

DOCKET NUMBER 2007-1001-MWD

APPLICATION BY TEXAS §
LONGHORN EQUITIES §
CORPORATION II §

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

2007 SEP 17 PM 4:13
CHIEF CLERKS OFFICE

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

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests and Response to Requests for Reconsideration on the application by Texas Longhorn Equities Corporation II (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014681001. The following persons requesting a contested case hearing (CCH) on this permit application: Keith Barnes, Bernard G. Bowyer, Rebecca Bowyer, Beverly Beckman, Ted Beckman, a Concerned Citizen, Linda Cooper, Franklin Cooper, Ella Dean, Virginia Farrar, Chip Farrar, Eric Fletcher, Jessie Garvin, Carlos Hamblen, James Harris, Rex Harris, Jamie Kellett, Richard Kellett, James McAldo, Philip Pope, Carolyn Sigler, Jim Sigler, Chrisann Slusser, Lee Slusser, and Robert Wright.

In addition, Philip Pope and Ella Dean submitted requests for reconsideration (RFRs). Lorene Green, the Ray Green Family Trust, and Clydene Gunnerson who were all represented by Lowerre & Frederick requested a CCH, but all their requests were withdrawn on September 17, 2007.

Attached for Commission consideration are the following:

- | | |
|--------------|--|
| Attachment A | Satellite Map of the Area |
| Attachment B | Applicant's Affected Landowner Map |
| Attachment C | Fact Sheet and ED's Preliminary Decision |
| Attachment D | Draft Permit |
| Attachment E | Executive Director's Response to Public Comments (RTC) |
| Attachment F | Compliance History |

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. Description Of The Facility

The Applicant submitted an application for a new permit to operate a proposed wastewater treatment facility that will serve the proposed Briarhaven Addition subdivision and, if issued, will authorize the

discharge of treated domestic wastewater at a daily average flow not to exceed 45,000 gallons per day (gpd).

The treated effluent will be discharged to an unnamed tributary; then to Quil Miller Creek; then to Village Creek; then to Lake Arlington in Segment No. 0828 of the Trinity River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary. The designated uses for Segment No. 0828 are contact recreation, public water supply, and high aquatic life use. The plant site is proposed to be located at 121 North Briaroaks Road, approximately 1/4 mile South of I-35W on Briaroaks Road in Johnson County, Texas. The facility has not been built.

III. Procedural Background

The permit application was received on December 28, 2005 and declared administratively complete on February 16, 2006. The Notice of Receipt and Intent to Obtain a Water Quality Permit was published in the *Cleburne Times-Review* on March 5, 2006. The Notice of Application and Preliminary Decision for a Water Quality Permit was published in the *Cleburne Times-Review* on May 23, 2006. A public meeting was held on January 25, 2007 in the City of Briaroaks and the public comment period ended at the conclusion of the public meeting. The Executive Director's Response to Comments was filed on May 14, 2007.

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 February 16, 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.

A. Responses to Requests

"The executive director, the public interest counsel, and the applicant may submit written responses to [hearing] requests . . ." 30 TAC § 55.209(d).

According to 30 TAC § 55.209(e), 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.

B. Hearing Request Requirements

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements. As noted in 30 TAC § 55.201(c): "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."

According to 30 TAC § 55.201(d), a hearing request must substantially comply with the following:

- (1) give the name, 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.

C. 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." The factors to consider in making this determination are found in 30 TAC § 55.203 and are as follows:

- (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.

D. Referral to the State Office of Administrative Hearings

30 TAC § 50.115(b) details how the Commission refers a matter 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(c) further states: “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.”

V. Evaluation of Hearing Requests

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

All requestors submitted timely written hearing requests that included relevant contact information and raised disputed issues that substantially complied with the rule requirements for requesting a CCH.

The ED concludes that the CCH requests substantially complies with the requirements of 30 TAC § 55.201.

B. Whether Requestors Meet the Requirements of an Affected Person

- 1. Keith Barnes, Bernard G. Bowyer, Rebecca Bowyer, Beverly Beckman, Ted Beckman, a Concerned Citizen, Linda Cooper, Franklin Cooper, Virginia Farrar, Chip Farrar, Eric Fletcher, Jessie Garvin, Carlos Hamblen, James Harris, Rex Harris, Jamie Kellett, Richard Kellett, James McAldo, Carolyn Sigler, Jim Sigler, Chrisann Slusser, Lee Slusser, and Robert Wright (Petitioners).**

The Petitioners are all identified on the Satellite Map (Attachment A). The Bowyer's and Beckman's are adjacent landowners to the proposed development, but all the adjacent property to the proposed facility is owned by the Applicant. All Petitioners are located upstream of the discharge point. In their filing, the Petitioners raise flooding and traffic concerns. Due to their upstream location, the Petitioners interest are in common with other members of the general public regarding flooding or water quality issues associated with this proposed facility. Traffic concerns are not considered by the Commission when deciding whether to issue a permit to discharge wastewater and does not demonstrate a personal justiciable interest in the application. Therefore, based on the issues raised in their petition, the interests of the Petitioners in this matter are common to members of the general public and they have not shown that they have a personal justiciable interest in the permit application. However, due to the petition, a public meeting was held on the permit application on January 25, 2007. The ED recommends denial of the Petitioners CCH request.

2. Ella Dean.

Ella Dean owns property located on the discharge route less than one-half mile downstream from the proposed discharge. She is identified as owning parcel #17 on the Applicant's Adjacent Landowner Map (See Attachment B). She has raised concerns about the discharge and due to her proximity to the proposed discharge point she has demonstrated that she has a personal justiciable interest not in common with other members of the general public. There also may be an impact from the regulated activity on the health and safety of Ms. Dean and on the use of her property. The ED recommends finding that Ella Dean is an affected person.

3. Philip Pope.

Philip Pope owns property on the discharge route about one-quarter mile downstream from the proposed discharge. He is identified as owning parcel #14 on the Applicant's Adjacent Landowner Map (See Attachment B). He has raised concerns about the discharge and due to his proximity to the proposed discharge point he has demonstrated that he has a personal justiciable interest not in common with other members of the general public. There also may be an impact from the regulated activity on the health and safety of Mr. Pope and on the use of his property. The ED recommends finding Philip Pope is an affected person.

The ED recommends finding that Ella Dean, and Philip Pope are affected persons. The ED recommends finding that the Petitioners are not affected persons.

C. Whether Issues Raised Are Referable to State Office of Administrative Hearings (SOAH) for a Contested Case Hearing.

In addition to recommending to the Commission those persons who qualify as affected persons, the ED analyzes the issues raised in accordance with the regulatory criteria. All of the issues discussed below were raised during the comment period. None of the listed issues were withdrawn. All identified issues in the response are considered disputed, with the exception of issue #8.

1. Whether the proposed discharge will be in compliance with regulations that are intended to protect water quality or with regulations that are intended to protect the health of humans, wildlife, or livestock. (RTC #3)

This issue is one of fact. If it can be shown that the proposed discharge will not be in compliance with regulations that are intended to protect water quality or with regulations that are intended to protect the health of humans, wildlife, or livestock that issue would be relevant and material to the decision on the application. The ED recommends referring this issue to SOAH.

2. Whether the facility will meet the rule requirements intended to reduce nuisance odor conditions. (RTC #4)

This issue is one of fact. If it can be shown that the facility will not meet the rule requirements intended to reduce nuisance odor conditions that information would be relevant and material to the decision on the permit application. The ED recommends referring this issue to SOAH.

3. Whether the facility is located on a 100-year flood plain. (RTC #1)

TCEQ rules do not prohibit locating a facility on the 100-year flood plain, but instead require that if such location is chosen then the Applicant must protect from inundation and damage from a 100-year flood event. See 30 TAC § 309.13(a). Therefore, whether the facility will be located on a 100-year flood plain is not relevant and material to the decision to grant a wastewater discharge permit application. The ED recommends not referring this issue to SOAH.

4. Whether the discharge will cause flooding in the receiving stream. (RTC #2)

The ED's wastewater permitting review process focuses on controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The ED does not address flooding issues in the wastewater permitting process. In addition, this facility will only authorize a maximum discharge of 45,000 gpd and that size flow is unlikely to contribute to flooding issues. The ED recommends not referring this issue to SOAH.

5. Whether the facility is adequately designed so that it meets the applicable design criteria and so that it will not discharge raw sewage or partially treated wastewater. (RTC#7)

The rules in 30 TAC Chapter 317, Design Criteria for Sewage Systems, provide for permit issuance before final design of the facility. The final design of the facility is not required as part of the wastewater permit application because at this stage of the process, an applicant is not certain what type of effluent limits a wastewater treatment plant will have to meet. If issued, the permit requires the Applicant to meet the design criteria requirements for domestic wastewater treatment plants prior to construction of the facility. Other Requirement/Special Provision No. 7 of the draft permit requires the Applicant to clearly show how the treatment system will meet the final permitted effluent limitations required for each phase of the draft permit. The draft permit requires the Applicant to submit to the TCEQ Wastewater Permitting Section a summary submittal letter for the design criteria according to 30 TAC § 317.1, prior to construction of each phase of the wastewater treatment facilities. The summary letter must be signed and sealed by a licensed professional engineer. If requested by the Wastewater Permitting Section, the Applicant must submit plans, specifications, and a final engineering design report that comply with 30 TAC, Chapter 317, Design Criteria for Sewerage Systems. The ED, in determining whether to perform a review, uses factors, such as the proposed use of a nonconforming or innovative technology, the stream segment where the facility is located, and the Applicant's compliance history. In addition, after construction a licensed professional engineer must certify that the wastewater treatment facility was constructed according to the plans and specifications. Therefore, this issue is not relevant and material to a decision on whether to issue the permit. The ED recommends not referring this issue to SOAH.

6. Whether the additional housing serviced by the facility will increase traffic congestion. (RTC #27)

This issue is not considered in the wastewater permitting process. Therefore, this issue is not relevant and material for a decision on the application. The ED recommends not referring this issue to SOAH.

7. Whether the facility and its operations will negatively affect property values. (RTC #27)

This issue is not considered in the wastewater permitting process. Therefore, this issue is not relevant and material for a decision on the application. The ED recommends not referring this issue to SOAH.

8. Whether a high voltage transmission line that runs through the middle of the proposed development.

This issue was raised by Mr. Pope in his hearing request. However, whether a high voltage transmission line runs through the middle of the property is not a disputed issue. Mr. Pope does not give any reason why this is a potential problem. There is no dispute that this statement is true.

Therefore, the ED would not recommend referring this issue to SOAH because the issue as raised is not disputed. The ED recommends not referring this issue to SOAH.

The ED recommends referring issues #1-#2 to SOAH.

VI. Request for Reconsiderations

Ella Dean and Philip Pope also filed timely RFRs. Both requests were filed during the comment period and present no new evidence that was not considered by the ED during the comment period. See Attachment E. The ED recommends denial of the RFRs.

VII. Duration of the Contested Case Hearing

The ED recommends that the duration for a contested case hearing on this matter between preliminary hearing and the presentation of a proposal for decision before the Commission, be six months.

VIII. Executive Director's Recommendation

The ED recommends the following actions by the Commission:

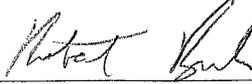
1. Find that none of the Petitioners are affected persons because they have not established a personal justiciable interest not in common with members of the general public in the permit application.
2. Find that Ella Dean, and Philip Pope are affected persons with a personal justiciable interest in the permit application.
3. Deny the RFRs of Ella Dean and Philip Pope because the issues raised were considered during the public comment period and because their hearing requests are being granted.
4. Refer issues #1-2 to SOAH for a proceeding of six months duration with the time period beginning with the preliminary hearing and concluding with presentation of a proposal for decision before the Commission.
5. If referred to SOAH, first refer to Alternative Dispute Resolution for a reasonable period.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Glenn Shankle, Executive Director

Robert Martinez, Director
Environmental Law Division

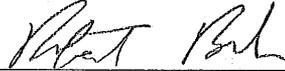
By  _____
Robert D. Brush, Staff Attorney
Environmental Law Division
State Bar No. 00788772

Representing the Executive Director of the
Texas Commission on Environmental Quality

ATTORNEYS FOR
THE EXECUTIVE DIRECTOR

CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2007 the original and eleven true and correct copies of the "Executive Director's Response to Hearing Request" relating to the application of Texas Longhorn Equities Corporation II for a new TPDES Permit No. WQ0014681001 were filed with the Chief Clerk of the TCEQ and a 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.



Robert D. Brush, Staff Attorney
Environmental Law Division
State Bar No. 00788772

MAILING LIST
FOR PERMIT NO. WQ001468001
Texas Longhorn Equities Corporation II

FOR THE APPLICANT:

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Beverly and Ted Beckman
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Chrisann and Lee Slusser
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Robert Wright
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Virginia and Chip Farrar
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Burleson, Texas 76028

Carlos Hamblen
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Burleson, Texas 76028

James Harris
Rex Harris
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Burleson, Texas 76028

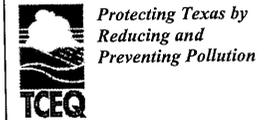
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James McAldo
104 Meadow Drive
Burleson, Texas 76028

Carolyn and Jim Sigler
2069 Trailwood West
Burleson, Texas 76028

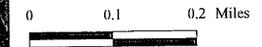
ATTACHMENT A

Texas Longhorn Equities Corporation II
WQ001468001
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 30, 2007



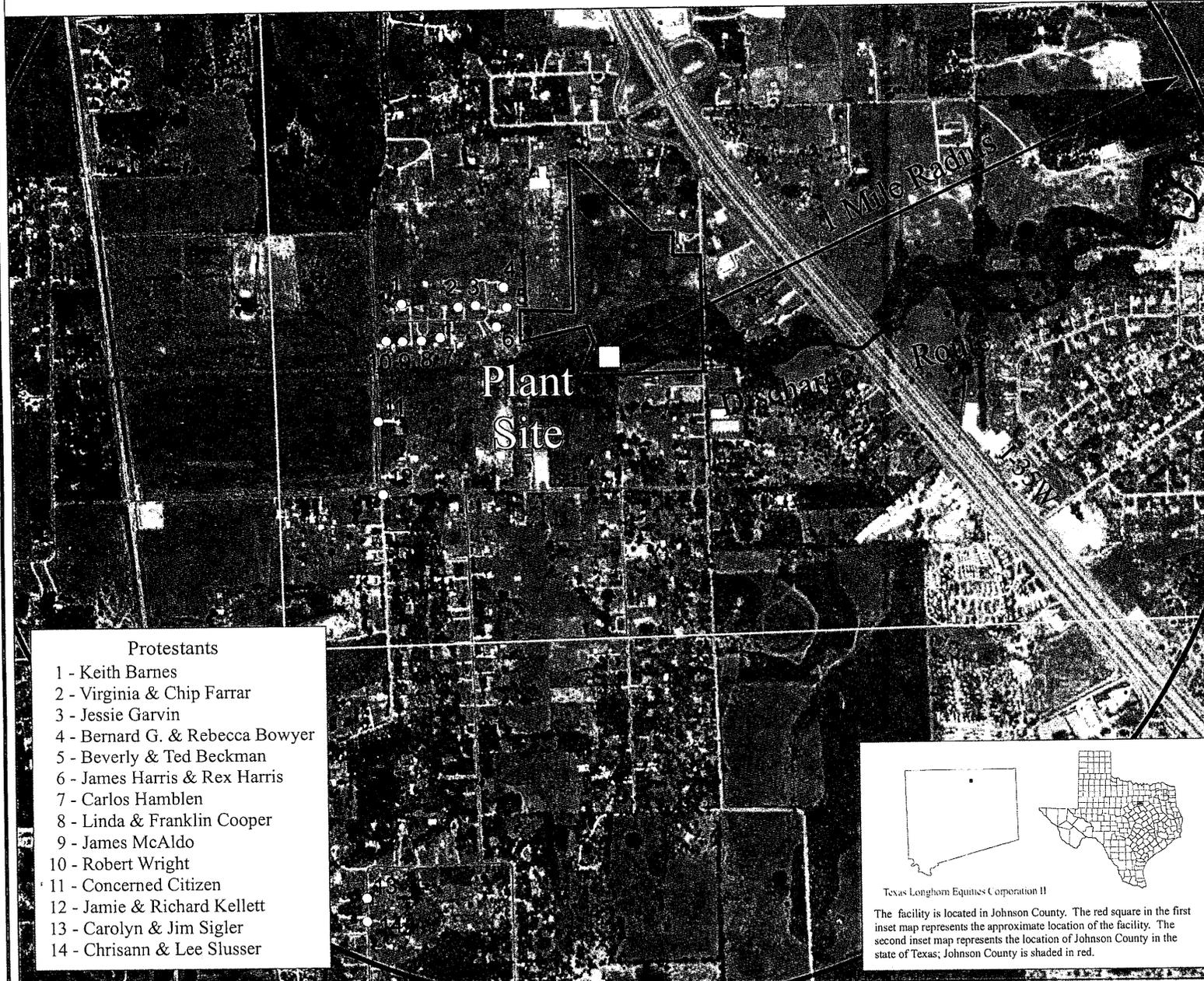
Projection: Texas Statewide Mapping System
 (TSMS)
 Scale 1:14,502

Legend

- Plant
- Discharge Route
- Protestants

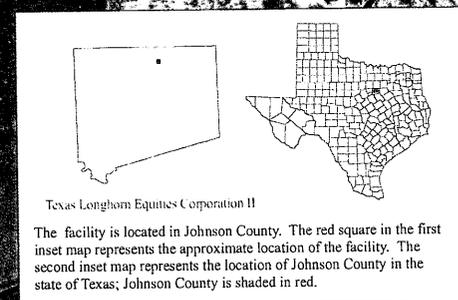
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the requestor information from the applicant. The counties are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a source photograph 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 plant. This is labeled "Plant Site".
 (2) The discharge route. This is labeled "Discharge Route".
 (3) Circle and arrow depicting 1 mile radius. This is labeled "1 Mile Radius".



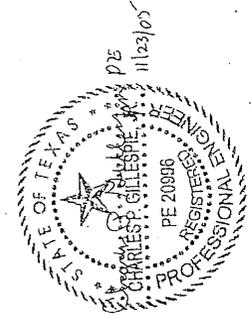
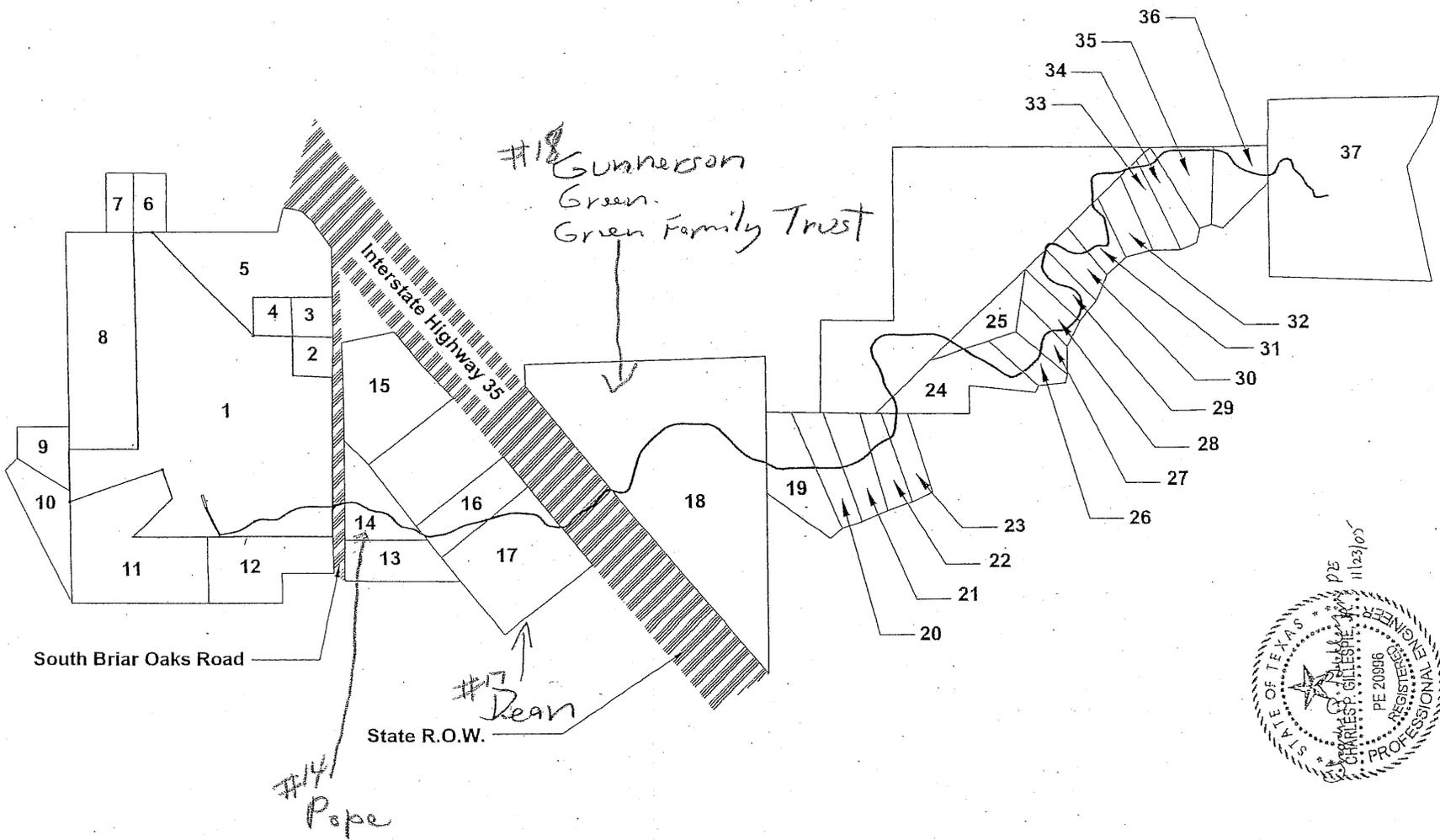
Protestants

- 1 - Keith Barnes
- 2 - Virginia & Chip Farrar
- 3 - Jessie Garvin
- 4 - Bernard G. & Rebecca Bowyer
- 5 - Beverly & Ted Beckman
- 6 - James Harris & Rex Harris
- 7 - Carlos Hamblen
- 8 - Linda & Franklin Cooper
- 9 - James McAldo
- 10 - Robert Wright
- 11 - Concerned Citizen
- 12 - Jamie & Richard Kellett
- 13 - Carolyn & Jim Sigler
- 14 - Chrisann & Lee Slusser



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.

ATTACHMENT B



Consulting Environmental Engineers, Inc.
 152 N. Main St., Suite 408
 Stephenville, Texas 76401
 Phone / Fax: 800/666-8232
 Email: ceo@ceengineers.com

DATE DRAWN: 10-14-05
 DRAWN BY: CPG cpf
 SCALE: 1" = 550'

PROJECT NAME: Briarhaven Addition
 DRAWING NAME: Affected Landowners Map

Exhibit III

ATTACHMENT C

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

DESCRIPTION OF APPLICATION

Applicant: Texas Longhorn Equities Corporation II;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0014681001, (TX0128503)

Regulated Activity: Domestic Wastewater Permit

Type of Application: New Permit

Request: New Permit

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 September 1, 2011 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 new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.0225 million gallons per day in the interim phase and a daily average flow not to exceed 0.045 million gallons per day in the final phase. The proposed wastewater treatment facility will serve the Briarhaven Addition subdivision.

PROJECT DESCRIPTION AND LOCATION

The Briarhaven Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units include two identical prepackaged aeration systems in which sewage passes through a bar screen, an aeration basin, final clarifier, sludge digester, and a chlorine contact chamber. The facility has not been constructed.

The draft permit authorizes the disposal of sludge at a TCEQ registered or permitted land application site, commercial land application site or co-disposal landfill.

The plant site will be located at 121 North Briaroaks Road, approximately 1/4 mile South of I-35W on Briaroaks Road in Johnson County, Texas. The treated effluent will be discharged to an unnamed tributary; thence to Quil Miller Creek; thence to Village Creek; thence to Lake Arlington in Segment No. 0828 of the Trinity River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary. The designated uses for Segment No. 0828 are contact recreation, public water supply, and high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing

water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. 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 not contained in the approved WQMP. However, these limits will be included in the next WQMP update. This discharge is less than 0.2 MGD and has been evaluated consistent with the modeling MOA between the TCEQ and EPA. A Waste Load Evaluation has not been prepared for Segment 0828.

The discharge from this permit action is not expected to have an affect 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 No. 0828 is not currently listed on the State's inventory of impaired and threatened waters (the 2002 Clean Water Act Section 303(d) list).

SUMMARY OF EFFLUENT DATA

N/A - New Permit.

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at an interim volume not to exceed a daily average flow of 0.0225 million gallons per day and a final volume not to exceed a daily average flow of 0.045 million gallons per day.

The effluent limitations in the interim and final phases of the draft permit, based on a 30-day average, are 20 mg/l BOD₅, 20 mg/l TSS, and 2.0 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 permittee shall comply with the requirements of 30 TAC Section 309.13 (a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC Section 309.13(e).

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. The draft permit authorizes the disposal of sludge at a TCEQ registered or permitted land application site, commercial land application site or co-disposal landfill.

SUMMARY OF CHANGES FROM APPLICATION

None.

SUMMARY OF CHANGES FROM EXISTING PERMIT

N/A - New permit.

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application received December 28, 2005 and additional information received February 8, 2006.
2. 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.
3. 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.
4. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division.
5. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.
6. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.
7. Texas 2002 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, February 2005.
8. "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 Samuel Treviño at (512) 239-4618.

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

Date

ATTACHMENT D



TPDES PERMIT NO. WQ0014681001
[For TCEQ Office Use Only:
EPA ID No. TX0128503]

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

New Permit.

PERMIT TO DISCHARGE WASTES

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

Texas Longhorn Equities Corporation II

whose mailing address is

5300 Orange Avenue, Suite 112
Cypress, California 90630-2971

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

located at 121 North Briar Oaks Road, approximately 1/4 mile South of I-35W on Briar Oaks Road in Johnson County, Texas

to an unnamed tributary; thence to Quil Miller Creek; thence to Village Creek; thence to Lake Arlington in Segment No. 0828 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, **September 1, 2011**.

ISSUED DATE:

For the Commission

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of expansion of the 0.045 million gallons per day (MGD) facilities, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.0225 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 47 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. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Five/week	Instantaneous
Biochemical Oxygen Demand (5-day)	20 (3.8)	30	45	65	One/week	Grab
Total Suspended Solids	20 (3.8)	30	45	65	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 2.0 mg/l and shall be monitored once per week by grab sample.

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of the 0.045 million gallons per day (MGD) facilities 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 0.045 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 94 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
Biochemical Oxygen Demand (5-day)	20 (7.5)	30	45	65	One/week	Grab
Total Suspended Solids	20 (7.5)	30	45	65	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 2.0 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 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 Municipal Permits 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 Corrective Action 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.

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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 4) 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 4) 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

<u>Pollutant</u>	<u>Ceiling Concentration (milligrams per kilogram)*</u>
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 4) 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 4) 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 4) 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 4) 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 D facility must be operated by a chief operator or an operator holding a Category D 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. Reporting requirements according to 30 TAC Sections 319.1-319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge, whichever occurs first, from the facility described by this permit. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 4) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first and prior to completion of each additional phase.
4. 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. 0828 of the Trinity River Basin and any subsequent updating of the water quality model for Segment No. 0828, 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.
5. The permittee shall comply with the requirements of 30 TAC Section 309.13 (a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC Section 309.13(e).
6. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
7. Prior to construction of the treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary submittal letter in accordance with the requirements in 30 TAC Section 317.1. If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and a final engineering design report which comply with 30 TAC Chapter 317, Design Criteria for Sewerage Systems. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2 and Page 2a of the permit.

ATTACHMENT E

PROPOSED PERMIT NO. WQ0014681001

2017 MAY 17 PM 1:37

APPLICATION BY
TEXAS LONGHORN EQUITIES
CORPORATION II

BEFORE THE CHIEF CLERKS OFFICE
TEXAS COMMISSION ON
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 on the ED's preliminary decision to issue a new Texas Pollutant Discharge Elimination System (TPDES) permit to Texas Longhorn Equities Corporation II (Applicant). As required by Title 30 Texas Administrative Code (30 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 the Chief Clerk timely received comment letters or comments at the public meeting from the following persons:

James Baker, Daniel and Kathleen Cink, James Dunn, H.W. Everett, Eric Fletcher, James Harris, Mabe Addition Homeowners Association, represented by Reagan and Karen Ferguson (Mabe Addition HA), Ella Dean and Calvin Phillips, Clydene Gunnerson, Philip R. Pope, John Duke Smith, and Kirk and Holly Taylor. A petition was also received signed by the following individuals: Keith Barnes, Beverly Beckman, Ted Beckman, Bernard G. Bowyer, Sr., Gene Bowyer, Rebecca Bowyer, Concerned Citizen (name illegible) at 1915 Tarver Road, Franklin Cooper, Linda Cooper, Chip Farrar, Virginia Farrar, Eric Fletcher, Jesse Garvin, Carlos Hamblen, James Harris, Rex Harris, Jamie Kellett, Richard Kellett, James McAlido, Carolyn Sigler, Jim Sigler, Chrisann Slusser, Joe Slusser, and Robert Wright (Petitioners). An additional letter was received from Lowerre & Frederick representing Clydene Gunnerson, Lorene Green, the Green Family Trust (Lowerre & Frederick).

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 submitted an application to the TCEQ for a new permit to operate a proposed wastewater treatment facility that will serve the Briarhaven Addition subdivision and will authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 45,000 gallons per day (gpd). The facility is proposed to be an activated sludge process plant operated in the extended aeration mode. Treatment units include two identical prepackaged

aeration systems where sewage passes through a bar screen, an aeration basin, final clarifier, sludge digester, and chlorine contact chamber. The effluent limitations in both phases of the draft permit, based on a 30-day average, are 20 mg/l biological oxygen demand (BOD₅), 20 mg/l total suspended solids, and 2.0 mg/l minimum dissolved oxygen. The effluent must contain a chlorine residual of at least 1.0 mg/l and not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The treated effluent will be discharged to an unnamed tributary; then to Quil Miller Creek; then to Village Creek; then to Lake Arlington in Segment No. 0828 of the Trinity River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary. The designated uses for Segment No. 0828 are contact recreation, public water supply, and high aquatic life use. The plant site will be located at 121 North Briaroaks Road, approximately 1/4 mile South of I-35W on Briaroaks Road in Johnson County, Texas. The facility has not been built. The proposed wastewater treatment facility will serve the Briarhaven Addition subdivision.

Procedural Background

The permit application was received on December 28, 2005 and declared administratively complete on February 16, 2006. The Notice of Receipt and Intent to Obtain a Water Quality Permit was published in the *Cleburne Times-Review* on March 5, 2006. The Notice of Application and Preliminary Decision for a Water Quality Permit was published in the *Cleburne Times-Review* on May 23, 2006. A public meeting was held on January 25, 2007 in the City of Briaroaks and the public comment period ended at the end of the public meeting. This application is subject to House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1: Petitioners and Lowerre & Frederick comment that the acreage in question is located in a flood plain. Additionally, H. W. Everett, James Baker, and Philip Pope comment that TCEQ should make sure that the 100-year flood line noted on the maps is still accurate.

RESPONSE 1:

The draft permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. TCEQ rules do not prohibit locating a facility on the 100-year flood plain, but instead require that if such location is chosen then the Applicant must protect from inundation and damage from a 100-year flood event. See 30 TAC § 309.13(a). The draft permit requires (see Other Requirement #6 on page 23): "The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood." According to the map provided with the permit application, the facility is located outside the 100-year flood plain.

COMMENT 2:

James Baker, Kathleen Cink, Ella Dean, H.W. Everett, Mabe Addition HA, Kirk and Holly Taylor, Lowerre & Frederick, and Philip Pope expressed concerns about flooding.

RESPONSE 2:

The review process for wastewater permitting focuses on controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. TCEQ does not typically address flooding issues in the wastewater permitting process. For flooding concerns, please contact the local floodplain administrator for this area. If you need help finding the local floodplain administrator, please call the TCEQ Resource Protection Team at (512) 239-4691.

COMMENT 3:

H.W. Everett, Lowerre & Frederick, Mabe Addition HA, John Duke Smith, Kathleen Cink, and Philip R. Pope all expressed concerns regarding the potential impact the proposed discharge of treated wastewater effluent could have on water quality. Their concerns included impacts to drinking water, surface water, and groundwater as well as the potential health impacts to humans, wildlife, and livestock. There were also concerns that the discharge would contribute to the impairment of Lake Arlington and the segments upstream of it.

RESPONSE 3:

The draft permit was developed to protect a variety of existing and potential uses of the receiving waters in accordance with the Texas Surface Water Quality Standards. These uses include high aquatic life use and contact recreation. The requirements in the draft permit were established to maintain and protect these uses as long as the Applicant operates and maintains the facility according to TCEQ rules and the requirements in the draft permit.

As identified in the Texas Surface Water Quality Standards, the unclassified receiving water uses are limited aquatic life use for the storm water detention/retention pond and the unnamed lake. The designated uses for Segment No. 0828 are contact recreation, public water supply, and high aquatic life uses. In accordance with 30 TAC § 307.5 and TCEQ implementation procedures for the Texas Surface Water Quality Standards, a Tier 1 anti-degradation review of the receiving waters was performed by TCEQ's Water Quality Standards Team.¹ The review preliminarily determined that existing water quality uses will not be impaired by the proposed discharge and that numerical and narrative criteria to protect existing uses will be maintained. Also, this review preliminarily determined that no water bodies with exceptional, high, or intermediate

¹ A Tier 1 antidegradation review ensures that existing water quality uses are not impaired by increases in pollution loading. A Tier 1 review applies to all water bodies.

aquatic life uses are present within the part of the stream that was assessed. Therefore, no Tier 2 degradation determination is required.²

With regards to the impairment of Lake Arlington portion of the comment, Segment No. 0828 is not listed on the EPA approved 2004 § 303(d) list of impaired segments and is not listed on the draft 2006 § 303(d) list. However, to the extent this reflects concerns about bacteria and pathogens, the treated effluent will be disinfected by chlorination before it is discharged.

COMMENT 4:

Ella Dean and Lorene Green, Lowerre & Frederick, and Mabe Addition HA are concerned that the facility would cause odor problems.

RESPONSE 4:

30 TAC § 309.13(e) requires that the Applicant meet one of three options to abate and control nuisance odor. Those options are:

- 1) Lagoons with zones of anaerobic activity (e.g., facultative lagoons, un-aerated equalization basins, etc.) may not be located closer than 500 feet to the nearest property line. All other wastewater treatment plant units may not be located closer than 150 feet to the nearest property line. The Applicant must hold legal title or have other sufficient property interest to a contiguous tract of land necessary to meet the distance requirements specified in this paragraph during the time effluent is disposed by irrigation;
- 2) The Applicant must submit a nuisance odor prevention request for approval by the ED;
- 3) The Applicant must submit sufficient evidence of legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the Applicant.

According to the permit application, the Applicant is meeting the buffer zone requirement by ownership. If nearby residents experience nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules they may be reported to TCEQ by calling toll-free, 1-888-777-3186 or calling the TCEQ Region 4 Office in Fort Worth at (817) 588-5800. Citizen complaints may also be filed on-line at <http://www.tnrc.state.tx.us/cgi-bin/enforcement/complaints>. If the Applicant fails to comply with all requirements of the permit, it is subject to administrative enforcement action, fines, and penalties.

In addition, the permit does not limit the ability to seek legal remedies against an applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that interfere with the normal use and enjoyment of property.

² A Tier 2 antidegradation review ensures that where water quality exceed the normal range of fishable/swimmable criteria, such water quality will be maintained, unless lowering is a necessity for important economic or social benefit. Tier 2 generally applies to water bodies that have existing, designated, or presumed uses of contact recreation and intermediate, high, or exceptional aquatic life waters. A Tier 2 review applies to all water bodies.

COMMENT 5:

Mabe Addition HA is concerned that all water wells in the vicinity have been taken into account.

RESPONSE 5:

A wastewater treatment plant unit may not be located closer than 500 feet from a public water well nor 250 feet from a private water well. Based on information provided in the application there were no public drinking water wells located within 250 feet of the wastewater treatment facility. The permit application indicates the facility complies with all requirements relating to unsuitable site characteristics found in 30 TAC § 309.13 (a) thru (d).

COMMENT 6:

Lowerre & Frederick comment that the Applicant's assertions regarding regionalization efforts are inadequate. Lowerre & Frederick comment that the Applicant predicts that the City of Briar Oaks would refuse service and the permit file does not indicate that the development requested service from that city. Additionally, Lowerre & Frederick note that part of the proposed development will be located within the City of Burleson and though the files contain a letter stating that Burleson did not object to the proposed facility, it does not indicate that a request was made to provide service to the service area.

RESPONSE 6:

As noted by Lowerre & Frederick, the initial response from the City of Burleson regarding whether they had sufficient capacity to take this proposed discharge was simply a statement that they had no objections to the proposed wastewater treatment plant. The ED contacted the City of Burleson to get a clarification of whether they had sufficient capacity and willingness to accept the proposed discharge. In a letter dated March 28, 2007, the City of Burleson clarified that it did not have sufficient capacity or infrastructure to accept the proposed discharge. The City of Briar Oaks does not operate a separate wastewater treatment facility.

COMMENT 7:

Kathleen Cink and Philip R. Pope are concerned that a discharge of untreated or raw sewage may occur. Lowerre & Frederick are concerned that the Applicant has not presented adequate evidence of facility features and operational arrangements that would prevent the unauthorized discharge of untreated or partially treated wastewater.

RESPONSE 7:

The Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater. For example, the Applicant must 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. Also, please note that Standard Provision 7 of the draft permit states that when the flow reaches 75 percent of the permitted daily average flow for three consecutive months, the Applicant must initiate engineering and financial planning for expansion or upgrade of the domestic wastewater treatment or collection facilities. When the flow reaches 90 percent of the permitted daily average flow for three consecutive months, the Applicant must obtain authorization from the TCEQ to begin constructing the necessary additional treatment or collection facilities. All of these permit provisions are designed to help prevent unauthorized discharges of raw or inadequately treated 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.

COMMENT 8:

John Duke Smith expressed concern that the owners and operators of the facility will not financially be capable of maintaining the facility over a long period of time.

RESPONSE 8:

The TCEQ's jurisdiction in a wastewater permit application is limited to the issues set out in Texas Water Code, Chapter 26. It provides TCEQ with authorization to consider issues that directly affect water quality, but it does not provide authorization for TCEQ to consider issues such as the long term financial stability of the Applicant. These issues are typically addressed when an entity seeks a certificate of conveniences and necessity to provide retail sewer service. However, the draft permit includes language regarding what an Applicant must do should financial difficulties rise to the level of bankruptcy.³ The Applicant is required to notify the ED in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 of the United States Code against either the Applicant, an entity controlling the Applicant or listing the permit or Applicant as property of the estate, or an affiliate of the Applicant. Additionally, TCEQ has a Bankruptcy Program that files claims with the appropriate bankruptcy court and lines up with other creditors. More information on TCEQ's Bankruptcy Program may be obtained by calling 512-239-4438.

³ See Permit Condition #11 on page 9 of the draft permit.

COMMENT 9:

Mabe Addition HA asks how much physical acreage the wastewater treatment plant would cover.

RESPONSE 9:

According to information provided by the Applicant, the fenced area of the wastewater treatment facility is approximately 0.63 acres.

COMMENT 10:

H.W. Everett comments that the soils at the proposed site are Gowen clay loam and Hassee fine sandy loam and that these soils have poor to severe limitations. He states these soils are problematic for construction, drainage, and sanitary facilities because they may be flooded, have a wetness problem, and/or a high shrink-swell potential. He suggests TCEQ get a copy of the Johnson County Soils Survey. He concludes that high density housing is not an appropriate use of this land because of the soils present at the site.

RESPONSE 10:

The permitting process for an authorization to discharge wastewater does not include an analysis of the soils to determine if soils support construction of a wastewater treatment facility. However, this analysis is undertaken when the ED considers an application for authorization to irrigate with treated wastewater. In addition, it is the responsibility of a professional engineer to consider soils in the design of a wastewater treatment plant.

COMMENT 11:

Clydene Gunnerson expressed concerns regarding standing water as a breeding ground for mosquitoes.

RESPONSE 11:

The ED reviews permit applications to ensure that water quality is protected. Properly treated wastewater should not create a mosquito breeding area differently than that created by any other surface waters. Standing water should not be generated as a result of the operation of this facility.

COMMENT 12:

Lowerre & Frederick commented that the proposed inundation of the stream would make half of Ms. Gunnerson's property inaccessible to her cattle.

RESPONSE 12:

TCEQ's permit does not give an applicant the authorization to use another's property without their consent. When deciding to issue a wastewater permit, TCEQ does not adjudicate property right issues. It is the responsibility of an applicant to obtain all of the necessary property rights for operation of its proposed facility. In addition, the permit does not limit the ability to seek legal remedies against an applicant regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that interfere with the normal use and enjoyment of property.

COMMENT 13:

Lowmire & Frederick ask if any analysis has been completed to determine whether the receiving stream feeds the underlying aquifer. Mabe Addition HIA also asks what studies have been conducted regarding the impact the proposed facility would have on the aquifer and wildlife.

RESPONSE 13:

Aquifer recharge is not listed as a use in the Texas Surface Water Quality Standards for what part of the stream is assessed. The ED is not aware of any studies that have been completed that would determine whether the receiving stream re-charges the underlying aquifer or whether the proposed facility will have an impact on wildlife.

COMMENT 14:

Kathleen Cink indicated that Item 4(d) on page 9 of the Domestic Technical Report 1.0 was not accurate because she states that a pond is located downstream of the proposed discharge point and is not reflected on the discharge route.

RESPONSE 14:

The ED's review of the discharge route included the evaluation of an aerial photograph dated August 2004. The photograph indicated the presence of several ponds adjacent to the unnamed tributary of Quil Miller Creek approximately 4,500 feet downstream of the proposed discharge point, but none of these ponds appeared to be located directly on the stream channel. The TCEQ welcomes any additional information regarding existing characteristics of the receiving waters.

COMMENT 15:

Lowerre & Frederick comment that erosion from flooding could be worsened due to the proposed discharge.

RESPONSE 15:

The ED typically does not address concerns about erosion as part of the wastewater permitting process, unless it has potential impact to water quality. Erosion caused by the discharge should be addressed in the context of property rights. If the draft permit is approved, its issuance does not grant to the Applicant the right to use private or public property for conveyance of wastewater along the discharge route described in the permit. Neither does the permit authorize any invasion of property rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the Applicant to acquire property rights as may be necessary to use the discharge route.

The draft permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. The permit application indicates the facility is located above the 100-year flood plain and the draft permit includes Other Requirement No. 6 that requires the Applicant to provide protection for the facility from a 100-year flood event should subsequent mapping later determine that the facility is located on the 100-year flood plain. In addition, the Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater, including during rainfall events. For example, the Applicant must maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during rainfall events by maintaining the integrity of the collection system and the wastewater treatment facility. In addition, the plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the ED.

Though the ED does not specifically consider erosion potential, the volume of treated wastewater being proposed (45,000 gpd) should not cause appreciable erosion compared to the degree of erosion that may naturally occur at times when the tributary is flowing due to contributions from storm water.

COMMENT 16:

Lowerre & Frederick comment that it is not clear that the facility would have adequate storage of floodwaters in the event of heavy rains. Lowerre & Frederick is also concerned about the potential for wastewater upsets in the event of heavy rains, which might subsequently release polluted water. Lorene Green, Ray Green Family Trust, and Clydene Gunnerson are also

concerned that it is not clear that the proposed facility will have adequate emergency provisions to prevent inappropriate wastewater discharges.

RESPONSE 16:

There are no regulatory requirements for the storage of floodwaters. The facility will serve a new development with a small, new collection system that should have very little inflow and/or infiltration. The draft permit includes provisions that require the Applicant to ensure that all collection, treatment, and disposal systems are properly operated and maintained. Also, facilities that treat domestic wastewater are subject to capacity provisions. When 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 Applicant must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. When the flow reaches 90 percent of the permitted daily average or annual average flow for three consecutive months, the Applicant must obtain the necessary authorization from TCEQ to commence construction of the additional treatment and/or collection facilities.

Additionally, the Applicant is responsible for installing 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.

COMMENT 17:

Lowerre & Frederick comment that it is necessary to determine if hazardous household chemicals will be put into the water because the proposed treatment process does not remove them.

RESPONSE 17:

It is the responsibility of the Applicant to determine if they should accept wastes other than domestic wastewater. The Applicant should not accept wastewater released at a flow rate or pollutant concentration that will cause interference with the wastewater treatment facility or pass through. The Applicant should also not accept wastewater significantly different than domestic wastewater that cannot be treated by the wastewater treatment facility and that may cause violations of the permitted effluent limitations or requirements, or cause a violation of water quality standards.

COMMENT 18:

Lowerre & Frederick are concerned that there has not been adequate analysis of potential endangered or threatened species that may be affected by the treated effluent or by the construction of the facility.

RESPONSE 18:

The draft permit does not authorize any violation of the federal Endangered Species Act. If compliance with the ESA is required, the Applicant must obtain all necessary approvals under that federal law. However, the TCEQ's Water Quality Standards team in an internal memo dated February 27, 2006 states that the proposed discharge is not expected to have any 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 prepared when National Pollutant Discharge Elimination System permitting was delegated to Texas in 1998. 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 memo notes that this determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion and notes that the draft permit does not require EPA review with respect to the presence of endangered or threatened species.

COMMENT 19:

Lowerre & Frederick are concerned that it is not clear whether the facility will be staffed 24/7; without such monitoring, it is not clear that the facility will appropriately respond to emergency situations. Mabe Addition HA asks how much time each day the operator would have to be at the facility.

RESPONSE 19:

The draft permit (see Other Requirements No. 1) requires this facility be operated by a chief operator or an operator holding a Category D 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. There is no minimum

time limit on the length of each daily shift. Additionally, the draft permit does not require, nor do TCEQ require the proposed facility to be staffed 24/7.

COMMENT 20:

Make Addition HA ask how quickly and what TCEQ will do to resolve the issue if they are made aware of problems at the facility.

RESPONSE 20:

TCEQ's Region 4 Office in Fort Worth responds to complaints on a case-by-case and will respond based on the environmental factors raised by the complaint. For additional information regarding their response and how they resolved complaints, please contact the Region 4 Office at (888) 777-3186 or (817) 588-5800.

COMMENT 21:

Lowerre & Frederick are concerned that the location for the effluent monitoring samples is not adequately specific. They say the language "following the final treatment unit" is too vague.

RESPONSE 21:

Submitted with the permit application was a flow diagram that clearly indicates the final effluent treatment unit as the chlorine contact chamber. The point of sampling is not stipulated in the draft permit, as long as it takes place prior to discharge of the effluent. Usually such sampling takes place following the chlorine contact chamber.

COMMENT 22:

Lowerre & Frederick are concerned that proper notice was not provided considering that the discharge will flow undiluted for a significant distance from the facility, and the point that has been labeled as the "discharge point," mailed notice should have been provided to persons further downstream of the discharge. Specifically, mailed notice should have been provided to all persons with land adjacent to the receiving streams within one mile of the point where the effluent reaches perennial waters.

RESPONSE 22:

30 TAC § 39.551, which contains the notice requirements for this wastewater discharge permit, states that mailed notice for a new permit must be mailed to the persons listed in 30 TAC § 39.413. 30 TAC § 39.413(1) requires mailed notice to “the landowners named on the application map or supplemental map, or the sheet attached to the application map or supplemental map....”

TCEQ rules do not specify how far downstream from the discharge point an applicant must notify landowners. TCEQ wastewater treatment permit applications require an applicant to provide a map identifying all landowners adjacent to the facility and those located on the discharge route within one mile of the discharge route. There is no requirement to notify persons with land adjacent to the receiving streams within one mile where the effluent reaches perennial waters.

COMMENT 23:

Lowerre & Frederick state that the Applicant has not demonstrated that the proposed treatment plant will meet the applicable design criteria, including those criteria contained in 30 TAC Chapter 317.

RESPONSE 23:

The final design of the facility is not required as part of the wastewater permit application because at this stage of the process, an applicant is not certain what type of effluent limits a wastewater treatment plant will have to meet. However, if issued the permit requires the Applicant to meet the design criteria requirements for domestic wastewater treatment plants prior to construction of the facility. The rules in 30 TAC Chapter 317, Design Criteria for Sewage Systems, provide for permit issuance before final design of the facility. Other Requirement/Special Provision No. 7 of the draft permit requires the Applicant to clearly show how the treatment system will meet the final permitted effluent limitations required for each phase of the draft permit. The draft permit requires the Applicant to submit to the TCEQ Wastewater Permitting Section a summary submittal letter for the design criteria according to 30 TAC § 317.1, prior to construction of each phase of the wastewater treatment facilities. The summary letter must be signed and sealed by a licensed professional engineer. If requested by the Wastewater Permitting Section, the Applicant must submit plans, specifications, and a final engineering design report that comply with 30 TAC, Chapter 317, Design Criteria for Sewerage Systems. The ED, in determining whether to perform a review, uses factors, such as the proposed use of a nonconforming or innovative technology, the stream segment where the facility is located, and the Applicant's compliance history. In addition, after construction a licensed professional engineer must certify that the wastewater treatment facility was constructed according to the plans and specifications.

COMMENT 24:

Lowerre & Frederick are concerned that the discharge route is inappropriate. The receiving water is an intermittent waterway that will often contain no fluid other than the discharge from the wastewater treatment plant.

RESPONSE 24:

The intermittent tributary of Quil Miller Creek that is to receive the proposed discharge was evaluated by TCEQ's Water Quality Assessment Section for potential impacts to water quality and the uses of the water body. Using a default QUAL-TX model for effluent flows of 22,500 gpd and 45,000 gpd, the model results showed that the proposed effluent limitations in the draft permit were adequate to ensure the dissolved oxygen level will be maintained above the criterion established by the TCEQ's Water Quality Standards Team for the unnamed tributary.

COMMENT 25:

Mabe Addition HA asked what size lots will be considered in the development and if these are one acre lots would each be required to have their own septic tank. Reagan and Karen Ferguson also ask when would potential development plans be available and how many residences are proposed for the 30 acres. Mabe Addition HA comments this treatment plant signals that the property will be used for high density housing. Mabe Addition HA comments that high density housing is not an appropriate use of this land.

RESPONSE 25:

Lot sizes and other issues related to the development of a service area are not reviewed during the wastewater permitting process. The ED's review of the application only relates to the quality of the effluent discharge to be protective of aquatic life and human health.

COMMENT 26:

Mabe Addition HA is concerned about the impact on water supply. They comment that the facility will place an onerous demand on their overtaxed water supply. The ED in developing the proposed use of the plant is concerned about the impact on water supply and the impact on the surrounding area.

RESPONSE 26:

Water supply issues are not considered when reviewing an application and drafting a wastewater discharge permit. It is the responsibility of the builder/developer to provide an adequate water supply.

COMMENT 27:

Petitioners expressed concern that the impact of additional housing will significantly increase traffic congestion. Ella Dean and Mabe Addition HA were concerned about the potential negative impact on property values. Mabe Addition HA also is concerned that the facility would impact the quality of life in the area and may constitute a taking of their property rights.

RESPONSE 27:

The Texas Legislature has not authorized the TCEQ to address these issues when considering a wastewater permit application. The ED considers issues that impact water quality. The ED's review is limited to the issues set out in Chapter 26 of the Texas Water Code. Chapter 26 provides TCEQ with authorization to consider issues that directly affect water quality, but it does not provide authorization for TCEQ to consider issues such as the traffic congestion, feasibility of the proposed development, or property values.

COMMENT 28:

Philip R. Pope expressed concern regarding a high voltage transmission line that runs through the middle of the proposed development.

RESPONSE 28:

For concerns regarding utility transmission lines please contact the Public Utility Commission of Texas, send mail: 1701 N. Congress Avenue, PO Box 13326, Austin, TX 78711-3326 or call (512) 936-7000.

COMMENT 29:

James Dunn commented as Mayor of Briar Oaks that he would like for Briar Oaks and Burleson to work out a joint solution regarding whether this facility is necessary.

RESPONSE 29:

The ED is supportive of any solution that can be worked out between Briar Oaks, Burleson, and the Applicant regarding the necessity of this facility. However, Burleson has indicated that it does not have the capacity or infrastructure to take the proposed discharge and Briar Oaks does not have a separate wastewater treatment system.

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

Robert Brush, Staff Attorney

Environmental Law Division

State Bar No. 00788772

P.O. Box 13087, MC 173

Austin, Texas 78711-3087

(512) 239-5600

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on May 17, 2007 the "Executive Director's Response to Public Comments" for Permit No.WQ0014681001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Robert D. Brush, Staff Attorney
Environmental Law Division
State Bar No. 00788772

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 MAY 17 PM 1:37

CHIEF CLERK'S OFFICE

CONFIDENTIAL

CONFIDENTIAL - SECURITY INFORMATION
This document contains information that is exempt from public release under the Freedom of Information Act, 5 U.S.C. 552(b)(1) and (b)(7)(C). This information is being disseminated on a "need to know" basis only.

Special Agent in Charge
Department of Justice
State Bar of Texas
Dallas, Texas

ATTACHMENT F

Compliance History

Customer/Respondent/Owner-Operator:	CN602960015 Texas Longhorn Equities Corporation II	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN104813308 BRIARHAVEN ADDITION WWTP	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	WASTEWATER PERMIT WASTEWATER EPA ID		WQ0014681001 TX0128503
Location:	121 N BRIARROAKS RD, BURLESON, TX, 76028	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 05, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 16, 2001 to September 04, 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? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

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