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CHIEF CLERK'S OFFICE

APPLICATION BY § BEFORE THE
CAPE ROYALE UTILITY DISTRICT § TEXAS COMMISSION ON
PERMIT NO. WQ0010997001 § ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests (Response) on the application by Cape Royale Utility District (Applicant) for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010997001. Timely hearing requests were received from the following individuals: Pamela and Robert Chandler, Larry Green, Patrick Shay, and Helen and William Williams.

Attached for Commission consideration are the following:

Attachment A	Statement of Basis/Technical Summary and Executive Director's Preliminary Decision
Attachment B	Draft Permit
Attachment C	Compliance History
Attachment D	Executive Director's Response to Public Comments (RTC)
Attachment E	Landowners' Map/Satellite Map/Site Map with Legend

Copies of the documents were provided to all parties. The Office of the Chief Clerk previously mailed the RTC to all persons on the mailing list.

II. Facility Description

Applicant has applied to the TCEQ for a renewal without change of its TPDES Permit No. WQ0010997001, that would authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 150,000 gallons per day (gpd). The existing wastewater treatment facility serves Cape Royale Utility District. The Cape Royale Wastewater Treatment Facility is an activated sludge process plant operated in the contact stabilization mode. Treatment units include a bar screen, two contact stabilization chambers, two re-aeration basins, two final clarifiers, two aerobic sludge digesters, a chlorine contact chamber, a mixed media filter, a mud well and a clear well. The facility is in operation. The draft permit also authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The facility is located approximately 5.5 miles north of the City of Coldspring in the northwest corner of the Cape Royale Subdivision, on the shore of Lake Livingston in San Jacinto County, Texas. The treated effluent discharges directly into Lake Livingston in Segment No. 0803 of the Trinity River Basin. The designated uses for Segment No. 0803 are high aquatic life use, public water supply, and contact recreation. The State's inventory of impaired and threatened waters, the 2006 Clean Water Act Section 303(d) list, currently lists Segment No. 0803 for elevated pH values and depressed dissolved oxygen concentrations. This application is for renewal of an existing authorization. Therefore, there is no increase in the permitted levels of oxygen-demanding constituents to Segment No. 0803.

III. Procedural Background

The renewal application was received on August 8, 2006 and declared administratively complete on August 28, 2006. The Notice of Receipt and Intent to Obtain a Water Quality Permit was published on September 7, 2006 in the *San Jacinto News Times*. The Notice of Application and Preliminary Decision for a Water Quality Permit was published on December 14, 2006 in the *San Jacinto News Times*. The comment period ended on January 18, 2007. The ED's RTC was filed on March 2, 2007, and the period for requesting reconsideration or a contested case hearing ended April 6, 2007. Since this application was administratively complete after September 1, 1999, it is subject to House Bill 801 (76th Legislature, 1999).

IV. The Evaluation Process for Hearing Requests

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The application was declared administratively complete on August 28, 2006 and therefore is subject to the HB 801 requirements. The commission implemented HB 801 by adopting procedural rules in 30

Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The regulations governing requests for contested case hearings are found at 30 TAC, Chapter 55.

A. No Right to a Contested Case Hearing

Applications for which there is no right to a contested case hearing include:

An application, under Texas Water Code, Chapter 26, to renew or amend a permit if:

- (A) the applicant is not applying to:
 - (i) increase significantly the quantity of waste authorized to be discharged; or
 - (ii) change materially the pattern or place of discharge;
- (B) the activity to be authorized by the renewal or amended permit will maintain or improve the quality of waste authorized to be discharged;
- (C) any required opportunity for public meeting has been given;
- (D) consultation and response to all timely received and significant public comment has been given; and
- (E) the applicant's compliance history for the previous five years raises no issues regarding the applicant's ability to comply with a material term of the permit;

30 TAC § 55.201(i)(5).

B. Responses to Requests

“The Executive Director, the public interest counsel, and applicant may submit written responses to [hearing] requests” 30 TAC §55.209(d).

Responses to hearing requests must specifically address:

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or of law;
- (4) whether the issues were raised during the public comment period;
- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e).

C. Hearing Request Requirements

In order for the commission to consider a hearing request, the commission must first determine whether the request meets certain requirements.

A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided . . . and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment.

30 TAC §55.201(c).

A hearing request must substantially comply with the following:

- (1) give the time, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- (5) provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

D. Requirement that Requestor be an "Affected Person"

In order to grant a contested case hearing, the commission must determine that a requestor is an "affected person."

- (a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- (b) Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - (1) whether the interest claimed is one protected by the law under which the application will be considered;
 - (2) distance restrictions or other limitations imposed by law on the affected interest;
 - (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
 - (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203.

E. Referral to the State Office of Administrative Hearings

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.” 30 TAC § 50.115(b).

The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue:

- (1) involves a disputed question of fact;
- (2) was raised during the public comment period; and
- (3) is relevant and material to the decision on the application.

30 TAC § 50.115(c).

V. Analysis of the Requests

A. Whether There is a Right to a Contested Case Hearing.

The Applicant has applied to renew its wastewater discharge permit issued under Chapter 26 of the Texas Water Code. The facility has been in existence since 1970. The Applicant has not applied to increase the quantity of waste authorized to be discharged or to change the place of discharge. The effluent limitations in the renewal permit will maintain the quality of the discharged waste. There were requests for a public hearing but no requests for a public meeting. The ED filed and distributed a response to all timely received and significant public comments. The Applicant's compliance history beginning five years prior to the submission of its renewal application until the present shows that the TCEQ issued five written Notices of Violation (NOVs) to the wastewater treatment facility for issues regarding recordkeeping, operations and maintenance, and unauthorized discharges. In all instances of noncompliance, the Applicant timely notified the TCEQ as required by 30 TAC § 319.302 and submitted compliance documentation certifying that corrective action was completed. There is no history of enforcement orders. The Applicant's compliance history is Average. This compliance history raises no issues regarding the Applicant's ability to comply with a material term of the permit.

The ED recommends that the Commission find that there is no right to a contested case hearing under 30 TAC § 55.201(i)(5).

B. Alternative Analysis

If the Commission determines that there is a right to a contested case hearing, the ED alternatively analyzes whether the hearing requests conformed to Commission rules, who qualifies as an affected person, what issues may be referred for a contested case hearing, and the length of the hearing.

1. Whether the Requestors Complied With 30 TAC §§ 55.201(c) and (d).

Pamela and Robert Chandler, Larry Green, Patrick Shay, and Helen and William Williams submitted timely written public hearing requests that included relevant contact information and raised disputed issues. Patrick Shay submitted a second hearing request dated April 10, 2007 and received by the Office of the Chief Clerk on April 12, 2007, after the 30-day deadline, April 6, 2007, for requesting a hearing; therefore, any new issues raised in this second request are not timely.

The ED recommends the Commission find that the hearing requests of Pamela and Robert Chandler, Larry Green, and Helen and William Williams substantially comply with the requirements of 30 TAC § 55.201(c) & (d). Although the ED recommends the Commission find that Patrick Shay's prior hearing request complies with the requirements, the ED recommends the Commission find that his April 10, 2007 request was untimely and did not comply with 30 TAC § 55.201(c).

2. *Whether the Requestors Met the Requirements of an Affected Person*

All four requestors own property within one-half mile of the facility and all properties border the shoreline of Lake Livingston. Patrick Shay lives directly adjacent to the facility. The Williams state that they live 150 to 200 yards from the wastewater treatment facility. The site map shows that the properties of Patrick Shay and Robert Chandler are within 150 feet of the facility and the other two requestors own property within 500 feet of the facility.

Under 30 TAC § 55.203(c), because of the location of the requestors' residences, a reasonable relationship does exist between the interest claimed and the activity regulated. Similarly, there is likely impact on their health and safety, on the use of their property, and on the use of any impacted natural resource. Therefore, all requestors have raised personal justiciable interests not common to that of the general public. The ED concludes that Pamela and Robert Chandler, Larry Green, Patrick Shay, and Helen and William Williams are affected persons.

The ED recommends the Commission find that Pamela and Robert Chandler, Larry Green, Patrick Shay, and Helen and William Williams are affected persons and meet the requirements of 30 TAC § 55.203.

3. *Whether the Issues Raised are Referable to SOAH for a Contested Case Hearing*

In the event the Commission finds there is a right to a contested case hearing and that there are affected persons, the ED has analyzed issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the RTC. None of the issues were withdrawn. All identified issues in the response are considered disputed, unless otherwise noted. The issues raised for this application and the ED's analysis and recommendations follow.

1. *Whether Applicant's failure to control noise constitutes a nuisance with potential impact on property values of the adjacent landowners. (RTC #1)*

Pamela and Robert Chandler, Larry Green, Patrick Shay, and Helen and William Williams raised this issue. This issue is not considered in the wastewater permitting process.

Therefore, this issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

2. Whether Applicant can comply with the terms of the permit. (RTC #2)

Pamela and Robert Chandler, Larry Green, Patrick Shay, and Helen and William Williams raised this issue. Compliance issues are within TCEQ's jurisdiction and are relevant and material to the decision on the permit application. The issue involves a question of fact, was raised during the public comment period, and was not withdrawn.

The ED recommends referral of this issue to SOAH.

3. Whether the facility complies with applicable regulations regarding odor, if any. (RTC #3)

Pamela and Robert Chandler and Helen and William Williams raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. 30 TAC § 309.13(e) only applies to a new wastewater treatment plant unit or a substantive change in the function or use of an existing wastewater treatment unit. This plant was constructed in 1970 and predated any regulations regarding odor control. Although the ED has determined that the requirements in § 309.13(e) do not apply to this facility, this raises a potential fact issue that may be relevant and material to the decision on the permit application.

The ED recommends referral of this issue to SOAH.

4. Whether Applicant's facility violates deed restrictions by being located on a parcel of land originally intended for a recreation reserve. (RTC #4)

Larry Green and Patrick Shay raised this issue. This issue is not considered in the wastewater permitting process. Therefore, this issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

5. Whether storm water runoff washes chemicals and sewer spills onto residential property.

Patrick Shay raised this issue in his April 10, 2007 letter that was received by the Office of the Chief Clerk on April 12, 2007. Storm water runoff is not considered in the wastewater permitting process. Therefore, this issue is not relevant and material to a decision on the permit application. In addition, Mr. Shay did not raise this issue in his initial, timely requests during the public comment period. Also, the receipt of his April 10 letter on April 12, 2007 is after the deadline of April 6, 2007 to submit hearing requests and is not timely.

The ED recommends not referring this issue to SOAH.

VI. Duration of the Contested Case Hearing

The ED recommends a six-month duration for a contested case hearing on this matter, should there be one, between preliminary hearing and the presentation of a proposal for decision.

VII. Executive Director's Recommendation

The ED recommends the following actions by the Commission:

The ED recommends that the Commission find that there is no right to a contested case hearing under 30 TAC § 55.201(i)(5), deny all hearing requests, approve the ED's Response to Public Comment, and issue the permit.

In the event the Commission finds there is a right to a contested case hearing and there are affected persons, the ED recommends the Commission approve the hearing requests of Patrick Shay, Larry V. Green, Robert and Pamela Chandler, and Helen and William Williams, affected persons, and refer the following issues to SOAH for a proceeding of six months duration:

Issue 2. Whether Applicant can comply with the terms of the permit.

Issue 3. Whether the facility complies with applicable regulations regarding odor, if any.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Glenn Shankle, Executive Director

Robert Martinez, Director
Environmental Law Division

By 

Celia Castro, Staff Attorney
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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on October 15, 2007, the original and eleven copies of the "Executive Director's Response to Hearing Requests" for Cape Royale Utility District, TPDES Permit No. WQ0010997001, were filed with the TCEQ's Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, or by deposit in the U.S. Mail.



Celia Castro, Staff Attorney
Environmental Law Division
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MAILING LIST
CAPE ROYALE UTILITY DISTRICT
DOCKET NO. 2007-0550-MWD; PERMIT NO. WQ0010997001

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REQUESTERS:

Robert and Pamela Chandler
271 North Fairway Loop
Coldspring, Texas 77331

Larry V. Green
40 Pebble Beach Circle
Coldspring, Texas 77331-3012

Patrick Shay
12418 Normont Drive
Houston, Texas 77070-2455

William and Helen A. Williams
251 North Fairway Loop
Coldspring, Texas 77331-3085

ATTACHMENT A

STATEMENT OF BASIS/TECHNICAL SUMMARY
AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant: Cape Royale Utility District;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0010997001, (TX0021083).

Regulated Activity: Domestic Wastewater Permit

Type of Application: Renewal

Request: Renewal with no changes

Authority: Federal Clean Water Act, Section 402; Texas Water Code Section 26.027; 30
TAC Chapters 305, 307, 309, 312, 319, 30; 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. The proposed permit includes an expiration date of February 1, 2012, according to 30 TAC Section 305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of the existing permit that authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 0.15 million gallons per day. The existing wastewater treatment facility serves Cape Royale Municipal Utility District.

PROJECT DESCRIPTION AND LOCATION

The Cape Royale Wastewater Treatment Facility is an activated sludge process plant operated in the contact stabilization mode. Treatment units include a lift station, bar screen, two contact stabilization basins, two re-aeration basins, two final clarifiers, two aerobic sludge digesters, a chlorine contact chamber, a mixed media filter, a mud well and a clear well. The facility is in operation.

Sludge generated from the treatment facility is hauled by a registered transporter to Richey Road Municipal Utility District Wastewater Treatment Facility, Permit No. WQ0012378002 to be digested, dewatered and then disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The plant site is located approximately 5.5 miles north of the City of Coldspring in the northwest corner of the Cape Royale Subdivision, on the shore of Lake Livingston in San Jacinto County, Texas.

The treated effluent is discharged directly to Lake Livingston in Segment No. 0803 of the Trinity River Basin. The designated uses for Segment No. 0803 are high aquatic life use, public water supply, and contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and/or revisions.

Effluent limitations for the conventional effluent parameters (i.e., Biochemical Oxygen Demand or Carbonaceous Biochemical Oxygen Demand, Ammonia Nitrogen, etc.) are based on stream standards and waste load allocations for water quality limited streams as established in the Texas Water Quality Standards and the water quality management plan.

The effluent limitations in the draft permit have been reviewed for consistency with the State of Texas Water Quality Management Plan (WQMP). The proposed effluent limitations are contained in the approved WQMP. A Waste Load Evaluation has not been completed for the segment.

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES, September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Segment 0803 is currently listed on the State's inventory of impaired and threatened waters (the 2004 Clean Water Act Section 303(d) list). The listing is specifically for elevated pH values and depressed dissolved oxygen concentrations. The pH impairment is confined to the upper portion of the reservoir, west of Carlisle and the cove off the upper portion of reservoir, East Trinity. The DO impairment is confined to the following five areas of the reservoir: cove off upper portion of reservoir, East Trinity; lower portion of reservoir, East Willow Springs; lower portion of reservoir, East Wolf Creek; lowermost portion of reservoir, adjacent to dam; and middle portion of reservoir, East Pointblank.

This application is for renewal of an existing authorization and will not represent an increase in the permitted levels of oxygen-demanding constituents to Segment 0803.

This facility when operated properly is expected to produce a pH between 6.0 and 9.0 standard units. During the period between 09-30-2002 and 06-30-2006, the minimum and maximum pH were 7.09 and 7.88 standard units, respectively.

SUMMARY OF EFFLUENT DATA

The following is a summary of the applicant's Monthly Effluent Report data for the period September 2002 through June 2006. The average of Daily Avg value is computed by averaging of all 30-day average values for the reporting period for each parameter.

<u>Parameter</u>	<u>Average of Daily Avg</u>
Flow, MGD	0.04
BOD ₅ , mg/l	3.12
TSS, mg/l	3.16

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at a daily average flow of 0.15 million gallons per day.

The effluent limitations in the draft permit, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS, Report mg/l NH₃-N, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The draft permit includes pretreatment requirements that are appropriate for a facility of this size and complexity. The facility does not appear to receive significant industrial wastewater contributions.

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility is hauled by a registered transporter to Richey Road Municipal Utility District Wastewater Treatment Facility, Permit No. WQ0012378002 to be digested, dewatered and then disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

SUMMARY OF CHANGES FROM APPLICATION

None.

SUMMARY OF CHANGES FROM EXISTING PERMIT

Effluent limitations and monitoring requirements in the draft permit remain the same as the existing permit requirements with the exception of a monitoring requirement for ammonium nitrogen (NH₃-N)

The Standard Permit Conditions, Sludge Provisions, Pretreatment Requirements, and Other Requirements sections of the draft permit have been updated.

The expiration date of the proposed draft permit is February 1, 2011.

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application received August 3, 2006 and additional information received August 24, 2006.
2. TPDES Permit No. 10997-001 issued September 17, 2002.
3. The effluent limitations and/or conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.10.
4. The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Domestic Wastewater Effluent Limitations.
5. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division. Interoffice memorandum from the Storm Water & Pretreatment Team of the TCEQ Water Quality Division.
6. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.
7. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.
8. Texas 2004 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, May 13, 2005; approved by USEPA on May 8, 2006.
9. "TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," Document No. 98-001.000-OWR-WQ, May 1998.

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 Rolland Sanders at (512) 239-4579 or Samuel Trevino at (512) 239-4618.

Samuel Trevino
Municipal Permits Team
Wastewater Permitting Section (MC 148)

Date

ATTACHMENT B



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

TPDES PERMIT NO. WQ0010997001
[For TCEQ Office Use Only:
EPA ID No. TX0021083]

This is a renewal that replaces
TPDES Permit No. 10997-001 issued
September 17, 2002.

PERMIT TO DISCHARGE WASTES

under provisions of
Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

Cape Royale Utility District

whose mailing address is

1330 Cape Royale Drive
Coldspring, Texas 77331

is authorized to treat and discharge wastes from the Cape Royale Wastewater Treatment Facility, SIC Code 4952

located approximately 5.5 miles north of the City of Coldspring in the northwest corner of the Cape Royale Subdivision, on the shore of Lake Livingston in San Jacinto County, Texas

directly to Lake Livingston in Segment No. 0803 of the Trinity River Basin

only according with effluent limitations, monitoring requirements and other conditions set forth in this 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 TCEQ. The issuance of this permit does not grant to 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.

This permit shall expire at midnight, **February 1, 2012.**

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.15 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 312 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Minimum Self-Monitoring Requirements</u>	
	Daily Avg mg/l(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Measurement Frequency	Single Grab Sample Type
Flow, MGD	Report	N/A	Report	N/A	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (13)	15	25	35	One/week	Grab
Total Suspended Solids	15 (19)	25	40	60	One/week	Grab
Ammonia Nitrogen	Report (Report)	N/A	N/A	Report	One/week	Grab

2. The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
6. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC §§ 305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code §§ 5.103 and 5.105, and the Texas Health and Safety Code §§ 361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. 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. 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.
- b. 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.
- c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.
- d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.
- e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.
- f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

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.
- d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day.

The "daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

- e. Fecal coliform bacteria concentration - the number of colonies of fecal coliform bacteria per 100 milliliters effluent. The daily average fecal coliform bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the n th root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of fecal coliform bacteria equaling zero, a substituted value of one shall be made for input into either computation method. The 7-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
 - g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), 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 AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided 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 and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, a monthly effluent report shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge which is described by this permit whether or not a discharge is made for that month. Monitoring results must be reported on an approved self-report form, that is signed and certified as required by Monitoring and Reporting Requirements No. 10.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act, 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 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 (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR § 264.73(b)(9) 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, application or certification. 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 the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

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.
 - iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES 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. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
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).

11. All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Executive Director of the following:
 - a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of the CWA if it were directly discharging those pollutants;
 - b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
 - c. For the purpose of this paragraph, adequate notice shall include information on:
 - i. The quality and quantity of effluent introduced into the POTW; and
 - ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

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 Other Requirements section of this permit.
- h. In accordance with 30 TAC § 305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility which does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
- i. 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) for violations including, but not limited to, negligently or knowingly violating the federal Clean Water Act, §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).

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 to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC § 305.534 (relating to New Sources and New Dischargers); or
 - ii. 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 and Reporting Requirements No. 9;
 - iii. 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.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit

shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

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. Relationship to Water Rights

Disposal of treated effluent by any means other than discharge directly to water in the state must be specifically authorized in this permit and may require a permit pursuant to Chapter 11 of the Texas Water Code.

8. Property Rights

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

9. 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.

10. 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.

11. 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(14)) 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 and the permit number(s);
 - ii. the bankruptcy court in which the petition for bankruptcy was filed; and
 - iii. 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 Application 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 required for TPDES permit applications, effluent data, including effluent data in permits, draft permits and permit applications, and other 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. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85 percent, unless otherwise authorized by this permit.
 11. 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 Registration, Review, and Reporting 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.
12. 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.

SLUDGE PROVISIONS

The permittee is authorized to dispose of sludge only at a Texas Commission on Environmental Quality (TCEQ) authorized land application site, or co-disposal landfill. The disposal of sludge by land application on property owned, leased or under the direct control of the permittee is a violation of the permit unless the site is authorized with the TCEQ. This provision does not authorize Distribution and Marketing of sludge. This provision does not authorize land application of Class A Sludge. This provision does not authorize the permittee to land apply sludge on property owned, leased or under the direct control of the permittee.

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION**A. General Requirements**

1. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC Chapter 312 and all other applicable state and federal regulations in a manner which protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants which may be present in the sludge.
2. In all cases, if the person (permit holder) who prepares the sewage sludge supplies the sewage sludge to another person for land application use or to the owner or lease holder of the land, the permit holder shall provide necessary information to the parties who receive the sludge to assure compliance with these regulations.
3. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

B. Testing Requirements

1. Sewage sludge shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method, which receives the prior approval of the TCEQ for the contaminants listed in Table 1 of 40 CFR Section 261.24. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division and the Regional Director (MC Region 10) within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 10) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

2. Sewage sludge shall not be applied to the land if the concentration of the pollutants exceed the pollutant concentration criteria in Table 1. The frequency of testing for pollutants in Table 1 is found in Section I.C.

TABLE 1

Pollutant	Ceiling Concentration (milligrams per kilogram)*
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
PCBs	49
Selenium	100
Zinc	7500

* Dry weight basis

3. Pathogen Control

All sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following methods to ensure that the sludge meets either the Class A or Class B pathogen requirements.

- a. Six alternatives are available to demonstrate compliance with Class A sewage sludge. The first 4 options require either the density of fecal coliform in the sewage sludge be less than 1000 Most Probable Number (MPN) per gram of total solids (dry weight basis), or the density of Salmonella sp. bacteria in the sewage sludge be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. Below are the additional requirements necessary to meet the definition of a Class A sludge.

Alternative 1 - The temperature of the sewage sludge that is used or disposed shall be maintained at or above a specific value for a period of time. See 30 TAC Section 312.82(a)(2)(A) for specific information.

Alternative 2 - The pH of the sewage sludge that is used or disposed shall be raised to above 12 std. units and shall remain above 12 std. units for 72 hours.

The temperature of the sewage sludge shall be above 52 degrees Celsius for 12 hours or longer during the period that the pH of the sewage sludge is above 12 std. units.

At the end of the 72-hour period during which the pH of the sewage sludge is above 12 std. units, the sewage sludge shall be air dried to achieve a percent solids in the sewage sludge greater than 50 percent.

Alternative 3 - The sewage sludge shall be analyzed for enteric viruses prior to pathogen treatment. The limit for enteric viruses is less than one Plaque-forming Unit per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 30 TAC Section 312.82(a)(2)(C)(i-iii) for specific information. The sewage sludge shall be analyzed for viable helminth ova prior to pathogen treatment. The limit for viable helminth ova is less than one per four grams of total solids (dry weight basis) either before or following pathogen treatment. See 30 TAC Section 312.82(a)(2)(C)(iv-vi) for specific information.

Alternative 4 - The density of enteric viruses in the sewage sludge shall be less than one Plaque-forming Unit per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. The density of viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed.

Alternative 5 (PFRP) - Sewage sludge that is used or disposed of shall be treated in one of the processes to Further Reduce Pathogens (PFRP) described in 40 CFR Part 503, Appendix B. PFRP include composting, heat drying, heat treatment, and thermophilic aerobic digestion.

Alternative 6 (PFRP Equivalent) - Sewage sludge that is used or disposed of shall be treated in a process that has been approved by the U. S. Environmental Protection Agency as being equivalent to those in Alternative 5.

- b. Three alternatives are available to demonstrate compliance with Class B criteria for sewage sludge.

Alternative 1 -

- i. A minimum of seven random samples of the sewage sludge shall be collected within 48 hours of the time the sewage sludge is used or disposed of during each monitoring episode for the sewage sludge.
- ii. The geometric mean of the density of fecal coliform in the samples collected shall be less than either 2,000,000 MPN per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

Alternative 2 - Sewage sludge that is used or disposed of shall be treated in one of the Processes to Significantly Reduce Pathogens (PSRP) described in 40 CFR Part 503, Appendix B, so long as all of the following requirements are met by the generator of the sewage sludge.

- i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;
- ii. An independent Texas Licensed Professional Engineer must make a certification to the generator of a sewage sludge that the wastewater treatment facility generating the sewage sludge is designed to achieve one of the PSRP at the permitted design loading of the facility. The certification need only be repeated if the design loading of the facility is increased. The certification shall include a statement indicating the design meets all the applicable standards specified in Appendix B of 40 CFR Part 503;
- iii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U. S. Environmental Protection Agency final guidance;
- iv. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review; and
- v. If the sewage sludge is generated from a mixture of sources, resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the PSRP, and shall meet the certification, operation, and record keeping requirements of this paragraph.

Alternative 3 - Sewage sludge shall be treated in an equivalent process that has been approved by the U. S. Environmental Protection Agency, so long as all of the following requirements are met by the generator of the sewage sludge.

- i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;
- ii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U. S. Environmental Protection Agency final guidance;
- iii. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review;
- iv. The executive director will accept from the U. S. Environmental Protection Agency a finding of equivalency to the defined PSRP; and

- v. If the sewage sludge is generated from a mixture of sources resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the Processes to Significantly Reduce Pathogens, and shall meet the certification, operation, and record keeping requirements of this paragraph.

In addition, the following site restrictions must be met if Class B sludge is land applied:

- i. Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.
- ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer prior to incorporation into the soil.
- iii. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than 4 months prior to incorporation into the soil.
- iv. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of sewage sludge.
- v. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.
- vi. Turf grown on land where sewage sludge is applied shall not be harvested for 1 year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn.
- vii. Public access to land with a high potential for public exposure shall be restricted for 1 year after application of sewage sludge.
- viii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.
- ix. Land application of sludge shall be in accordance with the buffer zone requirements found in 30 TAC Section 312.44.

4. Vector Attraction Reduction Requirements

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following alternatives 1 through 10 for Vector Attraction Reduction.

Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38 percent.

Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. Volatile solids must be reduced by less than 17 percent to demonstrate compliance.

Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with a percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. Volatile solids must be reduced by less than 15 percent to demonstrate compliance.

Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.

Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

- Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container.
- Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 percent based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90 percent based on the moisture content and total solids prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- Alternative 9 -
 - i. Sewage sludge shall be injected below the surface of the land.
 - ii. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.
 - iii. When sewage sludge that is injected below the surface of the land is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.
- Alternative 10-
 - i. Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.
 - ii. When sewage sludge that is incorporated into the soil is Class A with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

C. Monitoring Requirements

- Toxicity Characteristic Leaching Procedure (TCLP) Test - once during the term of this permit
- PCBs - once during the term of this permit

All metal constituents and Fecal coliform or *Salmonella* sp. bacteria shall be monitored at the appropriate frequency shown below, pursuant to 30 TAC Section 312.46(a)(1):

<u>Amount of sewage sludge (*) metric tons per 365-day period</u>	<u>Monitoring Frequency</u>
0 to less than 290	Once/Year
290 to less than 1,500	Once/Quarter
1,500 to less than 15,000	Once/Two Months
15,000 or greater	Once/Month

(*) The amount of bulk sewage sludge applied to the land (dry weight basis).

Representative samples of sewage sludge shall be collected and analyzed in accordance with the methods referenced in 30 TAC Section 312.7.

SECTION II. REQUIREMENTS SPECIFIC TO BULK SEWAGE SLUDGE FOR APPLICATION TO THE LAND MEETING CLASS A or B PATHOGEN REDUCTION AND THE CUMULATIVE LOADING RATES IN TABLE 2, OR CLASS B PATHOGEN REDUCTION AND THE POLLUTANT CONCENTRATIONS IN TABLE 3

For those permittees meeting Class A or B pathogen reduction requirements and that meet the cumulative loading rates in Table 2 below, or the Class B pathogen reduction requirements and contain concentrations of pollutants below listed in Table 3, the following conditions apply:

A. Pollutant Limits

Table 2

<u>Pollutant</u>	<u>Cumulative Pollutant Loading Rate (pounds per acre)</u>
Arsenic	36
Cadmium	35
Chromium	2677
Copper	1339
Lead	268
Mercury	15
Molybdenum	Report Only
Nickel	375
Selenium	89
Zinc	2500

Table 3

<u>Pollutant</u>	<u>Monthly Average Concentration (milligrams per kilogram)*</u>
Arsenic	41
Cadmium	39
Chromium	1200
Copper	1500
Lead	300
Mercury	17
Molybdenum	Report Only
Nickel	420
Selenium	36
Zinc	2800

* Dry weight basis

B. Pathogen Control

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, a reclamation site, shall be treated by either Class A or Class B pathogen reduction requirements as defined above in Section I.B.3.

C. Management Practices

1. Bulk sewage sludge shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters in the State.
2. Bulk sewage sludge not meeting Class A requirements shall be land applied in a manner which complies with the Management Requirements in accordance with 30 TAC Section 312.44.
3. Bulk sewage sludge shall be applied at or below the agronomic rate of the cover crop.

4. An information sheet shall be provided to the person who receives bulk sewage sludge sold or given away. The information sheet shall contain the following information:
 - a. The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land.
 - b. A statement that application of the sewage sludge to the land is prohibited except in accordance with the instruction on the label or information sheet.
 - c. The annual whole sludge application rate for the sewage sludge application rate for the sewage sludge that does not cause any of the cumulative pollutant loading rates in Table 2 above to be exceeded, unless the pollutant concentrations in Table 3 found in Section II above are met.

D. Notification Requirements

1. If bulk sewage sludge is applied to land in a State other than Texas, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk sewage sludge is proposed to be applied. The notice shall include:
 - a. The location, by street address, and specific latitude and longitude, of each land application site.
 - b. The approximate time period bulk sewage sludge will be applied to the site.
 - c. The name, address, telephone number, and National Pollutant Discharge Elimination System permit number (if appropriate) for the person who will apply the bulk sewage sludge.
2. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

E. Record keeping Requirements

The sludge documents will be retained at the facility site and/or shall be readily available for review by a TCEQ representative. The person who prepares bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative for a period of five years. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC Section 312.47 for persons who land apply.

1. The concentration (mg/kg) in the sludge of each pollutant listed in Table 3 above and the applicable pollutant concentration criteria (mg/kg), or the applicable cumulative pollutant loading rate and the applicable cumulative pollutant loading rate limit (lbs/ac) listed in Table 2 above.
2. A description of how the pathogen reduction requirements are met (including site restrictions for Class B sludges, if applicable).
3. A description of how the vector attraction reduction requirements are met.
4. A description of how the management practices listed above in Section II.C are being met.
5. The following certification statement:

"I certify, under penalty of law, that the applicable pathogen requirements in 30 TAC Section 312.82(a) or (b) and the vector attraction reduction requirements in 30 TAC Section 312.83(b) have been met for each site on which bulk sewage sludge is applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices have been met. I am aware that there are significant penalties for false certification including fine and imprisonment."
6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained.

The person who applies bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC Section 312.47 for persons who land apply.

1. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC Section 312.47(a)(4)(A)(ii) or 30 TAC Section 312.47(a)(5)(A)(ii), as applicable, and to the permittee's specific sludge treatment activities.
2. The location, by street address, and specific latitude and longitude, of each site on which sludge is applied.
3. The number of acres in each site on which bulk sludge is applied.
4. The date and time sludge is applied to each site.
5. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.
6. The total amount of sludge applied to each site in dry tons.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 10) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 1 of each year the following information:

1. Results of tests performed for pollutants found in either Table 2 or 3 as appropriate for the permittee's land application practices.
2. The frequency of monitoring listed in Section I.C. which applies to the permittee.
3. Toxicity Characteristic Leaching Procedure (TCLP) results.
4. Identity of hauler(s) and TCEQ transporter number.
5. PCB concentration in sludge in mg/kg.
6. Date(s) of disposal.
7. Owner of disposal site(s).
8. Texas Commission on Environmental Quality registration number, if applicable.
9. Amount of sludge disposal dry weight (lbs/acre) at each disposal site.
10. The concentration (mg/kg) in the sludge of each pollutant listed in Table 1 (defined as a monthly average) as well as the applicable pollutant concentration criteria (mg/kg) listed in Table 3 above, or the applicable pollutant loading rate limit (lbs/acre) listed in Table 2 above if it exceeds 90% of the limit.
11. Level of pathogen reduction achieved (Class A or Class B).
12. Alternative used as listed in Section I.B.3.(a. or b.). Alternatives describe how the pathogen reduction requirements are met. If Class B sludge, include information on how site restrictions were met.
13. Vector attraction reduction alternative used as listed in Section I.B.4.
14. Annual sludge production in dry tons/year.

15. Amount of sludge land applied in dry tons/year.
16. The certification statement listed in either 30 TAC Section 312.47(a)(4)(A)(ii) or 30 TAC Section 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge treatment activities, shall be attached to the annual reporting form.
17. When the amount of any pollutant applied to the land exceeds 90% of the cumulative pollutant loading rate for that pollutant, as described in Table 2, the permittee shall report the following information as an attachment to the annual reporting form.
 - a. The location, by street address, and specific latitude and longitude.
 - b. The number of acres in each site on which bulk sewage sludge is applied.
 - c. The date and time bulk sewage sludge is applied to each site.
 - d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk sewage sludge applied to each site.
 - e. The amount of sewage sludge (i.e., dry tons) applied to each site.

The above records shall be maintained on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

SECTION III. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE DISPOSED IN A MUNICIPAL SOLID WASTE LANDFILL

- A. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC Chapter 330 and all other applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The permittee shall ensure that the sewage sludge meets the requirements in 30 TAC Chapter 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.
- B. If the permittee generates sewage sludge and supplies that sewage sludge to the owner or operator of a Municipal Solid Waste Landfill (MSWLF) for disposal, the permittee shall provide to the owner or operator of the MSWLF appropriate information needed to be in compliance with the provisions of this permit.
- C. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.
- D. Sewage sludge shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I (Toxicity Characteristic Leaching Procedure) or other method, which receives the prior approval of the TCEQ for contaminants listed in Table 1 of 40 CFR Section 261.24. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal.

Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division and the Regional Director (MC Region 10) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 10) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

- E. Sewage sludge shall be tested as needed, in accordance with the requirements of 30 TAC Chapter 330.
- F. Record keeping Requirements

The permittee shall develop the following information and shall retain the information for five years.

1. The description (including procedures followed and the results) of all liquid Paint Filter Tests performed.
2. The description (including procedures followed and results) of all TCLP tests performed.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 10) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year the following information:

1. Toxicity Characteristic Leaching Procedure (TCLP) results.
2. Annual sludge production in dry tons/year.
3. Amount of sludge disposed in a municipal solid waste landfill in dry tons/year.
4. Amount of sludge transported interstate in dry tons/year.
5. A certification that the sewage sludge meets the requirements of 30 TAC Chapter 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.
6. Identity of hauler(s) and transporter registration number.
7. Owner of disposal site(s).
8. Location of disposal site(s).
9. Date(s) of disposal.

The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

OTHER REQUIREMENTS

1. The permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

This Category C facility must be operated by a chief operator or an operator holding a Category C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift which does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.

2. The facility is not located in the Coastal Management Program boundary.
3. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 0803 of the Trinity River Basin and any subsequent updating of the water quality model for Segment No. 0803, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC Section 305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.
4. The permittee is authorized to haul sewage sludge from the treatment process, by a licensed hauler, to the Richey Road Municipal Utility District (MUD) wastewater treatment facility, TPDES Permit No. WQ0012378002, to be blended, dewatered and then disposed of, with the commingled sludge from various plants that send their sludge to the Richey Road MUD facility, at a permitted landfill.

The permittee shall keep records of all sludge removed from the wastewater treatment plant site. Such records will include the following information:

- a. Volume of sludge hauled to the Richey Road MUD facility.
- b. Dates that sludge was hauled to the Richey Road MUD plant.
- c. Identity of haulers.

The above records shall be maintained on a monthly basis and shall be reported to the TCEQ Regional Office (MC Region 10) and the TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

CONTRIBUTING INDUSTRIES AND PRETREATMENT REQUIREMENTS

1. The following pollutants may not be introduced into the treatment facility:
 - a. Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR §261.21;
 - b. Pollutants which will cause corrosive structural damage to the POTW, but in no case shall there be discharges with pH lower than 5.0 standard units, unless the works are specifically designed to accommodate such discharges;
 - c. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, resulting in Interference;
 - d. Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW;
 - e. Heat in amounts which will inhibit biological activity in the POTW resulting in Interference but in no case shall there be heat in such quantities that the temperature at the POTW treatment plant exceeds 104 degrees Fahrenheit (40 degrees Celsius) unless the Executive Director, upon request of the POTW, approves alternate temperature limits;
 - f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through;
 - g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and
 - h. Any trucked or hauled pollutants, except at discharge points designated by the POTW.
2. The permittee shall require any indirect discharger to the treatment works to comply with the reporting requirements of Sections 204(b), 307, and 308 of the Clean Water Act, including any requirements established under 40 CFR Part 403.
3. The permittee shall provide adequate notification to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division within 30 days subsequent to the permittee's knowledge of either of the following:
 - a. Any new introduction of pollutants into the treatment works from an indirect discharger which would be subject to Sections 301 and 306 of the Clean Water Act if it were directly discharging those pollutants; and
 - b. Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit.

Any notice shall include information on the quality and quantity of effluent to be introduced into the treatment works, and any anticipated impact of the change on the quality or quantity of effluent to be discharged from the POTW.

ATTACHMENT C

Compliance History

Customer/Respondent/Owner-Operator:	CN600889729 Cape Royale Utility District	Classification: AVERAGE	Rating: 1.80
Regulated Entity:	RN102097888 CAPE ROYALE PLANT	Classification: AVERAGE	Site Rating: 0.59
ID Number(s):	WASTEWATER PERMIT	WQ0010997001	
	WASTEWATER PERMIT	TPDES0021083	
	WASTEWATER PERMIT	TX0021083	
	WASTEWATER LICENSING LICENSE	WQ0010997001	
Location:	1330 CAPE ROYALE DR, COLDSRING, TX, 77331	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	October 15, 2007		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	August 03, 2001 to October 01, 2007		

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

Name: N/A Phone: N/A

Site Compliance History Components

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

N/A	1	08/15/2001	(163439)
	2	09/13/2001	(163441)
	3	10/19/2001	(163443)
	4	11/19/2001	(163446)
	5	12/17/2001	(163449)
	6	01/22/2002	(163451)
	7	02/19/2002	(163425)
	8	03/20/2002	(163428)
	9	04/17/2002	(163431)
	10	05/21/2002	(163434)
	11	06/17/2002	(163436)
	12	07/15/2002	(163438)
	13	08/15/2002	(163440)
	14	08/22/2002	(4693)
	15	09/18/2002	(163442)
	16	10/17/2002	(163444)
	17	11/18/2002	(163447)
	18	12/16/2002	(297556)
	19	01/16/2003	(163452)
	20	02/20/2003	(163426)
	21	02/21/2003	(24481)
	22	03/19/2003	(163429)
	23	04/16/2003	(163432)
	24	05/21/2003	(297548)

25	06/16/2003	(297549)
26	07/16/2003	(297551)
27	08/18/2003	(297552)
28	09/15/2003	(297553)
29	10/17/2003	(297554)
30	11/14/2003	(297555)
31	12/15/2003	(297557)
32	01/15/2004	(297558)
33	02/20/2004	(297545)
34	03/15/2004	(297546)
35	04/19/2004	(297547)
36	06/18/2004	(297550)
37	07/19/2004	(353027)
38	08/24/2004	(353028)
39	09/16/2004	(353029)
40	10/22/2004	(353030)
41	11/15/2004	(382306)
42	12/20/2004	(382307)
43	01/13/2005	(382308)
44	02/21/2005	(420165)
45	03/18/2005	(420166)
46	04/18/2005	(420167)
47	04/28/2005	(420168)
48	05/17/2005	(420169)
49	06/08/2005	(394447)
50	06/21/2005	(420170)
51	07/18/2005	(441261)
52	08/16/2005	(441262)
53	09/09/2005	(404837)
54	09/19/2005	(441263)
55	10/09/2005	(469185)
56	11/14/2005	(469186)
57	12/12/2005	(438239)
58	12/16/2005	(469187)
59	01/17/2006	(469188)
60	02/17/2006	(469183)
61	03/16/2006	(469184)
62	04/17/2006	(498696)
63	05/16/2006	(498697)
64	06/19/2006	(498698)
65	07/21/2006	(520685)
66	08/21/2006	(520686)
67	08/28/2006	(520687)
68	09/18/2006	(520688)
69	10/16/2006	(576368)
70	11/21/2006	(576369)
71	12/19/2006	(576370)
72	01/03/2007	(533937)
73	01/18/2007	(576371)
74	02/15/2007	(576363)
75	03/16/2007	(576364)
76	03/19/2007	(576365)
77	05/15/2007	(576366)
78	06/18/2007	(576367)
79	08/28/2007	(569978)

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

Date: 11/30/2001 (163449)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 08/19/2002 (4693)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 317 317.7(i)

Description: Failure by the permittee to provide atmospheric vacuum breakers.

Self Report? NO

Classification: Moderate

Rqmt Prov: OP 10997-001
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor

Rqmt Prov: OP 10997-001
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor

Rqmt Prov: OP 10997-001
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Moderate

Rqmt Prov: OP 10997-001
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Moderate

Rqmt Prov: OP 10997-001
 Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor

Rqmt Prov: OP 10997-001
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor

Rqmt Prov: OP 10997-001
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor

Rqmt Prov: OP 10997-001
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor

Rqmt Prov: OP 10997-001
 Description: Failure by the permittee to adequately describe the noncompliance in notifications to the Commission.
 Self Report? NO Classification: Minor

Date: 06/09/2005 (394447)

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OR 3
 Description: Failure to include all the required information on the annual sludge reports
 Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1
 Description: Failure to maintain an audible alarm on the North Forest Cove lift station
 Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1
 Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(g)(2)
 Description: Failure to maintain a stairway for access to the top of the clarifier
 Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT PC 2.G
 Description: Failure to prevent unauthorized discharges into or adjacent to the waters of the state.
 Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT FEL&MR 2
 Description: Failure to discharge effluent that is compliant with the permit limits for minimum chlorine residual.
 Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1
 Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor

Rqmt Prov: PERMIT M&RR 2
 Description: Failure to have a secondary element to interpret flow over the V-notch weir
 Self Report? NO Classification: Minor

Rqmt Prov: PERMIT M&RR 2
 Description: Failure to transport the effluent samples to the lab collection point on ice
 Self Report? NO Classification: Minor

Rqmt Prov: PERMIT M&RR 3.C
 Description: Failure to maintain complete calibration logs
 Self Report? NO Classification: Minor

Rqmt Prov: PERMIT M&RR 2
 Description: Failure to perform the manganese correction correctly

Date: 03/24/2006 (455042)

Self Report? NO

Classification: Moderate

Rqmt Prov: PERMIT PC, 2g

Description: Failure by Cape Royale Utility District to prevent unauthorized discharge of partially treated wastewater from the wastewater treatment plant on 12/03/2005 and on 01/23/2006.

Date: 08/28/2007 (569978)

Self Report? NO

Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO

Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO

Classification: Minor

Rqmt Prov: PERMIT EL&MR 4

Description: Failure by the permittee to prevent floating solids to discharge out of the wastewater treatment plant.

Self Report? NO

Classification: Minor

Rqmt Prov: PERMIT OR 3

Description: Failure by the permittee to submit the 2007 annual sludge report with all of the required information attached.

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

TCEQ PERMIT NO. WQ0010997001

2007 MAR -2 PM 4: 26

APPLICATION BY § BEFORE THE CHIEF CLERKS OFFICE
CAPE ROYALE UTILITY DISTRICT § TEXAS COMMISSION ON
FOR PERMIT NO. WQ0010997001 § ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the application from Cape Royale Utility District (Applicant) for a renewal of Permit No. WQ0010997001 and ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk received timely comment letters from the following persons: Pamela and Robert Chandler, Larry Green, Patrick Shay, and Helen and William Williams. 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.

BACKGROUND

Description of Facility

The Applicant has applied to the TCEQ for a renewal of the existing permit, TPDES Permit No. WQ0010997001, that authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 150,000 gallons per day (gpd). The Cape Royale Wastewater Treatment Facility

is an activated sludge process plant operated in the contact stabilization mode. Treatment units include a bar screen, two contact stabilization chambers, two re-aeration basins, two final clarifiers, two aerobic sludge digesters, a chlorine contact chamber, a mixed media filter, a mud well and a clear well. The facility is in operation. The draft permit also authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The effluent limitations in the draft permit, based on a 30-day average, are 10 mg/l five-day Biochemical Oxygen Demand (BOD₅), 15 mg/l Total Suspended Solids (TSS), Report mg/l Ammonia-Nitrogen (NH₃-N), and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow. The effluent limitations in the draft permit will maintain and protect the existing instream uses.

The treated effluent is discharged directly to Lake Livingston in Segment No. 0803 of the Trinity River Basin. The designated uses for Segment No. 0803 are high aquatic life use, public water supply, and contact recreation. Segment 0803 is currently listed on the State's inventory of impaired and threatened waters, the 2004 Clean Water Act Section 303(d) list. The listing is specifically for elevated pH values and depressed dissolved oxygen concentrations. This application is for renewal of an existing authorization and will not represent an increase in the permitted levels of oxygen-demanding constituents to Segment 0803.

The facility is located approximately 5.5 miles north of the City of Coldspring in the northwest corner of the Cape Royale Subdivision, on the shore of Lake Livingston in San Jacinto County, Texas. The existing wastewater treatment facility serves Cape Royale Municipal Utility District.

Procedural Background

The permit application for a permit renewal was received on August 8, 2006 and declared administratively complete on August 28, 2006. The Notice of Receipt and Intent to Obtain a Water Quality Permit was published on September 7, 2006 in the *San Jacinto News Times*. The Notice of Application and Preliminary Decision for a Water Quality Permit was published on December 14, 2006 in the *San Jacinto News Times*. The public comment period ended on January 18, 2007. This application is subject to the procedural requirements of House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

Pamela and Robert Chandler, Larry Green, Patrick Shay, and Helen and William Williams expressed concern about constant noise from the facility. Larry Green and Patrick Shay indicate the Applicant's failure to control the noise may constitute a nuisance with potential impact on property values.

RESPONSE 1:

Chapter 26 of the Texas Water Code (TWC) authorizes the Commission to issue permits for wastewater discharge facilities to maintain and protect water quality in the state. Potential effects on property values, including noise issues, are not considered in the review of a wastewater permit application. The draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effect on human health or welfare, animal life, vegetation, or property. Also, to report complaints about the operation of the facility should it be authorized, please contact the TCEQ Region 10 Office at 1-409-898-3838 or call the Environmental Compliance Hotline at 1-888-777-3186.

COMMENT 2:

Pamela and Robert Chandler, Larry Green, Patrick Shay, and Helen and William Williams expressed concern about inaccurate reporting of unauthorized discharges. Residents have noticed at least three overflows of untreated effluent, citing TCEQ Incidence No. 70578 and Investigation No. 455042. In addition, standing raw sewage in the lake bed and on public use land adjacent to the Applicant's facility raised concerns regarding proper operation practices and maintenance.

RESPONSE 2:

According to the Region 10 office, there have been three incidents of noncompliance involving the Applicant since December of 2005. In all three instances, the Applicant submitted notification to the TCEQ within the required 24-hour time frame. On February 7, 2006, the TCEQ Region 10 field investigator conducted a reconnaissance compliance investigation at the facility and met with the Applicant's plant operators and field operations supervisor to discuss the discharge allegations. On March 24, 2006, TCEQ issued a written notice of violation to the Applicant with recommended corrective action. On May 30, 2006, the Applicant submitted an engineering assessment report evaluating the facility and determining the cause of the unauthorized discharges. Faulty, deteriorating, or inoperable equipment was subsequently replaced including sand filter actuator valves, an 8" gate valve which will remain closed, and the sand filter media (including new nozzles). Overflow piping from the chlorine contact chamber to the effluent weir structure was installed to help ensure that plant overflow does not reoccur. In addition, a new bulkhead was constructed. On December 20, 2006, the Applicant submitted compliance documentation to the TCEQ certifying that the corrective action was complete.

The Applicant must also maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources,

standby generators, or retention of inadequately treated wastewater. In addition, the plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by TCEQ. These permit provisions are designed to help prevent unauthorized discharges of raw sewage. If an unauthorized discharge occurs, the Applicant is required to report it to TCEQ within 24 hours. Finally, the Applicant is subject to potential enforcement action for failure to comply with TCEQ rules or the permit. The TCEQ urges the public to report unauthorized discharges or other compliance issues to the TCEQ Region 10 office at 1-409-898-3838.

COMMENT 3:

Robert and Pamela Chandler and Helen and William Williams indicated concern about occasional downwind odor of raw sewage.

RESPONSE 3:

TCEQ rules require domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC Section 309.13(e), which was implemented in 1990. However, the applicant is not required to meet the buffer zone rules because the facility was constructed before 1990. According to TCEQ records, the facility became operational in February of 1970, prior to the construction of the majority of the residential structures.

Because this facility is an activated sludge plant and the sludge is hauled off-site for disposal, there are no anaerobic zones, primary clarifiers, or anaerobic digesters in the treatment plant. These generally are the sources of objectionable odors. Prior complaints have not listed odors as concerns. However, if the facility has problems with odor or other issues that need to be addressed, contact the TCEQ Region 10 office at 1-409-898-3838.

COMMENT 4:

Larry Green and Patrick Shay indicate concern over violations of deed restrictions of the land on which the facility is located. They claim that the Applicant's facility is sited on a parcel of land originally intended for a recreation reserve.

RESPONSE 4:

Chapter 26 of the TWC authorizes the Commission to issue permits for wastewater discharge facilities to maintain and protect water quality in the state. Potential effects on property values and quality of life, including the existence of deed restriction violations, are not considered in the review of a wastewater permit application. The draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effect on human health or welfare, animal life, vegetation, or property.

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

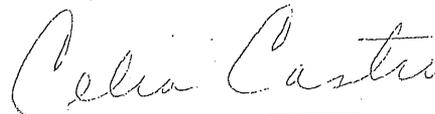


Celia Castro, Staff Attorney
Environmental Law Division
State Bar No. 03997350
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-5692

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on March 2, 2007, the "Executive Director's Response to Public Comment" for Permit No. WQ0010997001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Celia Castro, Staff Attorney
Environmental Law Division
State Bar No. 03997350

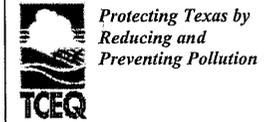
CHIEF CLERK'S OFFICE

2007 MAR - 2 PM 4P

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

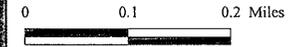
ATTACHMENT E

Cape Royale Utility District
TPDES Permit No. WQ0010997001
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

August 25, 2007



Projection: Texas Statewide Mapping System
 (TSMS)

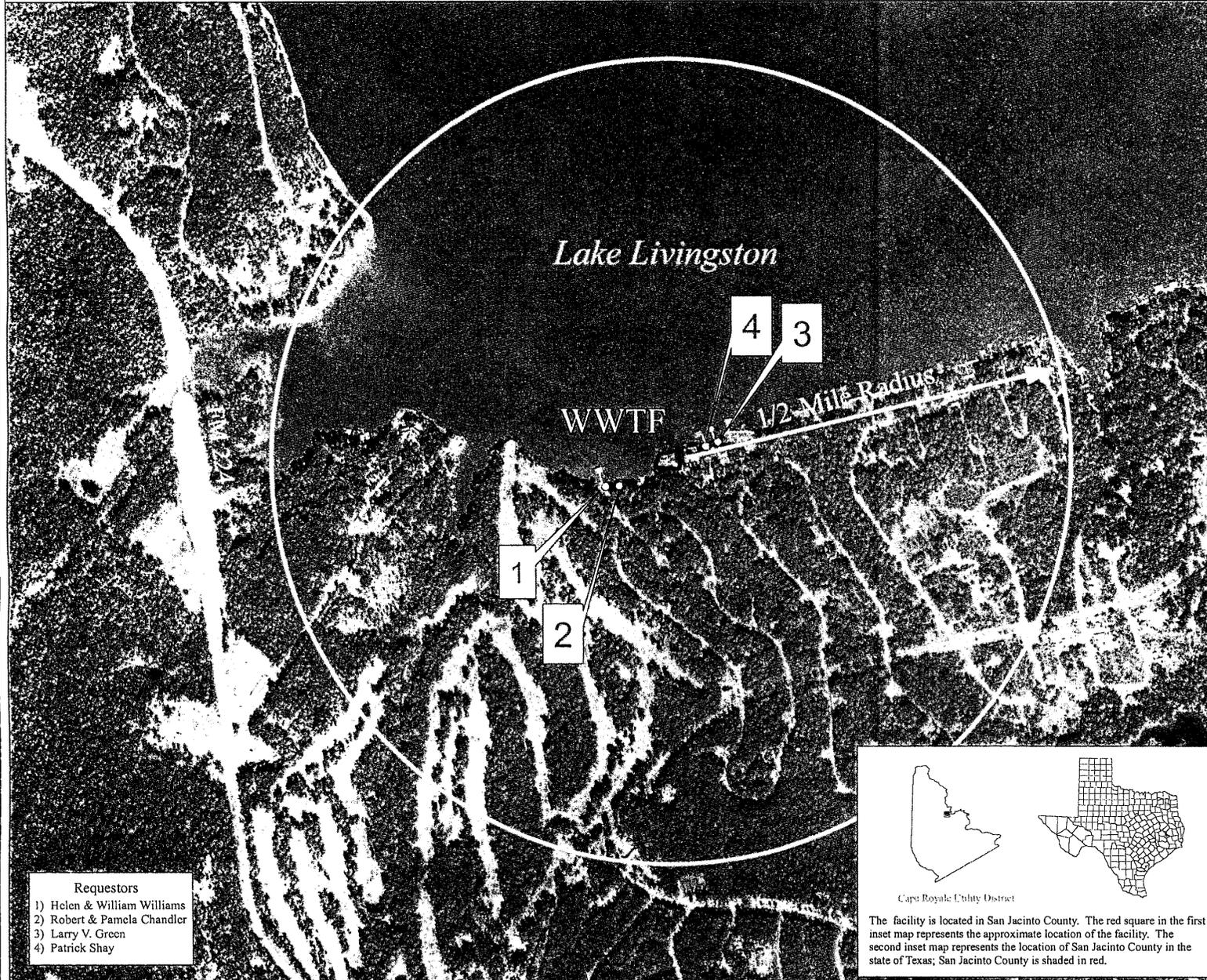
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Legend

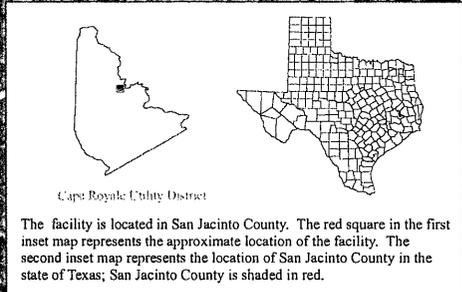
- Proposed Facility
- Requestors

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 tx029_1-1.

- This map depicts the following:
- (1) The approximate location of the facility. This is labeled "WWTF".
 - (2) Circle and arrow depicting 1/2 mile radius. This is labeled "1/2 Mile Radius".



- Requestors**
- 1) Helen & William Williams
 - 2) Robert & Pamela Chandler
 - 3) Larry V. Green
 - 4) Patrick Shay



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.

LAKE LIVINGSTON

Green
LOT 77

LOT 76

Shay

UTILITY EASEMENT

200' BUFFER

Chandler

LOT 75

RESERVE 'E'

LOT 74

LOT 24

LOT 25

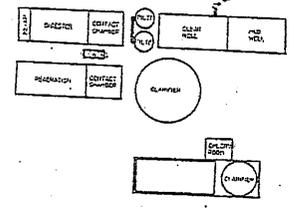
LOT 26

LOT 27

LOT 28

LOT 29

LOT 30



CAPE ROYALE UTILITY DISTRICT			
WASTEWATER TREATMENT PLANT			
200 FOOT BUFFER			
DRWING	TLT	DATE	2/23/07
CHECKED:	SCALE	NONE	SHEET 1 OF 1

Hearing Requestors on Adjacent Property Owners List
Cape Royale Utility District
TPDES Permit No. WQ0010997001

Robert and Pamela Chandler

**Lots #24 & 25 on Property Owners List
and #2 on GIS Map**

**271 N. Fairway Loop
Coldspring, Tx.**

Robert and Pamela Chandler own property within the 150-foot buffer zone.

Patrick Shay

**Lot #76 on Property Owners List
And #4 on GIS Map**

**50 Pebble Beach Circle
Coldspring, Tx.**

Patrick Shay owns property within the 150-foot buffer zone. He is adjacent to the facility.

Larry Green

**Lot #77 on Property Owners List
and #3 on GIS Map**

**40 Pebble Beach Circle
Coldspring, Tx.**

Larry Green owns property within the 500-foot buffer zone.

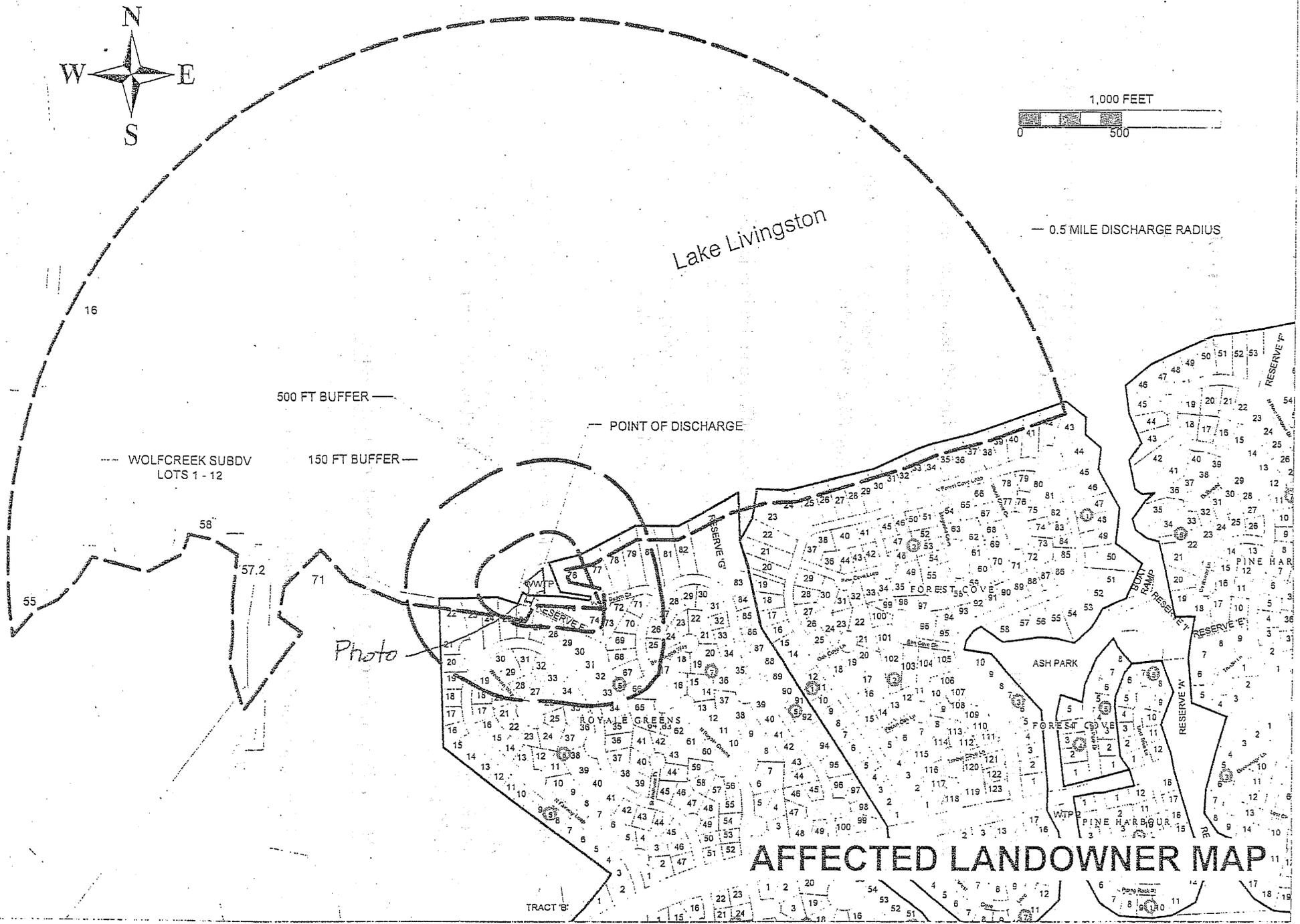
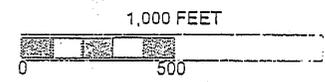
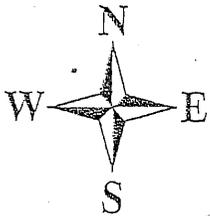
William and Helen Williams

**Lot #22 on Property Owners List
and #1 on GIS Map**

**251 N. Fairway Loop
Coldspring, Tx**

The Williams own property within the 500-foot buffer zone.

All four requestors' properties border on the shoreline.



AFFECTED LANDOWNER MAP