and place of sample or measurement;
  - ii. identity of individual who collected the sample or made the measurement.
  - iii. date and time of analysis;
  - iv. identity of the individual and laboratory who performed the analysis;
  - v. the technique or method of analysis; and
  - vi. the results of the analysis or measurement and quality assurance/quality control records.

The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that may be instituted against the permittee.

## 4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in determining compliance with permit requirements.

## 5. Calibration of Instruments

All automatic flow measuring or recording devices and all totalizing meters for measuring flows shall be accurately calibrated by a trained person at plant start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually unless authorized by the Executive Director for a longer period. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained at the facility site and/or shall be readily available for review by a TCEQ representative for a period of three years.

## 6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

## 7. Noncompliance Notification

- a. In accordance with 30 TAC § 305.125(9), any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall 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 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. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:
    - i. Unauthorized discharges as defined in Permit Condition 2(g).
    - ii. Any unanticipated bypass which exceeds any effluent limitation in the permit.
  - c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
  - d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible.
8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional Office and the Enforcement Division (MC 224) in writing within five (5) working days, after becoming aware of or having reason to believe:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - i. One hundred micrograms per liter (100 µg/L);
  - ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
  - iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
  - iv. The level established by the TCEQ.
- b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - i. Five hundred micrograms per liter (500 µg/L);
  - ii. One milligram per liter (1 mg/L) for antimony;
  - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
  - iv. The level established by the TCEQ.

#### 10. Signatories to Reports

All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC § 305.128 (relating to Signatories to Reports).

### PERMIT CONDITIONS

#### 1. General

- a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.
- b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:
  - i. Violation of any terms or conditions of this permit;
  - ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
  - iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

#### 2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.

- b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation or suspension, or for denial of a permit renewal application or an application for a permit for another facility.
- c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation which has a reasonable likelihood of adversely affecting human health or the environment.
- e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.
- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and Texas Water Code Section 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Special Provisions section of this permit.
- h. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties).

### 3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the Texas Water Code Chapters 26, 27, and 28, and Texas Health and Safety Code Chapter 361.
- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in Texas Water Code Section 7.002. The statement above, that Commission entry shall 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 facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

### 4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
  - i. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring Requirements No. 9;

- ii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
- c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
- d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.
- e. In accordance with the Texas Water Code § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.

#### 5. Permit Transfer

- a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.
- b. A permit may be transferred only according to the provisions of 30 TAC § 305.64 (relating to Transfer of Permits) and 30 TAC § 50.133 (relating to Executive Director Action on Application or WQMP update).

#### 6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal which requires a permit or other authorization pursuant to the Texas Health and Safety Code.

#### 7. Property Rights

A permit does not convey any property rights of any sort, or any exclusive privilege.

#### 8. Permit Enforceability

The conditions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

#### 9. Relationship to Permit Application

The application pursuant to which the permit has been issued is incorporated herein; provided, however, that in the event of a conflict between the provisions of this permit and the application, the provisions of the permit shall control.

## 10. Notice of Bankruptcy.

- a. Each permittee shall notify the executive director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:
  - i. the permittee;
  - ii. an entity (as that term is defined in 11 USC, §101(15)) controlling the permittee or listing the permit or permittee as property of the estate; or
  - iii. an affiliate (as that term is defined in 11 USC, §101(2)) of the permittee.
- b. This notification must indicate:
  - i. the name of the permittee;
  - ii. the permit number(s);
  - iii. the bankruptcy court in which the petition for bankruptcy was filed; and
  - iv. the date of filing of the petition.

**OPERATIONAL REQUIREMENTS**

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.
2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§ 319.21 - 319.29 concerning the discharge of certain hazardous metals.
3. Domestic wastewater treatment facilities shall comply with the following provisions:
  - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
  - b. The permittee shall submit a closure plan for review and approval to the Land Applications Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.
4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.
5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under Texas Water Code § 7.302(b)(6).

## 7. Documentation

For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information specified as not confidential in 30 TAC § 1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

## 8. Facilities which generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.

- a. Whenever flow measurements for any domestic sewage treatment facility reach 75 percent of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. Whenever the flow reaches 90 percent of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility which reaches 75 percent of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

If in the judgement of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 149) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.
  - c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.

10. Facilities which generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
- a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
  - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
  - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Environmental Cleanup Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
  - d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.
  - e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
  - f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:
    - i. Volume of waste and date(s) generated from treatment process;
    - ii. Volume of waste disposed of on-site or shipped off-site;
    - iii. Date(s) of disposal;
    - iv. Identity of hauler or transporter;
    - v. Location of disposal site; and
    - vi. Method of final disposal.

The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.

11. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with Chapter 361 of the Texas Health and Safety Code.

**Attachment B –  
Executive Director’s First  
Amended Response to  
Public Comment**

RENEWAL OF TPDES PERMIT NO. WQ0002730000

APPLICATION BY § BEFORE THE 2018 APR 25 AM 10: 07  
 JOCO HOLDING CORPORATION § TEXAS COMMISSION ON CHIEF CLERKS OFFICE  
 § ENVIRONMENTAL QUALITY  
 §

EXECUTIVE DIRECTOR'S FIRST AMENDED RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this First Amended Response to Public Comment (Response) on JOCO Holding Corporation's application and the Executive Director's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comments from the following persons: Ken Olsen, Albert Germain, Bobby G. Brown, Roger Holcomb, Patsy Lauderback, Nina Faye Brown, Norman Lassetter, Tim Davis, K.C. Neubauer, Floyd Watkins, Bennie Fay Woods, Rand Rademaker, Sonny J. Creach, and J. Walker Holland. This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

**BACKGROUND**

Description of Facility

JOCO Holding Corporation (the Applicant) filed an amended application with the TCEQ for a renewal of TPDES Permit No. WQ0002730000, which authorizes the disposal of domestic wastewater by evaporation and irrigation of coastal bermuda grass at an application rate not to exceed 3.85 acre-feet per year per acre irrigated. This permit renewal will not authorize a discharge of pollutants into water in the state.

The facility and land application site are on the east side of Interstate Highway 35 West, approximately 2000 feet southeast of Bethesda Road overpass and approximately 5.1 miles southeast of the City of Burleson, Johnson County, Texas. The facility and land application site are located in the drainage areas of the Upper Trinity River, Segment No. 0805 of the Bays and Estuaries, and Lake Arlington, Segment No. 0828 of the Bays and Estuaries.

Procedural Background

The Applicant, which operates a motel and restaurant complex, originally applied for a major amendment to its existing permit seeking authorization to discharge treated domestic and food wastewaters at a daily average flow of 10,000 gallons per day. TCEQ received this application on October 20, 2004, and declared it administratively complete on January 8, 2005. The original Notice of Application and Intent to Obtain a Water Quality Permit (NORI) was published on February 9, 2005 in the *Burleson Star*. The original Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published on November 2, 2005 in the *Burleson Star*. Notice of a Public Meeting was published on May 14, 2006 in the *Burleson Star*. A public meeting was held on June 22, 2006 in the Chamber of Commerce Building, 1044 S.W. Wilshire Blvd., Burleson, TX. 76028. To correct an error in the original notices regarding the location of the application for public review, the second NAPD was published on August 23, 2006 in the *Burleson Star*. The public comment period ended on September 22, 2006. The Executive Director's Response to Public Comment (RTC) was filed on November 2, 2006. The Executive Director's Final Decision Letter was mailed November 7, 2006 and the period for timely filing a Request for Reconsideration or Contested Case Hearing Request ended on December 7, 2006. Two timely Requests for Reconsideration were received, and set to be considered by the commissioners of the TCEQ on March 28, 2007. The Applicant filed a letter with the Executive Director on March 21, 2007 requesting a withdrawal of the major amendment portion of the permit application seeking authorization to discharge and pursuing the renewal of the land application portion of the permit only. On March 23, 2007, the file was remanded to the Executive Director for processing as a renewal application.

The Combined NORI/NAPD was published on February 20, 2008 in the *Burleson Star*. The public comment period ended on March 21, 2008. No public comments were received during the most recent public comment period. This response amends the Executive Director's original RTC, filed November 2, 2006, which is no longer accurate due to the Applicant's subsequent withdrawal of its request for a major amendment. This application was declared administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76<sup>th</sup> Legislature, 1999.

## COMMENTS AND RESPONSES

### COMMENT 1:

Ken Olsen, Albert Germain, Bobby G. Brown, Roger Holcomb, Patsy Lauderback, Nina Faye Brown, Norman Lassetter, Tim Davis, K.C. Neubauer, Floyd Watkins, Bennie Fay Woods, Rand Rademaker, and Sonny J. Creach all commented that the permit application was not available for viewing and copying at the U.S. Post Office at 232 Southwest Johnson Avenue, Burleson, Texas.

### RESPONSE 1:

The Executive Director's original response read as follows:

"The Applicant is required to complete an Application Availability Verification Form (AAVF) for each wastewater permit application submitted to the TCEQ. The AAVF requires that the Applicant certify that a copy of the complete permit application, including revisions, draft permit, and the Executive Director's preliminary decision, was made available at a public place in the county where the facility is located 'in accordance with the provisions of 30 TAC, Section 39.405(g)(2).' This provision also provides that the application shall be available 'beginning on the first day of newspaper publication required by this section and remain available until final resolution, either by TCEQ or the State Office of Administrative Hearing (SOAH).' The TCEQ received the Applicant's AAVF on November 15, 2005, stating that the application was available at the Burleson City Hall during the comment period. However, the NORI stated that the application was available at the U.S. Post Office in Burleson.

In response to Comment 1, the Applicant was required to republish the NAPD and submit a new AAVF. The AAVF certified that a copy of the application was available at the Environmental Services City Service Center, 1675 S.E. John Jones, Burleson, Texas. This is consistent with the republished NAPD."

This response does not require amendment. During the most recent public comment period the permit renewal application was available for viewing and copying at Burleson City Hall, City Secretary's Office, 141 West Renfro, Burleson, Texas 76028.

#### **COMMENT 2:**

Ken Olsen, Albert Germain, Bobby G. Brown, Roger Holcomb, Patsy Lauderback, Nina Faye Brown, Norman Lassetter, Tim Davis, K.C. Neubauer, Floyd Watkins, Bennie Fay Woods, Rand Rademaker, and Sonny J. Creach commented that Quil Miller Creek is in a flood zone.

#### **RESPONSE 2**

The Executive Director's original response read as follows:

"The wastewater permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ has not considered flooding in water quality permit processing. However, proposed permit does not authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations."

The Applicant has amended its application, seeking to renew its permit for the irrigation of its wastewater. The Applicant has withdrawn its request to discharge into Quil Miller Creek.

**COMMENT 3:**

J. Walker Holland and Nina Faye Brown commented that they own property down gradient from the above-referenced motel and restaurant complex and that they object to effluent discharged to creeks that traverse their property. Tim Davis also expressed concern regarding how the Applicant will get the 10,000 gallons of water per day to Quil Miller Creek.

**RESPONSE 3:**

The Executive Director's original response read as follows:

“The issuance of this permit does not grant the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.”

The Applicant has withdrawn its request for a major amendment to discharge wastewater. The renewal application currently before the Executive Director seeks authorization to dispose of domestic wastewater via evaporation and irrigation. The proposed permit renewal would not authorize the Applicant to discharge wastewater along a discharge route or into Quil Miller Creek.

**COMMENT 4:**

Tim Davis and Nina Faye Brown commented that they graze cattle along the discharge route and do not want their cows drinking treated wastewater or eating grass that is growing in wastewater land.

**RESPONSE 4:**

The Executive Director's original comment read as follows:

“The draft permit was written to comply with the Texas Surface Water Quality Standards (30 TAC, Chapter 307). The Texas Surface Water Quality Standards require that any discharge maintain water quality consistent with the protection of human health, terrestrial life, and aquatic life. The effluent from the proposed facility has reported a TDS concentration of 662 mg/L of TDS and therefore should not pose a problem for cattle consumption. The permittee's effluent analysis provided with the permit application yielded a nitrate nitrogen level of 17 mg/L nitrate nitrogen. This level of nitrate nitrogen should not pose a problem to the cattle.

The permittee has also proposed to chlorinate the effluent to preclude bacterial contamination to surface water which should prevent bacterial infection of any cattle drinking from the receiving stream.”

The Applicant has withdrawn its request for a major amendment to discharge wastewater. The renewal application currently before the Executive Director seeks authorization to dispose of treated effluent via evaporation from a storage pond and irrigation of 20 acres of coastal bermuda grass. The facility and land application site are located on the Applicant's property, and should not affect neighboring cattle.

#### **CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT**

No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental  
Quality

Glenn Shankle  
Executive Director

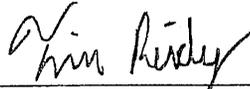
Robert Martinez, Director  
Environmental Law Division

By Tim Reidy  
Timothy J. Reidy, Staff Attorney  
Environmental Law Division  
State Bar No. 24058069  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
(512) 239-0969

REPRESENTING THE EXECUTIVE  
DIRECTOR OF THE TEXAS  
COMMISSION ON ENVIRONMENTAL  
QUALITY

CERTIFICATE OF SERVICE

I certify that on April 25, 2008, the "Executive Director's First Amended Response to Public Comment" for Permit No. WQ0002730000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



---

Timothy J. Reidy, Staff Attorney  
Environmental Law Division  
State Bar No. 24058069

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2008 APR 25 AM 10:07

CHIEF CLERKS OFFICE

**Attachment C –  
Compliance History**

# Compliance History

Customer/Respondent/Owner-Operator:	CN601121593 Joco Holding Corporation	Classification: AVERAGE	Rating: 7.00
Regulated Entity:	RN102077518 RESTAURANT MOTEL	Classification: AVERAGE	Site Rating: 7.00
ID Number(s):	WASTEWATER WASTEWATER LICENSING	PERMIT LICENSE	WQ0002730000 WQ0002730000
Location:	LOCATED ON THE E SIDE OF IH 35 W APPROX 2000 FT SE OF THE BETHESDA RD OVERPASS AND APPROX 5.1 MI OF THE CITY OF BURLESON IN JOHNSON COUNTY		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	October 02, 2008		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	October 02, 2008 to October 20, 1999		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Tim Reidy Phone: \_\_\_\_\_

### Site Compliance History Components

- |  |            |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes        |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No         |
| 3. If Yes, who is the current owner?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
.....
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# **Attachment D – GIS Map**

**JOCO Holding Corp.**  
**Renewal of TPDES Permit No. WQ0002730000**  
**Map Requested by TCEQ Office of Legal Services**  
**for Commissioners Agenda**



Texas Commission on Environmental Quality  
 GIS Team (Mail Code 197)  
 P.O. Box 13087  
 Austin, Texas 78711-3087  
 October 7, 2008



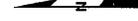
Projection: Texas Statewide Mapping System  
 (TSMSS)  
 Scale 1:12,000

- Legend**
- ⊙ Requestor's Property
  - Facility
  - Property Boundary

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the requestor information from the applicant. The counties are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a source photograph from the 2004 U.S. Department of Agriculture Imagery Program. The imagery is one-meter Color-Infrared (CIR). The image classification number is TX06\_1\_1.

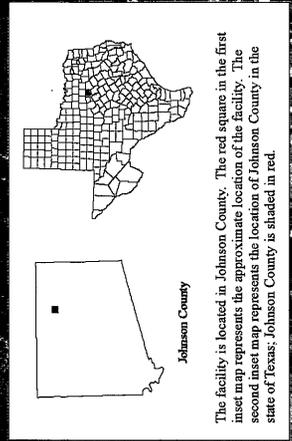
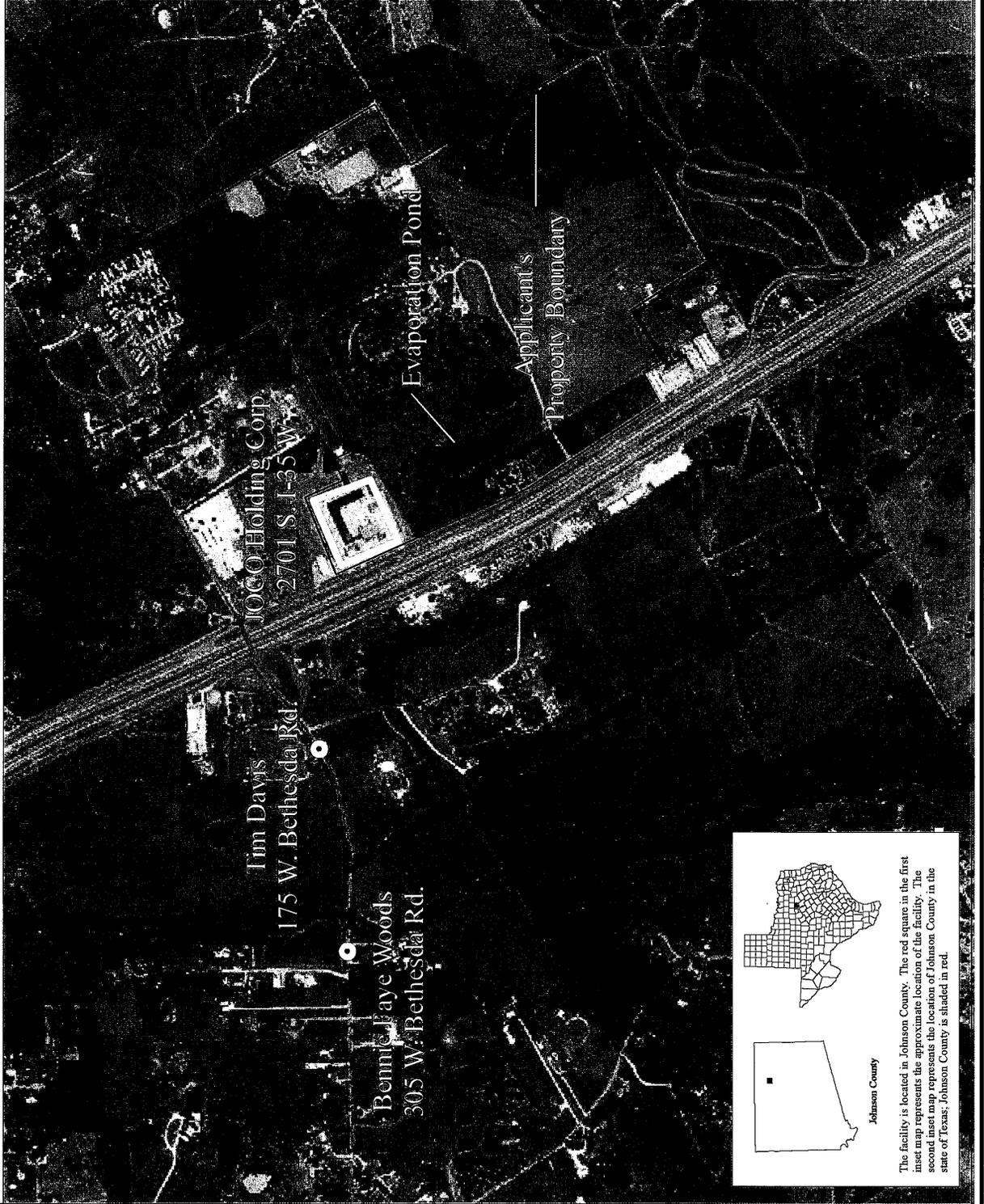
This map depicts the following:

- (1) The approximate location of the facility. This is labeled "JOCO Holdings, Corp."
- (2) The locations of the requestors.
- (3) The applicant's property boundary.



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This map was not generated by a licensed surveyor, and is intended for illustrative purposes only. No claims are made to the accuracy or completeness of the data or to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

M:\MG\borough CIR-081003003



# **Attachment E – CCN Map**



Map by S. Jaster 10/9/2008

1 inch = 4,500 feet



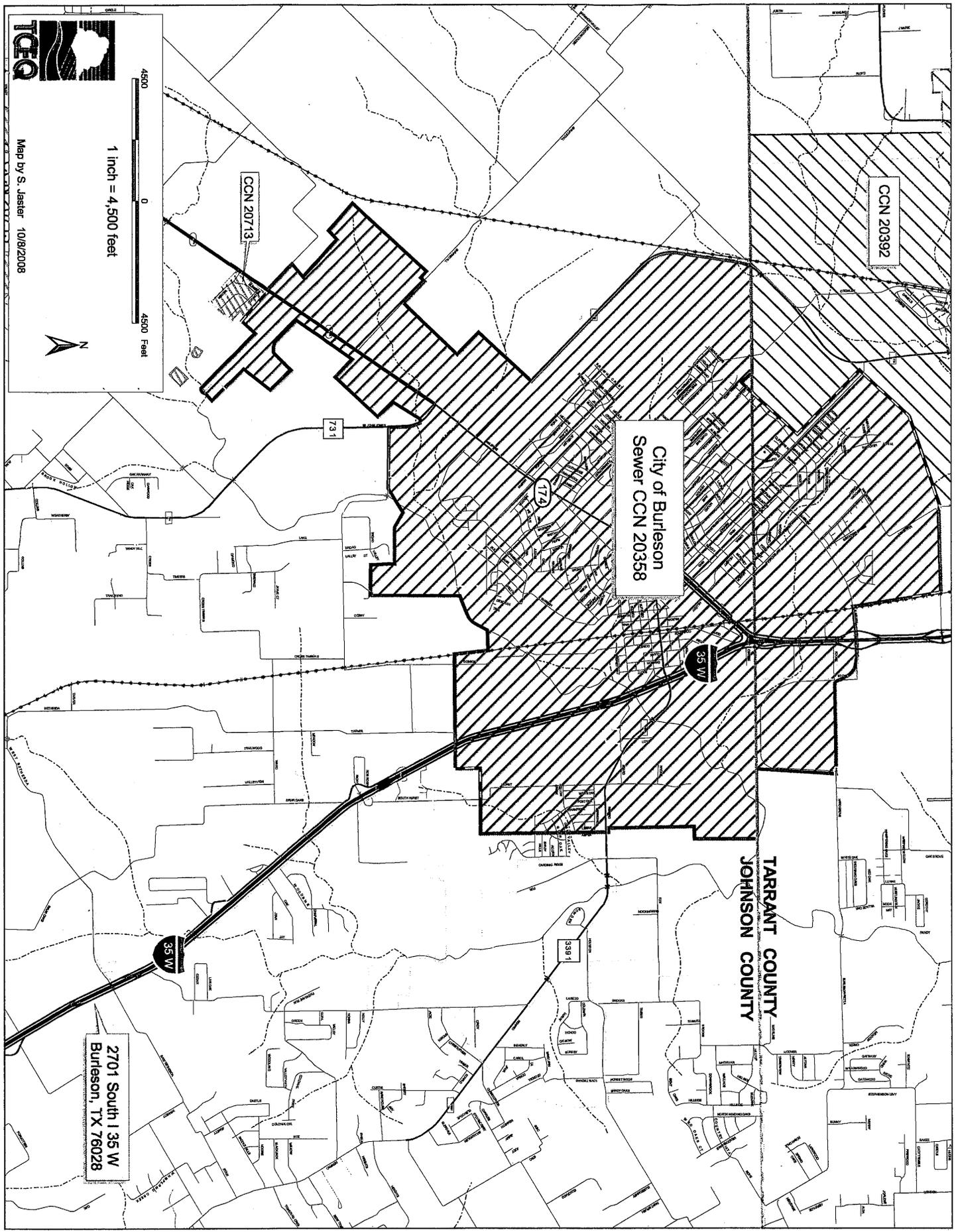
CCN 20713

CCN 20392

City of Burleson  
Sewer CCN 20358

TARRANT COUNTY  
JOHNSON COUNTY

2701 South I 35 W  
Burleson, TX 76028



MAILING LIST  
For  
JOCO HOLDING CORPORATION  
TCEQ DOCKET NO. 2006-2167-IWD; PERMIT NO. WQ0002730000

FOR THE APPLICANT:

James D. Martin, P.E.  
Martin Consulting Engineers, Inc.  
P.O. Box 121962  
Fort Worth, Texas 76121-1962  
Tel: (817) 560-4544

Martha Martin  
JOCO Holding Corporation  
P.O. Box 10  
Burlleson, Texas 76097-0010  
Tel: (817) 295-7573

FOR THE EXECUTIVE DIRECTOR:

Timothy J. Reidy, Staff Attorney  
Texas Commission on Environmental Quality  
Environmental Law Division, MC-173  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-0969  
Fax: (512) 239-0606

Chris Linendoll, Manager  
Texas Commission on Environmental Quality  
Water Quality Division, MC-148  
P.O. Box 13087  
Austin Texas 78711-3087  
Tel: (512) 239-4515  
Fax: (512) 239-4430

Kelly Holligan, Team Leader  
Texas Commission on Environmental Quality  
Water Quality Division, M-148  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-2369  
Fax: (512) 239-4430

FOR ALTERNATIVE DISPUTE RESOLUTION:

Kyle Lucas  
Texas Commission on Environmental Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-0687  
Fax: (512) 239-4015

FOR THE OFFICE OF PUBLIC ASSISTANCE:

Bridget Bohac, Director  
Texas Commission on Environmental Quality  
Office of Public Assistance, MC-108  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-4000  
Fax: (512) 239-4007

FOR PUBLIC INTEREST COUNSEL:

Blas J. Coy, Jr., Attorney  
Texas Commission on Environmental Quality  
Public Interest Counsel, MC-103  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-6363  
Fax: (512) 239-6377

FOR THE CHIEF CLERK:

LaDonna Castañuela  
Texas Commission on Environmental Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel: (512) 239-3300  
Fax: (512) 239-3311

REQUESTORS:

Tim Davis  
175 W. Bethesda Rd.  
Burlleson, Texas 76028-1632

Bennie Faye Woods  
305 W. Bethesda Rd.  
Burleson, Texas 76028-1633

Floyd Watkins  
2324 S. Interstate 35 W.  
Burleson, Texas 76028-6176

INTERESTED PERSONS:

Bobby G. Brown  
215 W. Bethesda Rd.  
Burleson, Texas 76028-1632

Nina Faye Brown  
145 W. Bethesda Rd.  
Burleson, Texas 76028-1611

Sonny J. Creach  
301 W. Bethesda Rd.  
Burleson, Texas 76028-1633

Albert Germain  
2260 S. Burleson Blvd.  
Burleson, Texas 76028-1622

Roger Holcomb  
2450 S. Burleson Rd.  
Burleson, Texas 76028

J. Walker Holland, Attorney  
Holland, Johns, Schwartz, & Penny, L.L.P.  
306 W. 7th St., Ste. 500  
Fort Worth, Texas 76102-4900

Norman Lassetter  
3408 Morfeld Dr.  
Crowley, Texas 76036-4534

Patsy Lauderback  
2760 S. Interstate 35 W.  
Burleson, Texas 76028-1446

K.C. Neubauer  
2710 S. Interstate 35 W.  
Burleson, Texas 76028-1446

Ken Olsen  
2540 S. Interstate 35 W.  
Burleson, Texas 76028-1625

Rand Rademaker  
300 W. Bethesda Rd.  
Burleson, Texas 76028-1631