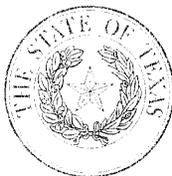


Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 15, 2008

LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

CHIEF CLERKS OFFICE

2008 SEP 15 AM 10:21

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Re: Executive Director's Response to Hearing Requests and Requests for Reconsideration for Aqua Utilities, Inc.; Permit No. WQ0014754001; Docket No. 2008-0486-MWD

Dear Ms. Castañuela:

Enclosed for filing are the original and eleven copies of the "Executive Director's Response to Hearing Requests and Requests for Reconsideration." If you have any questions or comments, please call me at (512) 239-5692.

Sincerely,

A handwritten signature in cursive script that reads "Celia Castro".

Celia Castro
Staff Attorney
Environmental Law Division

Enclosure

DOCKET NUMBER 2008-0486-MWD

2008 SEP 15 AM 10: 21

APPLICATION BY § BEFORE THE
AQUA UTILITIES, INC. § CHIEF CLERKS OFFICE
PERMIT NO. WQ0014754001 § TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**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 Requests for Reconsideration (Response) on the application by Aqua Utilities, Inc. (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) permit, No. WQ0014754001.

The following individuals submitted timely hearing requests:

Ray and Sandra Carson; Mark D. Clark; R.B. and Vickie Coleman; Richard and Paula Eldred; Gwendolyn Massey Findley and Mary Massey Props, *represented by G. Stephen Parrott*; Greg and Joni Frazier; L.L. (Bud) Lowack; Mallard Pointe on Lake Granbury Property Owners Assoc. (Mallard Pointe P.O.A.), *represented by Dan Loomis*; John L. Meche; James and Susan Norton; Alan H. Plummer, Jr; Kelly and Laura Reed; Bruce and Joyce Ring; Larry and Carolyn Sadlowski; Doug and Loretta Sherar; David and Patricia Siedal; Joby and Connie Soileau; James and Debbie Sims; Brian and Donna Smith; Tom and Patricia Tigner; and Roger D. Wiley.

The following individuals submitted timely requests for reconsideration:

Hood County Commissioners: Honorable Steve Berry, Honorable Dick Roan, Honorable Leonard Heathington, and Honorable Mike Sympson; Thomas and Anita Lawrence; Phil, Tracey, and Rachel Ferrero; and Carroll and Vikki Gilbreath.

Attached for Commission consideration are the following:

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

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

II. Facility Description

The Applicant has applied to the TCEQ for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 50,000 gallons per day (gpd) in the interim I phase, 100,000 gpd in the interim II phase, and 150,000 gpd in the final phase. The proposed wastewater treatment facility would serve the Nolan Park residential subdivision. The facility would be located one mile north of Highway 377 on M&M Ranch Road in Hood County, Texas.

The Nolan Park Wastewater Treatment Facility would be an activated sludge process plant operated in the extended aeration mode. Treatment units would include a lift station, bar screen, flow equalization basin, aeration basin, clarifier, digester, and a chlorine contact chamber. The Applicant has not constructed the facility. The draft permit would authorize the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The treated effluent will be discharged through a pipe to Rucker Creek; then to Lake Granbury in Segment No. 1205 of the Brazos River Basin. The unclassified receiving water uses are no significant aquatic life uses for Rucker Creek. The designated uses for Segment No. 1205 are high aquatic life, public water supply, and contact recreation.

III. Procedural Background

TCEQ received the application for a new permit on October 25, 2006 and declared it administratively complete on January 9, 2007. The Notice of Receipt and Intent to Obtain a Water Quality Permit was published on February 24, 2007 in the *Hood County News*. The Notice of Application and Preliminary Decision for a Water Quality Permit was published on May 5, 2007 in the *Hood County News*. TCEQ held a public meeting on October 16, 2007 and the public comment period ended at the close of the meeting. The ED filed the RTC on February 15, 2008, and the period for requesting reconsideration or a contested case hearing ended on March 24, 2008. Since this application was administratively complete after September 1, 1999, it is subject

to House Bill 801 (76th Legislature, 1999).

IV. The Evaluation Process for Hearing Requests

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The application was declared administratively complete on January 26, 2007 and therefore is subject to the HB 801 requirements. The Commission implemented HB 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The regulations governing requests for contested case hearings are found at 30 TAC, Chapter 55.

A. Responses to Requests

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

Responses to hearing requests must specifically address:

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

30 TAC § 55.209(e).

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.

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

30 TAC §55.201(c).

A hearing request must substantially comply with the following:

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

30 TAC § 55.201(d).

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."

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

- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203.

D. Additional Requirements if Requestor is a Group or Association

A group or association may request a contested case hearing only if the group or association meets all of the following requirements:

- (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- (2) the interests the group or association seeks to protect or germane to the organization's purpose; and
- (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

30 TAC § 55.205(a).

E. Referral to the State Office of Administrative Hearings

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

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

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

30 TAC § 50.115(c).

V. Analysis of the Requests

A. Analysis of the Hearing Requests

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

Ray and Sandra Carson; Mark D. Clark; R.B. and Vickie Coleman; Richard and Paula Eldred; Gwendolyn Massey Findley and Mary Massey Props; Greg and Joni Frazier; L.L. (Bud) Lowack; Mallard Pointe on Lake Granbury Property Owners Assoc. (Mallard Pointe P.O.A.), *represented by Dan Loomis*; John L. Meche; James and Susan Norton; Alan H. Plummer, Jr; Kelly and Laura Reed; Bruce and Joyce Ring; Larry and Carolyn Sadlowski; Doug and Loretta Sherar; David and Patricia Siedal; Joby and Connie Soileau; James and Debbie Sims; Brian and Donna Smith; Tom and Patricia Tigner; and Roger D. Wiley. submitted timely written hearing requests that included relevant contact information and raised disputed issues.

The ED recommends the Commission find that the hearing requests of Ray and Sandra Carson; Mark D. Clark; R.B. and Vickie Coleman; Richard and Paula Eldred; Gwendolyn Massey Findley and Mary Massey Props; Greg and Joni Frazier; L.L. (Bud) Lowack; Mallard Pointe P.O.A., *represented by Dan Loomis*; John L. Meche; James and Susan Norton; Alan H. Plummer, Jr; Kelly and Laura Reed; Bruce and Joyce Ring; Larry and Carolyn Sadlowski; Doug and Loretta Sherar; David and Patricia Siedal; Joby and Connie Soileau; James and Debbie Sims; Brian and Donna Smith; Tom and Patricia Tigner; and Roger D. Wiley substantially comply with the requirements of 30 TAC § 55.201(c) & (d).

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

Gwendolyn Massey Findley and Mary Massey Props

Gwendolyn Massey Findley and Mary Massey Props state that Rucker Creek runs through their property. They point out that this proximity to the creek has the potential for adverse environmental effects. Their legal counsel did not supply a physical address; however, the Executive Director was able to determine that their property was approximately one and one-half miles downstream from the facility (See Attachment E). In addition, the Applicant includes them on their downstream owners list (See Attachment F). A reasonable relationship exists between the interest claimed and the proposed activity. Based on the location of their property, they have demonstrated that the discharge will affect their health, safety, or use of their property or natural resources. 30 TAC § 55.203(c). Therefore, by owning or living along the discharge route within a reasonable distance downstream of the proposed facility, they have raised personal justiciable interests not common to that of the general public. The ED concludes they are affected persons.

The ED recommends the Commission find that Gwendolyn Massey Findley and Mary Massey Props are affected persons under the requirements of 30 TAC § 55.203.

Ray and Sandra Carson; Mark D. Clark; R.B. and Vickie Coleman; Richard and Paula Eldred; Greg and Joni Frazier; Dan Loomis (Mallard Pointe P.O.A.); L.L. (Bud) Lowack; John L. Meche; James and Susan Norton; Alan H. Plummer, Jr; Kelly and Laura Reed; Bruce and Joyce Ring; Larry and Carolyn Sadlowski; Doug and Loretta Sherar; David and Patricia Siedal; Joby and Connie Soileau; James and Debbie Sims; Brian and Donna Smith; Tom and Patricia Tigner; and Roger D. Wiley

R.B. & Vickie Coleman; Greg & Joni Frazier; Kelly & Laura Reed; and Bruce & Joyce Ring state that they are not on the water or otherwise do not claim adjacency to the discharge route. They all state that they have boat slips in the Mallard Pointe marina. In addition, their property is more than three miles from the facility. Ray & Sandra Carson; Mark Clark; Richard & Paula Eldred; Dan Loomis; L.L. (Bud) Lowack; John Meche; James & Susan Norton; Larry & Carolyn Sadlowski; Doug & Loretta Sherar; David & Patricia Siedal; James & David Sims; Brian & Donna Smith; Joby & Connie Soileau; Tom & Patricia Tigner; and Roger D. Wiley state that they own property on Lake Granbury, Rucker Creek, or Rucker Creek Cove; however, they are more than three miles downstream from the facility. Alan Plummer, Jr. did not provide a physical address and admits that his property is more than five miles downstream from the facility.

None of these requestors live or own property within a reasonable distance downstream along the discharge route (See Attachment E). Based on the location of their property and the size and nature of the proposed discharge, they have not demonstrated that the discharge will affect their health, safety, or use of their property or natural resources. 30 TAC § 55.203(c). The requestors have not raised personal justiciable interests that are not common to that of the general public. The ED concludes they are not affected persons.

The ED recommends the Commission find that Ray and Sandra Carson; Mark D. Clark; R.B. and Vickie Coleman; Richard and Paula Eldred; Dan Loomis; Greg and Joni Frazier; L.L. (Bud) Lowack; John L. Meche; James and Susan Norton; Alan H. Plummer, Jr; Kelly and Laura Reed; Bruce and Joyce Ring; Larry and Carolyn Sadlowski; Doug and Loretta Sherar; David and Patricia Siedal; Joby and Connie Soileau; James and Debbie Sims; Brian and Donna Smith; Tom and Patricia Tigner; and Roger D. Wiley are not affected persons under the requirements of 30 TAC § 55.203.

Mallard Pointe P.O.A., represented by Dan Loomis

Dan Loomis states that he represents Mallard Pointe P.O.A., an association of property owners in Mallard Pointe on Lake Granbury whose homes are on the water of Rucker Creek Cove. He states that they should have the right to enjoy the use of Rucker Creek and Rucker Creek Cove without concerns about their health and the water quality. The ED finds that the interests that Mallard Pointe P.O.A. seeks to protect are germane to the organization's purpose.

To satisfy the group/association requirements of 30 TAC § 55.205(a), Dan Loomis

identified himself as a member and spokesperson for Mallard Pointe P.O.A. Attachment E shows the relative location of Mr. Loomis in relation to the facility. As previously discussed above, the ED has concluded that Mr. Loomis is not an affected person. Therefore, Mallard Pointe P.O.A. and its individual members have not shown a personal justiciable interest and no standing to request a hearing in their own right. Mallard Pointe P.O.A. has failed to meet the requirements set out in § 55.205(a).

The ED recommends the Commission find that Mallard Pointe P.O.A. does not meet the associational requirements of 30 TAC § 55.205(a) because member and spokesperson Dan Loomis does not have a personal justiciable interest and no standing to request a hearing in his own right.

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

The ED has analyzed issues raised in accordance with the regulatory criteria. With the exception of one issue, the issues discussed were raised during the public comment period and addressed in the RTC. None of the issues were withdrawn. The issues raised for this application and the ED's analysis and recommendations follow.

1. *Whether the draft permit satisfies regulatory requirements intended to protect water quality, human health, the environment, wildlife, and existing uses? (RTC #2)*

Ray & Sandra Carson; R.B. & Vickie Coleman; Greg & Joni Frazier; Kelly & Laura Reed; Bruce & Joyce Ring; Joby & Connie Soileau; Roger D. Wiley; Richard & Paula Eldred; Mallard Pointe P.O.A. (Dan Loomis); John L. Meche; Alan Plummer, Jr.; Gwendolyn Massey Findley & Mary Massey Props; Larry & Carolyn Sadlowski; Doug & Loretta Sherar; James & Debbie Sims; Brian & Donna Smith; and Tom & Patricia Tigner raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

2. *Whether the proposed activity satisfies regulatory requirements intended to address odor? (RTC #4)*

John L. Meche; Doug & Loretta Sherar; Tom & Patricia Tigner; Richard & Paula Eldred; James & Debbie Sims; and Mark D. Clark raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. Therefore, this issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

3. Whether the Applicant's compliance history will result in its inability to comply with material terms of the draft permit? (RTC #6)

James and Debbie Sims; Brian and Donna Smith; Tom and Patricia Tigner; Larry and Carolyn Sadlowski; Doug and Loretta Sherar; David and Patricia Siedal; R.B. and Vickie Coleman; Greg and Joni Frazier; L.L. (Bud) Lowack; John L. Meche; James and Susan Norton; Alan H. Plummer, Jr; Ray & Sandra Carson; R.B. & Vickie Coleman; Greg & Joni Frazier; Kelly & Laura Reed; Bruce & Joyce Ring; Joby & Connie Soileau; Roger D. Wiley; and Mallard Pointe P.O.A. (Dan Loomis) raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

4. Whether there is a wastewater treatment facility or collection system within a reasonable distance that is currently available to provide sewer service and economically feasible? (RTC #21)

Ray & Sandra Carson; R.B. & Vickie Coleman; Greg & Joni Frazier; Kelly & Laura Reed; Bruce & Joyce Ring; Joby & Connie Soileau; Roger D. Wiley; Larry & Carolyn Sadlowski; Mallard Pointe P.O.A.; Alan Plummer, Jr.; Brian & Donna Smith; L.L. (Bud) Lowack; James & Susan Norton; James & Debbie Sims; John L. Meche; Doug & Loretta Sherar; Mark D. Clark; Patricia & David Siedal; and Richard & Paula Eldred raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

5. Whether false information submitted in the permit application would require denial of the draft permit? (RTC# 21)

Ray and Sandra Carson; R.B. and Vickie Coleman; Greg and Joni Frazier; L.L. (Bud) Lowack; Mallard Pointe P.O.A., *represented by Dan Loomis*; John L. Meche; James and Susan Norton; Alan H. Plummer, Jr; Kelly and Laura Reed; Bruce and Joyce Ring; Larry and Carolyn Sadlowski; Doug and Loretta Sherar; David and Patricia Siedal; Joby and Connie Soileau; James and Debbie Sims; Brian and Donna Smith; Tom and Patricia Tigner; and Roger D. Wiley raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

6. Whether the draft permit meets regulatory requirements regarding disinfection? (RTC #1)

Richard & Paula Eldred; L.L. (Bud) Lowack; Mallard Pointe P.O.A. (Dan Loomis); John L. Meche; James & Susan Norton; Alan Plummer, Jr.; Doug & Loretta Sherar; David & Patricia Siedal; James & Debbie Smith; and Brian & Donna Smith raised this issue. They were concerned that the proposed discharge may increase levels of *E. coli* and other pathogens. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

7. Whether use of creek water for lawn irrigation will create a health concern to humans? (RTC #2)

Alan Plummer, Jr.; Richard & Paula Eldred; and Tom & Patricia Tigner raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

8. Whether nutrients in the proposed discharge will cause a violation of the TSWQS criteria regarding algae growth? (RTC #2)

Doug & Loretta Sherar; James & Debbie Sims; Alan Plummer, Jr.; Dan Loomis; Gwendolyn Massey Findley & Mary Massey Props; Mark D. Clark; Richard & Paula Eldred; and Tom & Patricia Tigner raised this issue. They were concerned that phosphorus and nitrogen in the proposed discharge would cause golden algae to flourish, resulting in fish kills. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

9. Whether the antidegradation review complies with TCEQ rules and procedures? (RTC #5)

Mallard Pointe P.O.A.; Brian & Donna Smith; L.L. (Bud) Lowack; James & Susan Norton; James & Debbie Sims; and Doug & Loretta Sherar raised this issue and called for a Tier

2 antidegradation review. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

10. Whether stricter effluent standards, including phosphorus removal, are necessary to avoid degradation of WQ conditions? (RTC #22)

Alan Plummer, Jr.; Mallard Pointe P.O.A.; Brian & Donna Smith; L.L. Lowack; Mark D. Clark; James & Susan Norton; James & Debbie Sims; and Richard & Paula Eldred raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

11. Whether the draft permit meets the regulatory requirements for sampling and monitoring? (RTC #24)

Ray & Sandra Carson; R.B. & Vickie Coleman; Greg & Joni Frazier; Kelly & Laura Reed; Bruce & Joyce Ring; Joby & Connie Soileau; Roger D. Wiley; Alan Plummer, Jr.; Dan Loomis; Brian & Donna Smith; L.L. Lowack; James & Susan Norton; James & Debbie Sims; and Richard & Paula Eldred raised this issue. They wanted the Applicant to perform frequent sampling and testing for permitted parameters and phosphorus. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

12. Whether the proposed discharge would have adverse effects on humans, aquatic life, and wildlife due to variable flow in Rucker Creek and Rucker Cove? (RTC #28)

John L. Meche; Mallard Pointe P.O.A.; and Richard & Paula Eldred raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

13. Whether Applicant made all application documents available for public viewing during the specified period as required by applicable regulations? (RTC #33)

Alan Plummer, Jr. raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

14. Whether the permit should be denied because the proposed facility's dilution factor is insufficient, as opposed to the City of Granbury's WWTP, to deal with contamination caused by disposal of chemicals used to manufacture methamphetamines?

Ray and Sandra Carson; R.B. and Vickie Coleman; Greg and Joni Frazier; Mallard Pointe P.O.A.; James and Susan Norton; Kelly and Laura Reed; Bruce and Joyce Ring; Larry and Carolyn Sadlowski; Doug and Loretta Sherar; David and Patricia Siedal; Joby and Connie Soileau; James and Debbie Sims; Brian and Donna Smith; Tom and Patricia Tigner; and Roger D. Wiley raised this issue. This issue is within TCEQ's jurisdiction and involves a question of fact; however, the hearing requestors did not raise it during the initial public comment period. Therefore, it is not addressed in the RTC and does not meet the requirements in 30 TAC § 50.115(c).

The ED recommends not referring this issue to SOAH.

15. Whether the Applicant should be required to seek wastewater disposal alternatives? (RTC #10)

Mallard Pointe P.O.A. (Dan Loomis); L.L. (Bud) Lowack; Doug & Loretta Sherar; James & Susan Norton; Brian & Donna Smith; James & Debbie Sims; and Larry & Carolyn Sadlowski raised this issue. Currently, the Applicant submits an application to the ED and the staff evaluates it for compliance with TCEQ rules, including the Texas Surface Water Quality Standards (TSWQS). Alternatives to a discharge are not considered in the wastewater permitting process. Therefore, this issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

16. Whether the proposed discharge will result in surface erosion in violation of applicable regulatory requirements? (RTC #9)

Gwendolyn Massey Findley and Mary Massey Props raised this issue. This issue involves a question of fact, was raised during the public comment period, and was not withdrawn. However, whether a discharge will cause downstream erosion is not currently assessed during the wastewater permitting process. This issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

17. Whether the proposed activity will adversely affect property values and quality of life? (RTC #3)

Gwendolyn Massey Findley & Mary Massey Props; James & Debbie Sims; Alan Plummer, Jr.; Mallard Pointe P.O.A. (Dan Loomis); Richard & Paula Eldred; Tom & Patricia Tigner; and David & Patricia Siedal raised this issue. This issue involves a question of fact, was raised during the public comment period, and was not withdrawn. However, this issue is not assessed during the wastewater permitting process. This issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

18. Whether TCEQ should require a specific method of treatment for disinfection? (RTC #23)

Ray & Sandra Carson; R.B. & Vickie Coleman; Greg & Joni Frazier; Kelly & Laura Reed; Bruce & Joyce Ring; Joby & Connie Soileau; Roger D. Wiley; Alan Plummer, Jr.; Dan Loomis; Brian & Donna Smith; L.L. Lowack; James & Susan Norton; and James & Debbie Sims raised this issue. This issue involves a question of fact, was raised during the public comment period, and was not withdrawn. The draft permit dictates that Chapter 317 requirements must be met and an applicant must submit plans and specifications to meet those requirements prior to construction of the treatment facility. However, TCEQ rules do not require a specific method of disinfection treatment and this issue is not assessed during the wastewater permitting process. This issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

19. Whether TCEQ should bar current and future flow to Rucker Creek? (RTC #26)

John L. Meche raised this issue. This issue involves a question of fact, was raised during the public comment period, and was not withdrawn. However, this issue is not assessed during the wastewater permitting process. This issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

VI. Requests for Reconsideration (RFR)

Hood County Commissioners Honorable Steve Berry, Honorable Dick Roan, Honorable Leonard Heathington, and Honorable Mike Sympton; Thomas and Anita Lawrence; Phil, Tracey, and Rachel Ferrero; and Carroll and Vikki Gilbreath filed timely RFRs and all set forth

issues that the ED addresses in the RTC. The following responses address regionalization, compliance issues, the Lake Granbury Watershed Protection Plan, the discharge's impact on property values and quality of life, liability for damage to property or health, accidental discharge, need for phosphorus limits, and risk to water quality and existing uses.

RTC RESPONSE NO. 21: - Regionalization

The RFRs assert that the Commission should reconsider the ED's preliminary decision regarding regionalization because they believe the Applicant was not forthcoming in its attempts to explore the option of connecting to the City of Granbury's collection system and submitted incorrect information.

In the RTC, the ED responded:

As part of the application process, the Applicant is required to review a three-mile area surrounding the proposed facility to determine if there is a wastewater treatment plant or sewer collection lines within the area that they can utilize. The wastewater treatment plant must have sufficient existing capacity to accept the additional waste. If such a facility exists and they are willing to accept the proposed waste, the Applicant must provide an analysis of expenditures required to connect to the existing wastewater treatment facility.

In the application received on October 25, 2006, the Applicant provided TCEQ with information that no wastewater treatment plant or sewer collection lines existed within a three-mile radius. Upon receipt of the application, with the help of the most current Geographical Information System (GIS) based map, TCEQ staff reached a conclusion that no wastewater treatment plant existed within a three-mile area surrounding the proposed facility. However, the staff cannot determine the location of sewer lines and must rely on the information provided by the Applicant.

At the public meeting held on October 16, 2007, TCEQ became aware that a sewer collection line belonging to the City of Granbury (City) exists within a three-mile area surrounding the proposed facility. By submitting a signed and completed application, the Applicant certified that, to the best of their knowledge and belief, the information submitted was true, accurate, and complete. In the event the Applicant becomes aware that it failed to submit any relevant facts or submitted incorrect information in an application or in any report to the ED, it must promptly submit such facts or information. Therefore, TCEQ subsequently requested the Applicant to provide corrected information.

In a letter to TCEQ dated November 13, 2007, the Applicant indicated that it would cost them fifty percent more to connect the line with the City's sewer collection system than to build their own treatment facility. The Applicant estimated that it would need \$867,966 to connect the line to the City's sewer collection system and \$590,765 to build the proposed wastewater treatment facility. The Applicant also added that it would take eighteen months to obtain the permit to bore a hole under the railway system that

separates the proposed development from the City's sewer collection system. According to the Applicant, each month that they do not have the permit will cost them \$10,000; thereby incurring an additional sum of \$180,000.

The RFR does not present any additional information that the ED has not already considered. The ED recommends that the Commission deny the RFR regarding regionalization.

RTC RESPONSE NO. 6: - Compliance Issues

The RFRs assert that the Commission should reconsider the ED's preliminary decision regarding compliance issues because they believe that the Applicant should have a better compliance rating.

In the RTC, the ED responded:

The Applicant owns and operates many wastewater treatment facilities in the State. The commenters have not clearly indicated which facility has a compliance problem. In this instance, the Applicant has not begun discharging and there are no compliance issues. However, using an assigned customer number, TCEQ was able to review an entire compliance history that includes all types of facilities authorized by the TCEQ and operated by the Applicant. The classification for the Applicant is average with a rating of 0.96.

The ED determined that the proposed draft permit is protective of the environment, water quality, and human health and that it meets TCEQ rules and requirements if the Applicant operates and maintains the facility as required by the proposed permit and regulations. To report complaints about the facility if the permit is issued, please contact the TCEQ at 1-888-777-3186 to reach the TCEQ region office in your area. Citizens may also report suspected incidents of non-compliance through the commission's Web site by following the menu for "Reporting" and "Reporting Environmental Problems to TCEQ" at <http://www.tceq.state.tx.us>. TCEQ's regional staff investigates citizen complaints and the commission takes appropriate enforcement action if the investigator documents a violation of regulations.

The RFR does not present any additional information that the ED has not already considered. The ED recommends that the Commission deny the RFR regarding compliance issues.

RTC RESPONSE NO. 19: - Lake Granbury Watershed Protection Plan

The RFRs assert that the Commission should reconsider the ED's preliminary decision regarding the Lake Granbury Watershed Protection Plan (WPP) because they want to see the results of the study before TCEQ takes any permit action.

In the RTC, the ED responded:

The proposed discharge is approximately 5.1 miles upstream of the designated segment boundary of Lake Granbury (Segment No. 1205). The segment description of Lake Granbury is up to the normal pool elevation of 693 feet, including all coves. DO modeling predicts that the proposed 150,000 gpd discharge will maintain the 2.0 DO criterion of Rucker Creek, as well as be at background levels for oxygen demanding constituents before reaching Lake Granbury and the 693-foot contour.

Lake Granbury currently meets water quality standards and is not on the State's inventory of impaired and threatened waters, the 2004 Clean Water Act Section 303(d) list and 2006 Draft 303(d) list. TCEQ staff did not observe any detectable bacteria level at the upstream and main stem of the lake. However, due to local and regional concerns, TCEQ, through its Clean Rivers Program, is conducting an ongoing study focusing on bacteria modeling in coves and canals of Lake Granbury. This program will coordinate with the Lake Granbury Watershed Protection Plan to address bacteria concerns.

In addition to the above RTC response, the WPP addresses non-point sources of bacterial pollution such as failing septic tanks and leaking collection systems. The ED does not consider these types of non-point sources when reviewing wastewater applications and preparing draft permits because properly disinfected wastewater should not affect a WPP and its goals. Additionally, the WPP is reviewing existing non-point sources and is not considering potential new sources, including point sources. Therefore, the WPP would not provide value to the permitting process.

The RFR does not present any additional information that the ED has not already considered. The ED recommends that the Commission deny the RFR regarding the Lake Granbury Watershed Protection Plan.

RTC RESPONSE NO. 3: - Impact on property values and quality of life

The RFRs assert that the Commission should reconsider the ED's preliminary decision regarding property values and quality of life because they selected this area for retirement and it is a recreational area for families.

In the RTC, the ED responded:

Although the legislature has given the TCEQ the responsibility to protect water quality, TCEQ does not address these issues in the wastewater permitting process. The water quality permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ cannot consider economic impacts, property values, quality of life, tourism, traffic, and non-point source issues when reviewing wastewater applications and preparing draft permits.

The RFR does not present any additional information that the ED has not already considered. The ED recommends that the Commission deny the RFR regarding property values and quality of life issues.

RTC RESPONSE NO. 18: - Liability for damage to property or health

The RFRs assert that the Commission should reconsider the ED's preliminary decision regarding liability issues because they believe the individual should not bear the burden to report detrimental impact or take legal action.

In the RTC, the ED responded:

There are no TCEQ rules that require the Applicant to post bond and maintain insurance or indemnity against damage. The ED determined that the proposed draft permit is protective of the environment, water quality (including surface water and groundwater), and human health and that it meets TCEQ rules and requirements if the Applicant operates and maintains the facility as required by the proposed permit and regulations.

The issuance of a permit does not grant to the Applicant the right to use private or public property for conveyance of wastewater along the discharge route. This includes property belonging to any individual, partnership, corporation or other entity. The permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is the Applicant's responsibility to acquire the necessary property rights to use the discharge route. Also, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

The RFR does not present any additional information that the ED has not already considered. The ED recommends that the Commission deny the RFR regarding liability issues.

RTC RESPONSE NO. 29: - Accidental discharge

The RFRs assert that the Commission should reconsider the ED's preliminary decision regarding accidental discharge because other package plants have failed and resulted in sewage and contamination into Lake Granbury.

In the RTC, the ED responded:

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 TCEQ must approve plans

and specifications for domestic sewage collection and treatment works associated with any domestic permit. Also, Standard Provision 7 of the proposed 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 TCEQ to begin constructing the necessary additional treatment or collection facilities.

In addition, TCEQ's regulations require that domestic wastewater treatment plants be operated and maintained by operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30. A chief operator holding a Category C license or higher must operate this facility for a minimum of five days per week and must be available by telephone or pager seven days per week.

The Applicant is also required to report any unauthorized discharge to TCEQ within 24 hours. If the Applicant fails to report the unauthorized discharge or bypass to TCEQ within the prescribed time, the Applicant will be subject to enforcement by TCEQ. Should there be an accidental discharge, TCEQ and other local governmental entities determine if nearby residents need to be notified of any leak or runoff based on the severity and potential health impact of the discharge.

TCEQ conducts periodic inspections of wastewater facilities and conducts investigations based on complaints received from the public. To report complaints about the facility if this permit is issued, please contact the Dallas Fort Worth Regional Office at (817) 588-5800, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints/index.html. The TCEQ investigates all complaints received. If TCEQ finds that the facility does not comply with the terms and conditions of its permit, it will be subject to investigation and possible enforcement action. For more information regarding enforcement, please see TCEQ's web site at www.tceq.state.tx.us/ and click on "Compliance, Enforcement and Cleanups."

The RFR does not present any additional information that the ED has not already considered. The ED recommends that the Commission deny the RFR regarding accidental discharges.

RTC RESPONSE NO. 22: - Need for phosphorus limits

The RFRs assert that the Commission should reconsider the ED's preliminary decision regarding phosphorus limits because they believe that phosphorus limits are necessary and that the property owners along the discharge route are not being considered in the decision to exclude phosphorus limits.

In the RTC, the ED responded:

The ED has determined that the effluent limits in the draft permit will protect and maintain water quality in Rucker Creek as well as the Rucker Creek arm of Lake Granbury. Because of the relatively small size of the proposed discharge and the distance traveled in Rucker Creek before reaching the cove (approximately five miles), additional permit requirements such as phosphorus limits are not necessary.

TCEQ may review the permit after the completion of any new intensive water quality survey on Segment No. 1205 of the Brazos River Basin and any subsequent updating of the water quality model for Segment No. 1205. TCEQ may amend the permit and make effluent limits more stringent at renewal if there is any change to the approved modeling protocol.

The RFR does not present any additional information that the ED has not already considered. The ED recommends that the Commission deny the RFR regarding phosphorus limits.

RTC RESPONSE NO. 1: - Risk to water quality and existing uses

The RFRs assert that the Commission should reconsider the ED's preliminary decision regarding water quality because Lake Granbury is already at risk, they have poor water quality, and they do not want additional problems. In addition, based on prior dealings, they do not have faith in the Applicant. In his response to the hearing requests, the ED has recommended that this issue be referred to SOAH as Issue No. 1 and Issue No. 12.

Effluent discharged into water in the state from facilities regulated under the Texas Pollution Discharge Elimination System (TPDES) must meet the Texas Surface Water Quality Standards (TSWQS). The TSWQS and other applicable rules are protective of aquatic life, human health, and the environment including the designated uses of the receiving waters. The draft permit for the facility meets the requirements of the TSWQS. The TCEQ does not anticipate that constituents in the discharge will have an adverse effect on the receiving water or its designated uses.

The draft permit requires the facility to chlorinate for disinfection purposes. Disinfection by chlorination is designed to remove harmful bacteria in the effluent and most other disease causing organisms. Facilities that disinfect by proper chlorination have far fewer coliform colonies than the level of concern. TCEQ rules require disinfection in a manner conducive to the protection of both public health and aquatic life by requiring a minimum detention time for the wastewater in the chlorination chamber and a minimum chlorine residual in the effluent to continue disinfection after discharge. The rules and draft permit also set a maximum chlorine residual that will not impact aquatic life in the receiving waters.

The RFR does not present any additional information that the ED has not already considered. The ED recommends that the Commission deny the RFR regarding water quality issues.

The proposed permit complies with applicable regulations and no additional information was provided that would cause the Executive Director to alter his recommendation to issue the permit. Therefore, the Executive Director recommends denial of the requests for reconsideration.

VII. Duration of the Contested Case Hearing

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

VIII. Executive Director's Recommendation

The ED recommends the following actions by the Commission:

1. The ED recommends the Commission deny all requests for reconsideration.
2. The ED recommends the Commission grant the hearing requests of Gwendolyn Massey Findley and Mary Massey Props and refer the issues enumerated below to SOAH for a proceeding of nine months duration.
3. The ED recommends the Commission deny all other hearing requests.
4. If the Commission finds that any of the requesters are affected persons, the ED recommends referral of Issues 1-13 to SOAH for a proceeding of nine months duration.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

By Celia Castro
Celia Castro, Staff Attorney
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State Bar No. 03997350
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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on September 15, 2008, the original and eleven copies of the "Executive Director's Response to Hearing Requests and Requests for Reconsideration" for Aqua Utilities, Inc., TPDES Permit No. WQ0014754001, were filed with the TCEQ's Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, or by deposit in the U.S. Mail.

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

CHIEF CLERK'S OFFICE

2008 SEP 15 AM 10:21

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

MAILING LIST
AQUA UTILITIES, INC.
DOCKET NO. 2008-0486-MWD; PERMIT NO. WQ0014754001

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John L Meche
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PUBLIC OFFICIALS – INTERESTED
PERSON(S)

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Texas Senate
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Austin Tx 78711-2068

The Honorable Chet Edwards
House Of Representatives
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Washington Dc 20515-3225

The Honorable James L Keffer
Texas House Of Representatives
Po Box 2910
Austin Tx 78768-2910

ATTACHMENT A

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

DESCRIPTION OF APPLICATION

Applicant: Aqua Utilities, Inc.;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0014754001, (TX0129151)

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 May 01, 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 0.05 million gallons per day in the interim I phase, 0.10 million gallons per day in the interim II phase and a daily average flow not to exceed 0.15 million gallons per day in the final phase. The proposed wastewater treatment facility will serve the Nolan Park.

PROJECT DESCRIPTION AND LOCATION

The Nolan Park Wastewater Treatment Facility is an activated sludge process plant operated in the extended aeration mode. Treatment units include lift station, bar screen, flow equalization basin, aeration basin, clarifier, digester and chlorine contact chamber. The facility has not been constructed.

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 authorized land application site or co-disposal landfill.

The plant site will be located one mile north of Highway 377 on M&M Ranch Road in Hood County, Texas.

The treated effluent will be discharged through a pipe to Rucker Creek; thence to Lake Granbury in Segment No. 1205 of the Brazos River Basin. The unclassified receiving water uses are no significant aquatic life uses for Rucker Creek. The designated uses for Segment No. 1205 are high aquatic life uses, public water supply and contact recreation. 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;

Aqua Utilities, Inc.

TPDES Permit No. WQ0014754001

Statement of Basis/Technical Summary and Executive Director's Preliminary Decision

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.

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. A Waste Load Evaluation has not been completed for the segment.

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

Segment No. 1205 is not currently listed on the State's inventory of impaired and threatened waters (the Clean Water Act Section 303(d) list).

SUMMARY OF EFFLUENT DATA

There is no effluent data since the facility is not yet constructed.

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at an interim I volume not to exceed a daily average flow of 0.05 million gallons per day, interim II volume not to exceed a daily average flow of 0.10 million gallons per day and a final volume not to exceed a daily average flow of 0.15 million gallons per day.

The effluent limitations in all phases of the draft permit, based on a 30-day average, are 10 mg/l CBOD₅, 15 mg/l TSS, 3.0 mg/l NH₃-N, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The 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 authorized land application site or co-disposal landfill.

SUMMARY OF CHANGES FROM APPLICATION

None.

SUMMARY OF CHANGES FROM EXISTING PERMIT

N/A

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application received October 25, 2006 and additional information received December 15, 2006 and January 03, 2007.
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 2004 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, May 13, 2005; approved by USEPA on May 8, 2006.
8. "TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," Document No. 98-001.000-OWR-WQ, May 1998.

Aqua Utilities, Inc.

TPDES Permit No. WQ0014754001

Statement of Basis/Technical Summary and Executive Director's Preliminary Decision

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 Michael A. Redda at (512) 239-4631.

Michael A. Redda
Municipal Permits Team
Wastewater Permitting Section (MC 148)

January 25, 2006

Date

ATTACHMENT B



TPDES PERMIT NO. WQ0014754001
[For TCEQ Office Use Only:
EPA ID No. TX0129151]

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

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

Aqua Utilities, Inc.

whose mailing address is

1421 Wells Branch Parkway, Suite 105
Pflugerville, Texas 78660

is authorized to treat and discharge wastes from the Nolan Park Wastewater Treatment Facility, SIC Code 4952
located one mile north of Highway 377 on M&M Ranch Road in Hood County, Texas
through a pipe to Rucker Creek; thence to Lake Granbury in Segment No. 1205 of the Brazos 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, **May 01, 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 0.10 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 0.05 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 104 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u>	
	Daily Avg mg/(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Report Daily Avg. & Max. Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (4.2)	15	25	One/week	Grab
Total Suspended Solids	15 (6.3)	25	40	One/week	Grab
Ammonia Nitrogen	3 (1.3)	6	10	One/week	Grab

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

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon completion of the expansion of the 0.10 million gallons per day (MGD) facilities and lasting through the completion of expansion of the 0.15 MGD facilities, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.10 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 208 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	Report Daily Avg. & Max. Measurement Frequency	Single Grab Sample Type
Flow, MGD	Report	N/A	Report	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (8.3)	15	25	One/week	Grab
Total Suspended Solids	15 (12)	25	40	One/week	Grab
Ammonia Nitrogen	3 (2.5)	6	10	One/week	Grab

2. The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.

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

5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.

6. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion of the 0.15 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 0.15 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 312 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u>	
	Daily Avg mg/(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Report Daily Avg. & Max. Measurement Frequency	Single Grab Sample Type
Flow, MGD	Report	N/A	Report	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (12)	15	25	One/week	Grab
Total Suspended Solids	15 (19)	25	40	One/week	Grab
Ammonia Nitrogen	3 (3.7)	6	10	One/week	Grab

2. The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.

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

5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.

6. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC §§ 305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code §§ 5.103 and 5.105, and the Texas Health and Safety Code §§ 361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in Section 26.001 of the Texas Water Code and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

- a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with a 1 million gallons per day or greater permitted flow.
- b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.
- d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.
- e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.
- f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
 - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.
 - ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.
- d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day.

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

- e. Fecal coliform bacteria concentration - the number of colonies of fecal coliform bacteria per 100 milliliters effluent. The daily average fecal coliform bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the nth root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of fecal coliform bacteria equaling zero, a substituted value of one shall be made for input into either computation method. The 7-day average for fecal coliform bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
 - g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.
3. Sample Type
- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).
 - b. Grab sample - an individual sample collected in less than 15 minutes.
4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids which have not been classified as hazardous waste separated from wastewater by unit processes .
6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

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

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

2. Test Procedures

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

3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR § 264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
 - i. date, time and place of sample or measurement;
 - ii. identity of individual who collected the sample or made the measurement.
 - iii. date and time of analysis;
 - iv. identity of the individual and laboratory who performed the analysis;
 - v. the technique or method of analysis; and
 - vi. the results of the analysis or measurement and quality assurance/quality control records.

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

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

7. Noncompliance Notification

- a. In accordance with 30 TAC § 305.125(9) any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
- b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:

- i. Unauthorized discharges as defined in Permit Condition 2(g).
 - ii. Any unanticipated bypass which exceeds any effluent limitation in the permit.
 - iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.
 - c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
 - d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
9. Changes in Discharges of Toxic Substances

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

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

10. Signatories to Reports

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

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

PERMIT CONDITIONS

1. General

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

2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
- b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation or suspension, or for denial of a permit renewal application or an application for a permit for another facility.
- c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation which has a reasonable likelihood of adversely affecting human health or the environment.
- e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.
- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and Texas Water Code Section 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.
- h. In accordance with 30 TAC § 305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility which does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
- i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal Clean Water Act, §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).

3. Inspections and Entry

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

4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
 - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC § 305.534 (relating to New Sources and New Dischargers); or
 - ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9;
 - iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
- c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
- d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.
- e. In accordance with the Texas Water Code § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit

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

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy

- a. Each permittee shall notify the executive director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:
 - i. the permittee;
 - ii. an entity (as that term is defined in 11 USC, §101(14)) controlling the permittee or listing the permit or permittee as property of the estate; or
 - iii. an affiliate (as that term is defined in 11 USC, §101(2)) of the permittee.
- b. This notification must indicate:
 - i. the name of the permittee and the permit number(s);
 - ii. the bankruptcy court in which the petition for bankruptcy was filed; and
 - iii. the date of filing of the petition.

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.

2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§ 319.21 - 319.29 concerning the discharge of certain hazardous metals.
3. Domestic wastewater treatment facilities shall comply with the following provisions:
 - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
 - b. The permittee shall submit a closure plan for review and approval to the Land Application Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.
4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.
5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under Texas Water Code § 7.302(b)(6).
7. Documentation

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

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

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

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.

- c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
 10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85 percent, unless otherwise authorized by this permit.
 11. Facilities which generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
 - a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
 - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
 - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Environmental Cleanup Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
 - d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.
 - e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
 - f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:
 - i. Volume of waste and date(s) generated from treatment process;
 - ii. Volume of waste disposed of on-site or shipped off-site;
 - iii. Date(s) of disposal;
 - iv. Identity of hauler or transporter;
 - v. Location of disposal site; and
 - vi. Method of final disposal.
- The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.
12. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with Chapter 361 of the Texas Health and Safety Code.

SLUDGE PROVISIONS

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

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION

A. General Requirements

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

B. Testing Requirements

1. Sewage sludge shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method, which receives the prior approval of the TCEQ for the contaminants listed in Table 1 of 40 CFR Section 261.24. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division and the Regional Director (MC Region 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 1.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 C facility must be operated by a chief operator or an operator holding a Category C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift which does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.

2. The facility is not located in the Coastal Management Program boundary.
3. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 1205 of the Brazos River Basin and any subsequent updating of the water quality model for Segment No. 1205, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC Section 305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.
4. The permittee 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).
5. 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.
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 interim I, II, and final phase 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, 2a and 2b of the permit.

ATTACHMENT C

Compliance History

Customer/Respondent/Owner-Operator:	CN602787509 Aqua Utilities, Inc.	Classification: AVERAGE	Rating: 0.96
Regulated Entity:	RN105126437 NOLAN PARK WWTP	Classification:	Site Rating:
ID Number(s):	WASTEWATER	PERMIT	WQ0014754001
	WASTEWATER	EPA ID	TX0129151
Location:	1 MI N OF HWY 377 ON M&M RANCH RD		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	January 25, 2007		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	October 25, 2001 to October 25, 2006		

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

Name: Michael A. Redda Phone: (512) 239-4631

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- 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

Compliance History

Customer/Respondent/Owner-Operator:	CN602787509	Aqua Utilities, Inc. dba Aqua Texas, Inc.	Classification: AVERAGE	Rating: 1.51
Regulated Entity:	RN105126437	NOLAN PARK WWTP	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	WASTEWATER	PERMIT	WQ0014754001	
	WASTEWATER	EPA ID	TX0129151	
Location:	1 MI N OF HWY 377 ON M&M RANCH RD		Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	June 25, 2008			
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.			
Compliance Period:	June 25, 2003 to June 25, 2008			

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

Name: Michael Redda Phone: X4631

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Sites Outside of Texas

N/A

ATTACHMENT D

PROPOSED TPDES PERMIT NO. WQ0014754001

APPLICATION BY § BEFORE THE
AQUA UTILITIES, INC. § TEXAS COMMISSION ON
FOR PERMIT NO. WQ0014754001 § ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the application from Aqua Utilities, Inc. (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) permit, No. WQ0014754001, and the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comment letters and comments at the public meeting from the following persons:

Dee and Lindsay Bailey
Johnny and Jeannie Ball
Edward S. Balmuth
L. Wayne Bennett
Honorable Steve Berry,
Hood County Commissioner
Bill Betzel
Joe Blakeman
Jerry and Sue Cigainero
Faith Clark
Mark D. Clark
Jerry Combs
Country Club at Lakewood Hills
Homeowners Assoc. (Lakewood
Hills H.O.A.), *represented by Kirby
Douglass*
Rickey J. Creel
Thomas and Rhonda DiCicco
Larry and Shirley Dupler

Honorable Chet Edwards,
U.S. Congressman
Richard and Paula Eldred
Paul and Mary Escobedo
Jason and Mellanie Ferguson
Phil and Tracey Ferrero
Rachel Ferrero
Gwendolyn Massey Findley and
Mary Massey Props. *represented by
Stephen G. Parrott*
Kirk French
Terry C. Gibbs
Vikki Gilbreath
Helen Gregory
George O. Griffin
Mike Hagan
James and Margery Hanna
Derrell and Denise Harmon
Shane Harmon

Dianne and Ronnie Hasty
Charles F. Herndon
Honorable Jim Keffer,
State Representative
Dan J. Loomis
Bud Lowack
George Dixon Mahon
Mallard Pointe on Lake Granbury
Property Owners Assoc. (Mallard
Pointe P.O.A.), *represented by Phil
Ferrero and Dan Loomis*
John L. Meche
Don C. Miller
Emil A. Mosser
James and Susan Norton
Greg and Jo Pipal
Alan H. Plummer, Jr.
William T. and Mary Poulos
Michael and Linda Redenbaugh

James A. Rist
Michael and Holly Robinson
Larry and Carolyn Sadlowski
David and Nancy Shaffer
Doug and Loretta Sherar
David and Patricia Siedal
James and Debbie Sims
Steve and Cindy Skaggs
Brian Smith
Jep Tatum
Texas Historical Commission
Scott J. Thomas
Hoyt Thomas
Patty Thompson
John and Grace Thornton
Tom and Patricia Tigner
Barbara Townsend
James Williams
Pauline and Kirk Wittman

This Response addresses all such timely public comments received, whether or not withdrawn.

If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

The Applicant has applied to the TCEQ for a new permit, proposed TPDES Permit No. WQ0014754001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 50,000 gallons per day (gpd) in the interim I phase, 100,000 gpd in the interim II phase, and 150,000 gpd in the final phase. The proposed wastewater treatment facility will serve the Nolan Park residential subdivision. The facility will be located one mile north of Highway 377 on M&M Ranch Road in Hood County, Texas.

The Nolan Park Wastewater Treatment Facility would be an activated sludge process plant operated in the extended aeration mode. Treatment units would include a lift station, bar screen, flow equalization basin, aeration basin, clarifier, digester, and a chlorine contact chamber. The Applicant has not constructed the facility. The draft permit would authorize the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The effluent limitations in all phases of the draft permit, based on a 30-day average, are 10 mg/l Carbonaceous Biochemical Oxygen Demand (CBOD₅), 15 mg/l Total Suspended Solids (TSS), 3.0 mg/l Ammonia-Nitrogen (NH₃-N), and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow. The effluent limitations in the draft permit will maintain and protect the existing instream uses.

The treated effluent will be discharged through a pipe to Rucker Creek; then to Lake Granbury in Segment No. 1205 of the Brazos River Basin. The unclassified receiving water uses are no significant aquatic life uses for Rucker Creek. The designated uses for Segment No. 1205 are high aquatic life, public water supply, and contact recreation. A Tier 1 antidegradation review has preliminarily determined that this permit action will not impair existing water quality uses. 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.

Procedural Background

The TCEQ received the application for a new permit on October 25, 2006, and declared it administratively complete on January 9, 2007. The Notice of Application and Intent to Obtain Water Quality Permit (NORI) was published on February 24, 2007, in the *Hood County News*. The Notice of Application and Preliminary Decision (NAPD) was published on May 5, 2007 in the *Hood County News*. TCEQ held a public meeting on October 16, 2007 and the public comment period ended at the close of the meeting. This application is subject to the procedural requirements of House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

The following persons were concerned that the proposed wastewater discharge may further increase the level of *E. coli* and other pathogens: Dee and Lindsay Bailey; Thomas and Rhonda DiCicco; Larry and Shirley Dupler; Jerry and Sue Cigainero; Faith Clark; Kirk French; Terry C. Gibbs; James and Margery Hanna; Derrell and Denise Harmon; Charles F. Herndon; Bud Lowack; Michael and Linda Redenbaugh; James and Debbie Sims; Brian Smith; Scott J. Thomas; John and Grace Thornton; Pauline and Kirk Wittman; Dianne and Ronnie Hasty; Doug and Loretta Sherar; Patty Thompson; Mallard Pointe P.O.A.; Alan H. Plummer, Jr.; Dan Loomis; George Dixon Mahon; Emil Mosser; George O. Griffin; James and Susan Norton; Jason and Mellanie Ferguson; Hon. Jim Keffer; John L. Meche; Patricia and David Siedal; Phil, Tracey, and Rachel Ferraro; Richard and Paula Eldred; Steve and Cindy Skaggs; Hon. Steve Berry; Vikki Gilbreath; and William and Mary Poulos.

RESPONSE 1:

Effluent discharged into water in the state from facilities regulated under the Texas Pollution Discharge Elimination System (TPDES) must meet the Texas Surface Water Quality Standards (TSWQS). The TSWQS and other applicable rules are protective of aquatic life, human health, and the environment including the designated uses of the receiving waters. The draft permit for the facility meets the requirements of the TSWQS. The TCEQ does not anticipate that constituents in the discharge will have an adverse effect on the receiving water or its designated uses.

The draft permit requires the facility to chlorinate for disinfection purposes. Disinfection by chlorination is designed to remove harmful bacteria in the effluent and most other disease causing organisms. Facilities that disinfect by proper chlorination have far fewer coliform colonies than the level of concern. TCEQ rules require disinfection in a manner conducive to the protection of both public health and aquatic life by requiring a minimum detention time for the wastewater in the chlorination chamber and a minimum chlorine residual in the effluent to continue disinfection after discharge. The rules and draft permit also set a maximum chlorine residual that will not impact aquatic life in the receiving waters.

COMMENT 2:

The following persons were concerned that the treated wastewater discharge will pollute the water, affect wildlife, impair contact recreation, impact the ecosystem, and cause health problems: Jerry and Sue Cigainero; Jerry Combs; Alan H. Plummer, Jr.; Barbara Townsend; Dan Loomis; David and Nancy Shaffer; George Dixon Mahon; Doug and Loretta Sherar; Edward S. Balmuth; Emil Mosser; George O. Griffin; Gwendolyn Massey Findley and Mary Massey Props; James Williams; Jason and Mellanie Ferguson; Brian Smith; Hoyt Thomas; Hon. Jim Keffer;

John L. Meche; Lakewood Hills H.O.A.; Mallard Pointe P.O.A.; Mark D. Clark; Terry C. Gibbs; Michael and Holly Robinson; Patricia and David Siedal; James and Debbie Sims; Paul and Mary Escobedo; Phil, Tracey, and Rachel Ferraro; Richard and Paula Eldred; Steve and Cindy Skaggs; Michael and Linda Redenbaugh; Michael and Holly Robinson; Larry and Carolyn Sadlowski; Don C. Miller; Mike Hagan; Shane Harmon; Tom and Patricia Tigner; Hon. Steve Berry; and William and Mary Poulos.

Jason and Mellanie Ferguson; Phil, Tracey, and Rachel Ferrero; Mallard Pointe P.O.A.; Emil Mosser; William and Mary Poulos; Doug and Loretta Sherar; James and Debbie Sims; Steve and Cindy Skaggs; Jerry and Sue Cigainero; George O. Griffin; Alan H. Plummer, Jr.; Barbara Townsend; Dan Loomis; David and Nancy Shaffer; George Dixon Mahon; Edward Balmuth; Gwendolyn Massey Findley and Mary Massey Props; James Williams; Mark D. Clark; Michael and Holly Robinson; Paul and Mary Escobedo; Richard and Paula Eldred; and Tom and Patricia Tigner were particularly concerned about increased phosphorous and nitrogen in the proposed discharge that may cause golden algae to flourish and subsequently result in fish kills.

Allan H. Plummer, Jr.; Richard and Paula Eldred; William and Mary Poulos; Steve and Cindy Skaggs; and Tom and Patricia Tigner stated that some property owners use creek water for irrigation of lawns and are concerned about potential exposure to humans and pets.

RESPONSE 2:

As part of the permit application process, TCEQ must determine the uses of the receiving water and set effluent limits that are protective of those uses. The draft permit includes effluent limitations and monitoring requirements for 5-day CBOD₅, TSS, NH₃-N, chlorine residual and pH to ensure that the proposed effluent limits will not result in a violation of TSWQS for the protection of surface water quality, groundwater, and human health. It also includes additional

requirements for the wastewater treatment system to ensure the protection of water quality and human health and for the disposal of domestic sludge generated from the wastewater treatment facility.

In this case, unclassified receiving water uses are no significant aquatic life uses for Rucker Creek. The designated uses for Segment No. 1205 are high aquatic life, public water supply, and contact recreation. The ED determined that the proposed draft permit is protective of the environment, water quality, and human health and that it meets TCEQ rules and requirements if the Applicant operates and maintains the facility as required by the proposed permit and regulations. To report complaints about the facility, please contact the TCEQ at 1-888-777-3186 to reach the TCEQ region office in your area. Noncompliance with the permit may result in enforcement action against the Applicant.

Many natural resource agencies and universities in Texas as well as outside of the state are conducting research on the golden algae to understand the factors that contribute to its harmful blooms and to learn how to control its presence and harmful effects. Currently, researchers do not fully understand the environmental triggers and are still investigating effective management tools. The TCEQ remains supportive of the ongoing research and committed to base regulatory decisions on well established findings in order to protect and maintain water quality in the Lake Granbury watershed and other areas where the golden algae is found.

The discharge is not expected to affect federal endangered or threatened aquatic or aquatic dependent species or proposed species or their critical habitat. The United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization of the TPDES is the basis for this determination, which is subject to reevaluation upon subsequent updates or amendments. To make this determination for TPDES permits, TCEQ and the EPA

only considered aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority.

COMMENT 3:

Gwendolyn Massey Findley and Mary Massey Props; James and Debbie Sims; Jason and Mellanie Ferguson; Jerry Combs; Michael and Holly Robinson; Richard and Paula Eldred; Mike Hagan; Shane Harmon; Michael and Linda Redenbaugh; William and Mary Poulos; Steve and Cindy Skaggs; Patricia and David Siedal; and Tom and Patricia Tigner were concerned about the impact this discharge will have on their property values. Don C. Miller was particularly concerned about the economic impact. Jerry Combs; Richard and Paula Eldred; Phil and Tracey Ferrero; Helen Gregory; Mallard Pointe P.O.A.; Michael and Holly Robinson; Steve and Cindy Skaggs; Tom and Patricia Tigner; and William and Mary Poulos were concerned about the impact on quality of life. Steve and Cindy Skaggs stated that water quality would affect tourism. The Hon. Steve Berry was concerned that the new development would cause increased traffic and safety issues as well as increased drainage and runoff issues.

RESPONSE 3:

Although the legislature has given the TCEQ the responsibility to protect water quality, TCEQ does not address these issues in the wastewater permitting process. The water quality permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ cannot consider economic impacts, property values, quality of life, tourism, traffic, and non-point source issues when reviewing wastewater applications and preparing draft permits.

However, the issuance of a permit does not grant to the Applicant the right to use private or public property for conveyance of wastewater along the discharge route. This includes

property belonging to any individual, partnership, corporation or other entity. The permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is the Applicant's responsibility to acquire the necessary property rights to use the discharge route.

Also, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT 4:

John L. Meche; Steve and Cindy Skaggs; William and Mary Poulos; Barbara Townsend; David and Nancy Shaffer; Doug and Loretta Sherar; Edward S. Balmuth; Tom and Patricia Tigner; Richard and Paula Eldred; James and Debbie Sims; and Mark D. Clark were concerned about odor that the wastewater treatment plant may cause.

RESPONSE 4:

TCEQ rules require domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odors (30 TAC Section 309.13(e)). These rules provide three options to satisfy the nuisance odor abatement and control requirement. The Applicant can meet this requirement by owning the buffer zone area, by obtaining a restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant, or by providing odor control. The Applicant meets the buffer zone requirements by owning the buffer zone in accordance with the requirements of 30 TAC Section 309.13(a)

through (d). In addition, by ownership of the required buffer zone area, the Applicant is required to comply with the requirements of 30 TAC Section 309.13(e).

To report complaints about the facility if the permit is issued, please contact the TCEQ at 1-888-777-3186 to reach the TCEQ region office in your area. Noncompliance with the permit may result in an enforcement action against the Applicant.

COMMENT 5:

Jerry and Sue Cigainero; George Dixon Mahon; Mallard Pointe P.O.A.; Brian Smith; Bud Lowack; Charles F. Herndon; Dan Loomis; Derrell and Denise Harmon; Dee and Lindsay Bailey; George O. Griffin; James and Margery Hanna; James and Susan Norton; James and Debbie Sims; James Williams; Jason and Mellanie Ferguson; Jerry Combs; John and Grace Thornton; Kirk French; Pauline and Kirk Wittman; Larry and Shirley Dupler; Doug and Loretta Sherar; Michael and Linda Redenbaugh; Rachel, Tracey, and Phil Ferrero; Scott J. Thomas; Terry C. Gibbs; and Thomas and Rhonda DiCicco requested a Tier 2 antidegradation review.

RESPONSE 5:

TCEQ staff conducts an antidegradation review on new permit applications and permit amendments that would increase pollution loading to a water body. In Texas, there are two levels of antidegradation reviews. A Tier 1 antidegradation review applies to all water bodies and ensures that an increase in pollution loading will not impair existing water quality uses and will maintain the criteria associated with those uses. A Tier 2 antidegradation review applies to water bodies that have intermediate, high, or exceptional aquatic life uses and a contact recreation use. This review ensures that water quality that exceeds the normal range of fishable/swimmable criteria will be maintained unless lowering it is necessary for important economic or social development.

During the water quality standards review, TCEQ staff assigns appropriate uses and criteria to the receiving waters. These uses and criteria are the standards used by TCEQ to determine effluent limits and other requirements necessary to protect and maintain water quality. For the antidegradation review, TCEQ staff follows the guidance for antidegradation implementation contained in the TSWQS Implementation Procedures and the TSWQS. TCEQ also uses available information, including the pollutant analysis of treated effluent, the Texas Water Quality Inventory, and characteristics of the water body and local aquatic communities, when conducting an antidegradation review. TCEQ evaluates potential parameters of concern typically associated with the type of proposed effluent discharge to determine whether sufficient potential for degradation exists. In the Tier 1 review, TCEQ staff preliminarily determines if the proposed permit action will impair existing uses. In the Tier 2 review, they also determine if there will be significant degradation of water quality in water bodies with exceptional, high, or intermediate aquatic life uses. In addition, they evaluate any draft permit associated with the permit application to ensure compliance with the TSWQS.

Based on these evaluations, a Tier 1 antidegradation review has preliminarily determined that this permit action will not impair water quality uses and will maintain numerical and narrative criteria to protect existing uses. 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. TCEQ staff performs an antidegradation evaluation on receiving waters that fall within a certain distance downstream of the discharge point. The distance depends on the size of the discharge and the type of wastewater and receiving water. In this case, because the proposed discharge is relatively small, oxygen-demanding pollutants were the immediate concern. Based on the proposed final phase flow and

general dissolved oxygen modeling principles, the distance from the discharge point that the effluent could exert an effect on Rucker Creek would be approximately one mile. Because the discharge would travel over 5 miles to Lake Granbury, the TCEQ staff consider the lake to be beyond the zone of influence with respect to oxygen-demanding pollutants. As to other potential pollutants, such as nutrients and toxic materials, the lake is also beyond the range of significant impact. This is a result of the distance from the discharge point and the small amount of discharge.

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. TCEQ can reexamine and may modify the preliminary determination if it receives new information.

COMMENT 6:

Greg and Jo Pipal; Michael and Linda Redenbaugh; Mallard Pointe P.O.A.; Dan Loomis; Emil Mosser; Jason and Mellanie Ferguson; and Phil and Tracey Ferrero mentioned the past compliance history of the Applicant's wastewater treatment plants and asked what would happen if similar noncompliance occurs on the proposed facility. Greg Pipal was also concerned about future compliance after considering the performance associated with the drinking water that the Applicant is supplying for several residents in the neighborhood. Dan Loomis wanted to know the Applicant's compliance history.

RESPONSE 6:

The Applicant owns and operates many wastewater treatment facilities in the State. The commenters have not clearly indicated which facility has a compliance problem. In this instance, the Applicant has not begun discharging and there are no compliance issues. However, using an

assigned customer number, TCEQ was able to review an entire compliance history that includes all types of facilities authorized by the TCEQ and operated by the Applicant. The classification for the Applicant is average with a rating of 0.96.

The ED determined that the proposed draft permit is protective of the environment, water quality, and human health and that it meets TCEQ rules and requirements if the Applicant operates and maintains the facility as required by the proposed permit and regulations. To report complaints about the facility if the permit is issued, please contact the TCEQ at 1-888-777-3186 to reach the TCEQ region office in your area. Citizens may also report suspected incidents of non-compliance through the commission's Web site by following the menu for "Reporting" and "Reporting Environmental Problems to TCEQ" at <http://www.tceq.state.tx.us>. TCEQ's regional staff investigates citizen complaints and the commission takes appropriate enforcement action if the investigator documents a violation of regulations.

COMMENT 7:

The Texas Historical Commission (THC) requested a cultural resources survey of the proposed project area.

RESPONSE 7:

The Applicant is in the process of conducting archaeological studies at the proposed site. TCEQ will not issue the permit before the Applicant secures an approval from the THC on this matter.

COMMENT 8:

Edward S. Balmuth was concerned about the increase of insect and mosquito populations and the associated health hazards.

RESPONSE 8:

The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes and coastal waters. All discharges to surface water must comply with the Texas Surface Water Quality Standards (TSWQS) in 30 TAC Chapter 307. The purpose of the TSWQS is to maintain the quality of water in the state and to protect aquatic life, human health, and wildlife along the discharge route.

If you observe any risk of insect-borne diseases, you may contact Hood County Environmental Health Department, Annex 2, 201 West Bridge Street, Granbury, TX 76048, or at their phone number (817) 579-3288.

COMMENT 9:

Gwendolyn Massey Findley and Mary Massey Props were concerned about surface erosion from the discharge of wastewater.

RESPONSE 9:

The proposed final phase flow of 150,000 gpd, which is equal to a flow of 0.23 cubic feet per second (cfs) will have a velocity that is significantly less than the minimum scouring velocity used in the design of sewer lines, i.e., 2 cfs. Therefore, TCEQ does not anticipate that the discharge of wastewater at the final phase flow will contribute to surface erosion.

The water quality permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. Downstream erosion is not typically addressed in the wastewater permitting process. However, the permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or

actually do result in injury or adverse effect on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT 10:

Jerry and Sue Cigainero; Mallard Pointe P.O.A.; Emil Mosser; Michael and Linda Redenbaugh; Hon. Steve Berry; George Dixon Mahon; Bill Betzel; Bud Lowack; Charles F. Herndon; Dan Loomis; Derrell and Denise Harmon; Dee and Lindsay Bailey; Doug and Loretta Sherar; Edward S. Balmuth; George O. Griffin; James and Margery Hanna; James and Susan Norton; Brian Smith; James and Debbie Sims; Jason and Mellanie Ferguson; Jep Tatum; Jerry Combs; Joe Blakeman; John and Grace Thornton; Kirk French; Pauline and Kirk Wittman; Larry and Shirley Dupler; Larry and Carolyn Sadlowski; Rachel, Tracey, and Phil Ferrero; Scott Thomas; Terry C. Gibbs; and Thomas and Rhonda DiCicco asked what other wastewater disposal alternatives have been examined (for use as frac water (support well drilling), irrigation, and septic systems) other than discharging to Rucker Creek. Edward S. Balmuth also asked if it is possible to pipe the wastewater to Lake Granbury or into the Brazos River below the Lake.

RESPONSE 10:

The TWC, Section 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The permitting process is also limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes and coastal waters. If a proposed discharge would result in a violation of a water quality standard, the TCEQ cannot issue the permit. TCEQ does not determine and cannot mandate a different facility location, different discharge location, alternative means of conveyance and disposal, or different type of wastewater treatment plant.

COMMENT 11:

The Hon. Steve Berry stated that because of lake safety and pollution concerns, that his constituents needed more time and studies in regards to the proposed site before TCEQ can act on the permit. He stated that FEMA and the Brazos River Authority were in the process of completing a new 100-year flood plain study for the area and that TCEQ should consider this new information when reviewing this permit.

RESPONSE 11:

Based on existing facts and data, TCEQ has determined that the proposed wastewater treatment facility is located above the 100-year frequency level. If future studies indicate need for revision of their decision, TCEQ will require the Applicant to protect the facility from the 100-year flood.

COMMENT 12:

Edward S. Balmuth asked about the water quality standards, the frequency of sampling, and the limits on carcinogens, heavy metals, bacteria, and pharmaceuticals. He also asked if there would be any industrial wastewater contribution or any restrictions on the type of wastewater to be treated.

RESPONSE 12:

The effluent limitations in all phases of the draft permit, based on a 30-day average, are 10 mg/l CBOD₅, 15 mg/l TSS, 3.0 mg/l NH₃-N, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The Applicant is required to analyze the treated effluent prior to discharge and provide monthly reports to TCEQ. The Applicant must collect and analyze all samples according to 30

TAC Chapter 319, Subchapter A, Monitoring and Reporting System. In addition, the draft permit requires the Applicant to sample the flow five times per week by instantaneous measurement. The Applicant must sample CBOD₅, TSS, NH₃-N, and DO once per week, the chlorine residual five times per week, and the pH once per month by grab sample.

The permit application indicates that the Applicant is requesting a permit for the development of residential housing. The proposed facility will treat the wastewater generated by the subdivisions located within that development. Therefore, the proposed discharge would consist of domestic wastewater from a municipal facility and not industrial wastewater. The permit does not allow waste of industrial or toxic origin nor does it authorize hazardous waste storage, processing, or disposal. Therefore, the treated effluent should not contain these substances prior to disposal.

COMMENT 13:

Edward S. Balmuth asked who conducts and oversees the testing procedures and equipment, whether tests are independent, and the location and accessibility of test reports.

RESPONSE 13:

As long as the testing is conducted in accordance with analytical procedures established by the Environmental Protection Agency (EPA) and the testing laboratory is registered by the TCEQ, there are no specific criteria as to whom should conduct the test. The Applicant may send the samples to the TCEQ registered laboratories or use their own laboratory, if registered, to run the test. As a part of a routine compliance investigation or upon receipt of complaints, the TCEQ regional investigator may conduct an inspection that would include review of records and sampling and testing of the wastewater.

The Applicant must send a Discharge Monitoring Report (DMR) every month to the TCEQ, who then reviews it. Discharge records are public information and are available on the following website, <http://www.epa.gov/enviro/html/pcs/adhoc.html>. The Customized Query Engine User's Guide located at the beginning of the website will provide you with detailed information on how to use the Query Engine.

COMMENT 14:

Edward S. Balmuth asked under what circumstances the discharge might exceed the maximum permitted flow and how the Applicant will measure and report the discharge rate.

RESPONSE 14:

If the facility operates properly, there should not be any circumstances where the discharge exceeds the permitted flow. There are permit provisions that help in preventing unauthorized discharges. Standard Provision 7 of the proposed 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 TCEQ to begin constructing the necessary additional treatment or collection facilities.

The draft permit has three phases. In the interim I phase, the daily average flow of effluent is limited to 50,000 gpd. The interim II phase will have a daily average flow of 100,000 gpd. In the final phase, the daily average flow will be 150,000 gpd.. The Applicant must measure the effluent flow after it passes through the final treatment unit. In all phases, the Applicant is

required to sample the flow five times per week by instantaneous measurement and send a monthly DMR to the TCEQ.

Daily average flow is 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. In this permit, instantaneous measurements are used to determine the daily average flow by using the arithmetic average of all instantaneous measurements taken during that month.

COMMENT 15:

Edward S. Balmuth asked what technology and processes will be used for treating the wastewater, if advanced technologies to remove nitrogen and phosphorus will be employed, and if any additional treatments could be applied to improve the wastewater quality.

RESPONSE 15:

The proposed treatment facility is an activated sludge process plant operated in the extended aeration mode. Treatment units include a lift station, bar screen, flow equalization basin, aeration basin, clarifier, digester, and a chlorine contact chamber. If properly operated, the technology employed and the units mentioned have been proven to achieve the level of water quality effluent limitations contained in the permit. The current permit contains a 3.0 mg/l nitrogen limit in the form of Ammonia-Nitrogen that is achieved with the proposed activated sludge process plant operating in the extended aeration mode. No phosphorus limit has been found necessary at this time. However, if the need arises after further assessments and studies, the Applicant may be required to achieve a higher effluent standard by either modifying the existing facility or having a new plant installed.

COMMENT 16:

Edward S. Balmuth asked how much wastewater could raise the water level in the creek and what the fate of wastewater will be when the creek freezes.

RESPONSE 16:

The maximum proposed flow of 150,000 gpd, which is equal to a flow of 0.23 cfs, is not expected to cause any significant increase in the flow of the creek. Similar facilities across the state report no incidence of effluent backup during periods of low temperature.

COMMENT 17:

Edward S. Balmuth asked for the maximum amount of discharge into Rucker Creek that the state would allow.

RESPONSE 17:

At the proposed advanced secondary effluent set with nitrification, the maximum amount of discharge that would not violate the 2.0 mg/L dissolved oxygen (DO) criterion of Rucker Creek nor the 5.0 mg/L DO criterion of Lake Granbury, would be 2,000,000 gpd.

COMMENT 18:

Edward S. Balmuth asked what resources are available and who will be liable in the event of damage to his property or health caused by the wastewater discharge. He also wanted to know if the Applicant is required to post bond and maintain insurance or indemnity against damage.

RESPONSE 18:

There are no TCEQ rules that require the Applicant to post bond and maintain insurance or indemnity against damage. The ED determined that the proposed draft permit is protective of the environment, water quality (including surface water and groundwater), and human health and

that it meets TCEQ rules and requirements if the Applicant operates and maintains the facility as required by the proposed permit and regulations.

The issuance of a permit does not grant to the Applicant the right to use private or public property for conveyance of wastewater along the discharge route. This includes property belonging to any individual, partnership, corporation or other entity. The permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is the Applicant's responsibility to acquire the necessary property rights to use the discharge route. Also, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT 19:

Edward S. Balmuth asked what the water analysis showed in the Mallard area, and if modeling can be done to assess the impact of additional wastewater flowing into the cove at Mallard Pointe.

RESPONSE 19:

The proposed discharge is approximately 5.1 miles upstream of the designated segment boundary of Lake Granbury (Segment No. 1205). The segment description of Lake Granbury is up to the normal pool elevation of 693 feet, including all coves. DO modeling predicts that the proposed 150,000 gpd discharge will maintain the 2.0 DO criterion of Rucker Creek, as well as be at background levels for oxygen demanding constituents before reaching Lake Granbury and the 693-foot contour.

Lake Granbury currently meets water quality standards and is not on the State's inventory of impaired and threatened waters, the 2004 Clean Water Act Section 303(d) list and 2006 Draft 303(d) list. TCEQ staff did not observe any detectable bacteria level at the upstream and main stem of the lake. However, due to local and regional concerns, TCEQ, through its Clean Rivers Program, is conducting an ongoing study focusing on bacteria modeling in coves and canals of Lake Granbury. This program will coordinate with the Lake Granbury Watershed Protection Plan to address bacteria concerns.

COMMENT 20:

Mallard Pointe P.O.A.; Brian Smith; Bud Lowack; Charles F. Herndon; Dan Loomis; Derrell and Denise Harmon; Dee and Lindsay Bailey; Faith Clark; James and Margery Hanna; James and Susan Norton; James and Debbie Sims; Jason and Mellanie Ferguson; John and Grace Thornton; Kirk French; Pauline and Kirk Wittman; Larry and Shirley Dupler; Doug and Loretta Sherar; Michael and Linda Redenbaugh; Rachel, Tracey, and Phil Ferrero; Dianne and Ronnie Hasty; Scott Thomas; Terry C. Gibbs; and Thomas and Rhonda DiCicco requested TCEQ to review and analyze water quality and ecological data collected by the Brazos River Authority in Lake Granbury, including Rucker Creek.

RESPONSE 20:

TCEQ uses surface water monitoring data generated by the agency as well as various research and development organizations. Brazos River Authority (BRA) is one of our partners and the TCEQ staff has reviewed data generated by it as part of its water quality assessment activities under the Clean Rivers Program.

COMMENT 21:

George O. Griffin; Johnny and Jeannie Ball; Jerry and Sue Cigainero; Mike Hagan; Shane Harmon; Larry and Carolyn Sadlowski; Mallard Pointe P.O.A.; David and Nancy Shaffer; Lakewood Hills H.O.A.; James Williams; Alan H. Plummer, Jr.; Brian Smith; Bud Lowack; Charles F. Herndon; Dan Loomis; Derrell and Denise Harmon; Dee and Lindsay Bailey; Emil Mosser; Faith Clark; James and Margery Hanna; James and Susan Norton; James Sims; Jason and Mellanie Ferguson; Jep Tatum; John and Grace Thornton; John L. Meche; Kirk French; Pauline and Kirk Wittman; Larry and Shirley Dupler; Doug and Loretta Sherar; Michael and Linda Redenbaugh; Mark D. Clark; Patricia and David Siedal; Rachel, Tracey, and Phil Ferrero; Richard and Paula Eldred; Dianne and Ronnie Hasty; Scott Thomas; Steve and Cindy Skaggs; Hon. Steve Berry; Terry C. Gibbs; Thomas and Rhonda DiCicco, and William and Mary Poulos requested evidence that the Applicant has investigated the use of all reasonable methods to implement TWC, Section 26.003, that encourages and promotes the development and use of regional and area wide collection, treatment, and disposal systems. Faith Clark also asked why the TCEQ staff failed to locate the presence of a collection system within a three-mile radius of the proposed wastewater treatment facility.

RESPONSE 21:

As part of the application process, the Applicant is required to review a three-mile area surrounding the proposed facility to determine if there is a wastewater treatment plant or sewer collection lines within the area that they can utilize. The wastewater treatment plant must have sufficient existing capacity to accept the additional waste. If such a facility exists and they are willing to accept the proposed waste, the Applicant must provide an analysis of expenditures required to connect to the existing wastewater treatment facility.

In the application received on October 25, 2006, the Applicant provided TCEQ with information that no wastewater treatment plant or sewer collection lines existed within a three-mile radius. Upon receipt of the application, with the help of the most current Geographical Information System (GIS) based map, TCEQ staff reached a conclusion that no wastewater treatment plant existed within a three-mile area surrounding the proposed facility. However, the staff cannot determine the location of sewer lines and must rely on the information provided by the Applicant.

At the public meeting held on October 16, 2007, TCEQ became aware that a sewer collection line belonging to the City of Granbury (City) exists within a three-mile area surrounding the proposed facility. By submitting a signed and completed application, the Applicant certified that, to the best of their knowledge and belief, the information submitted was true, accurate, and complete. In the event the Applicant becomes aware that it failed to submit any relevant facts or submitted incorrect information in an application or in any report to the ED, it must promptly submit such facts or information. Therefore, TCEQ subsequently requested the Applicant to provide corrected information.

In a letter to TCEQ dated November 13, 2007, the Applicant indicated that it would cost them fifty percent more to connect the line with the City's sewer collection system than to build their own treatment facility. The Applicant estimated that it would need \$867,966 to connect the line to the City's sewer collection system and \$590,765 to build the proposed wastewater treatment facility. The Applicant also added that it would take eighteen months to obtain the permit to bore a hole under the railway system that separates the proposed development from the City's sewer collection system. According to the Applicant, each month that they do not have the permit will cost them \$10,000; thereby incurring an additional sum of \$180,000.

COMMENT 22:

Alan H. Plummer, Jr.; William and Mary Poulos; Mallard Pointe P.O.A.; Johnny & Jeannie Ball; Brian Smith; Bud Lowack; Charles F. Herndon; Dan Loomis; Derrell and Denise Harmon; Dee and Lindsay Bailey; Mark D. Clark; George Dixon Mahon; James and Margery Hanna; James and Susan Norton; James and Debbie Sims; James Williams; Jason and Mellanie Ferguson; John and Grace Thornton; Kirk French; Pauline and Kirk Wittman; Larry and Shirley Dupler; Michael and Linda Redenbaugh; Mike Hagan; Patty Thompson; Rachel, Tracey, and Phil Ferrero; Richard and Paula Eldred; Scott Thomas; Steve and Cindy Skaggs; Terry C. Gibbs; and Thomas and Rhonda DiCicco requested TCEQ to establish strict permit effluent quality requirements (i.e. Phosphorus removal, etc.) needed to avoid degradation of water quality conditions and impact on the environment, specifically Lake Granbury and the designated uses within Rucker Creek Cove.

RESPONSE 22:

The ED has determined that the effluent limits in the draft permit will protect and maintain water quality in Rucker Creek as well as the Rucker Creek arm of Lake Granbury. Because of the relatively small size of the proposed discharge and the distance traveled in Rucker Creek before reaching the cove (approximately five miles), additional permit requirements such as phosphorus limits are not necessary.

TCEQ may review the permit after the completion of any new intensive water quality survey on Segment No. 1205 of the Brazos River Basin and any subsequent updating of the water quality model for Segment No. 1205. TCEQ may amend the permit and make effluent limits more stringent at renewal if there is any change to the approved modeling protocol.

COMMENT 23:

Alan H. Plummer, Jr.; Brian Smith; Bud Lowack; Charles F. Herndon; Dan Loomis; Derrell and Denise Harmon; Dee and Lindsay Bailey; James and Margery Hanna; James and Susan Norton; James and Debbie Sims; Jason and Mellanie Ferguson; John and Grace Thornton; Kirk French; Pauline and Kirk Wittman; Larry and Shirley Dupler; Michael and Linda Redenbaugh; Mike Hagan; Rachel, Tracey, and Phil Ferrero; Scott Thomas; Terry C. Gibbs; and Thomas and Rhonda DiCicco requested that TCEQ require the Applicant to equip the treatment plant with effluent filters to improve the effectiveness of the disinfection process.

RESPONSE 23:

The proposed treatment facility is an activated sludge process plant operated in the extended aeration mode. Treatment units include a lift station, bar screen, flow equalization basin, aeration basin, clarifier, digester, and a chlorine contact chamber. The effluent limitations in the draft permit, based on a 30-day average, are 10 mg/l CBOD₅, 15 mg/l TSS, 3.0 mg/l NH₃-N and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow. With the level of technology employed and the effluent limitations contained, if properly operated, the facility should meet the permit requirements without the need for effluent filters.

COMMENT 24:

Alan H. Plummer, Jr.; William and Mary Poulos; Brian Smith; Bud Lowack; Charles F. Herndon; Dan Loomis; Derrell and Denise Harmon; Dee and Lindsay Bailey; James and Margery Hanna; James and Susan Norton; James and Debbie Sims; Jason and Mellanie Ferguson; John and Grace Thornton; Kirk French; Pauline and Kirk Wittman; Larry and Shirley

Dupler; Michael and Linda Redenbaugh; Rachel, Tracey, and Phil Ferrero, Richard and Paula Eldred; Scott Thomas; Steve and Cindy Skaggs, Terry C. Gibbs, and Thomas and Rhonda DiCicco requested TCEQ to require the Applicant to sample and test the discharge frequently for the permitted parameters, including phosphorus.

RESPONSE 24:

The draft permit requires the Applicant to sample the flow five times per week by instantaneous measurement. The Applicant must sample the CBOD₅, TSS, NH₃-N, and DO once per week, the chlorine residual five times per week, and the pH once per month by grab sample.

It is not the usual practice to increase permit sampling frequencies unless TCEQ staff observe noncompliance issues. Since the Applicant has not begun discharging and there are no compliance issues, it is not necessary to increase the sampling and testing frequencies. Based on the review made by the Water Quality Standards Team, a phosphorus limit is not necessary for the discharge rate of 150,000 gpd to Rucker Creek.

COMMENT 25:

Alan H. Plummer, Jr.; Edward S. Balmuth; Joe Blakeman; Lakewood Hills H.O.A.; Mallard Pointe P.O.A.; David and Patricia Siedal; Jerry Combs; John L. Meche; Don C. Miller; Emil Mosser; William and Mary Poulos; Hoyt Thomas; Brian Smith; Charles F. Herndon; Dan Loomis; Derrell and Denise Harmon; Dee and Lindsay Bailey; Faith Clark; George Dixon Mahon; James and Margery Hanna; James and Susan Norton; James and Debbie Sims; James Williams; Jason and Mellanie Ferguson; Jerry and Sue Cigainero; John and Grace Thornton; Kirk French; Pauline and Kirk Wittman; Larry and Shirley Dupler; Larry and Carolyn Sadlowski; Doug and Loretta Sherar; Michael and Linda Redenbaugh; Mike Hagan; Patty Thompson; Rachel, Tracey, and Phil Ferrero; Richard and Paula Eldred; Rickey Creel; Michael

and Holly Robinson; Dianne and Ronnie Hasty; Scott Thomas; Shane Harmon; Steve and Cindy Skaggs; Terry C. Gibbs; and Tom and Patricia Tigner opposed the application or asked that it be denied.

RESPONSE 25:

The Applicant is required to operate in compliance with the TWC, TCEQ's rules, and the terms of the proposed draft permit. TCEQ may issue a permit if the application meets all administrative and technical requirements to protect water quality.

COMMENT 26:

John L. Meche requested that the TCEQ ban any flow, current or future, to Rucker Creek.

RESPONSE 26:

The legislature has given the TCEQ the responsibility to protect water quality in the state. Neither Chapter 26 of the TWC, nor the applicable TCEQ wastewater rules and regulations require a ban on discharges to Rucker Creek. Such determinations require detailed studies and assessments. Current studies indicate that, at the proposed advanced secondary effluent set with nitrification, a discharge of treated wastewater of up to be 2,000,000 gpd will violate neither the 2.0 mg/L DO criterion of Rucker Creek nor the 5.0 mg/L DO criterion of Lake Granbury. The DO modeling conducted by the TCEQ staff also indicates that the proposed 150,000 gpd discharge is predicted to maintain the 2.0 DO criterion of Rucker Creek, as well as be at background levels for oxygen demanding constituents before reaching Lake Granbury and the 693 ft contour. In order to meet this criterion, a 10 mg/l CBOD₅, 15 mg/l TSS, 3.0 mg/l NH₃-N, and 4.0 mg/l DO are required as a discharge effluent limitation to Rucker Creek. 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 ED determined

that the proposed draft permit is protective of the environment, water quality, and human health and that it meets TCEQ rules and requirements if the Applicant operates and maintains the facility as required by the proposed permit and regulations.

COMMENT 27:

Rachel, Tracey, and Phil Ferrero asked TCEQ to present the findings of their comments to all the Mallard Pointe property owners.

RESPONSE 27:

TCEQ does not have a mailing list of all Mallard Pointe property owners. TCEQ correspondence goes to affected or interested individuals or entities on the mailing list for this specific application or individuals or entities that showed countywide interest in receiving notice on similar permit actions in their area.

Individuals or entities may request to be placed on a mailing list to receive notices of future activities associated with this particular application or any applications filed in their area. For information and instructions on how to be added to a particular mailing list, please call the TCEQ Office of the Chief Clerk at (512) 239-3300.

COMMENT 28:

Greg Pipal indicated that the application states that there is no flow or flow fluctuation in Rucker Creek. Mr. Pipal presented photos to show major fluctuation in flow and asked if this information calls for reevaluation of the application. Johnny and Jeannie Ball; Edward Balmuth; John L. Meche; Michael and Linda Redenbaugh; David and Nancy Shaffer; Patty Thompson; Barbara Townsend; Phil, Tracey, and Rachel Ferrero; Jason and Mellanie Ferguson; Lakewood Hills H.O.A.; Mallard Pointe P.O.A.; Emil Mosser; Richard and Paula Eldred; and William and Mary Poulos were concerned about the extremes in water flow in Rucker Creek. Specifically,

they were concerned that it was a dry creek and with little or no flow, the majority of the flow would be wastewater, which could lead to reduced oxygen, adverse effects on aquatic life and wildlife, and offensive odors. When flooding conditions exist, they were concerned that the wastewater buildup would flush contaminants into inhabited areas. Dan Loomis also asked if there are plans to mitigate variable flow.

RESPONSE 28:

The flow fluctuation characterization of Rucker Creek given in the application is most likely the result of the Applicant's misinterpretation of the meaning of that portion of the receiving stream. TCEQ Water Quality Division staff visited the proposed discharge site on October 16, 2007 and noted evidence of moderate to severe flow fluctuations in Rucker Creek, which is typical of intermittent streams of this size. Since the ED staff has gained first-hand knowledge of the flow characteristics of Rucker Creek in the area of the proposed discharge, a reevaluation of the application is not necessary.

Based on the water quality modeling results, the proposed effluent set is adequate to ensure that the dissolved oxygen will be maintained above the criterion established for Rucker Creek (2.0 mg/l) and Lake Granbury (5.0 mg/l). This effluent set also satisfies 30 TAC, Section 309.3(c). Therefore, no impairment of aquatic life is expected. Effects of variable flow in streams are outside the purview of the normal evaluations of a TPDES permit application.

COMMENT 29:

Edward S. Balmuth, and Tom and Patricia Tigner are concerned about the discharge of untreated or raw sewage that may occur if the facility fails to operate properly. Edward S. Balmuth asked what the Applicant or TCEQ will do if sewage volume exceeds treatment capacity.

RESPONSE 29:

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 TCEQ must approve plans and specifications for domestic sewage collection and treatment works associated with any domestic permit. Also, Standard Provision 7 of the proposed 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 TCEQ to begin constructing the necessary additional treatment or collection facilities.

In addition, TCEQ's regulations require that domestic wastewater treatment plants be operated and maintained by operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30. A chief operator holding a Category C license or higher must operate this facility for a minimum of five days per week and must be available by telephone or pager seven days per week.

The Applicant is also required to report any unauthorized discharge to TCEQ within 24 hours. If the Applicant fails to report the unauthorized discharge or bypass to TCEQ within the prescribed time, the Applicant will be subject to enforcement by TCEQ. Should there be an accidental discharge, TCEQ and other local governmental entities determine if nearby residents

need to be notified of any leak or runoff based on the severity and potential health impact of the discharge.

TCEQ conducts periodic inspections of wastewater facilities and conducts investigations based on complaints received from the public. To report complaints about the facility if this permit is issued, please contact the Dallas Fort Worth Regional Office at (817) 588-5800, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints/index.html. The TCEQ investigates all complaints received. If TCEQ finds that the facility does not comply with the terms and conditions of its permit, it will be subject to investigation and possible enforcement action. For more information regarding enforcement, please see TCEQ's web site at www.tceq.state.tx.us/ and click on "Compliance, Enforcement and Cleanups."

COMMENT 30:

Mr. Edward S. Balmuth is concerned that the Applicant may eventually want to increase the discharge with future developments in the area.

RESPONSE 30:

According to TCEQ regulations, a change in a term, condition, or provision of a permit would require an amendment. A major amendment is required when an Applicant seeks to change a substantive term, provision, requirement, or a limiting parameter of a permit. Assuming TCEQ issues the draft permit, and the Applicant needed to increase the flow of the discharge authorized in the permit, it would have to apply for a major amendment. When an Applicant seeks a major amendment, the application would be subject to the same processing, technical review, and public notice regulations as the current application. Accordingly, the public

would have an opportunity to comment, request reconsideration, and request a contested case hearing.

Individuals may request to be placed on a mailing list to receive notices of future applications filed in their area. For information and instructions on how to be added to a particular mailing list, please call the TCEQ Office of the Chief Clerk at (512) 239-3300.

COMMENT 31:

Tom and Patricia Tigner asked what the life of the plant is and how the Applicant decommissions a facility.

RESPONSE 31:

There is no specified lifetime for wastewater treatment facilities. Operations will continue as long as the facility attains the effluent limitations contained in the permit and meets required standards. If an Applicant does plan to phase-out a facility, it must follow certain procedures. A registered professional engineer must submit a request for closure plan that contains detailed information regarding the steps taken during the facility's closure and copies of laboratory data of soils and sludge analyses. The TCEQ Municipal Permits Team and Environmental Cleanup Section will evaluate this information to determine if the site requires remediation under the Texas Risk Reduction Program.

COMMENT 32:

Edward S. Balmuth asked what the capacity of the facility is and how much wastewater it will produce on average days.

RESPONSE 32:

Because the Applicant has not built the facility, there is no exact figure on the amount of wastewater that it will produce on average days. However, the draft permit authorizes a

discharge of treated domestic wastewater at a volume not to exceed a daily average flow of 50,000 gpd in the interim I phase, 100,000 gpd in the interim II phase, and 150,000 gpd in the final phase. The treatment facility has adequate treatment capacity to handle both the organic and hydraulic loads in accordance with the provisions of 30 TAC Section 317, Design Criteria for Sewerage Systems.

COMMENT 33:

Alan Plummer, Jr. stated that when he went to the Hood County Courthouse to review the permit application, the staff informed him that the application was available, but not the draft permit and the ED's preliminary decision. He submitted his comments without knowledge of the information contained in those documents.

RESPONSE 33:

30 TAC Section 39.405(g) requires the Applicant to make application documents available at a site accessible to the general public for review and copying. The Notice of Application and Preliminary Decision (NAPD) was published on May 5, 2007 in the *Hood County News*. The draft permit is available only after the publication of the second notice, the NAPD. On May 15, 2007, the Applicant submitted a public notice verification form to the Office of the Chief Clerk certifying that a copy of the permit application, Statement of Basis/Technical Summary, draft permit, the ED's preliminary decision, and all other related correspondence were available for public viewing and copying during the comment period at the Hood County Courthouse, County Clerk's Office, 100 East Pearl Street, Granbury, Texas.

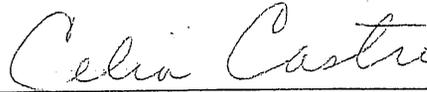
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division



Celia Castro
Staff Attorney
Environmental Law Division
State Bar No. 03397350
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Austin, Texas 78711-3087
Phone (512) 239-5692
Fax: (512) 239-0606

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on February 15, 2008, the "Executive Director's Response to Public Comment" for Permit No. WQ0014754001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Celia Castro
Staff Attorney
Environmental Law Division

ATTACHMENT E

Aqua Utilities, Inc. (Nolan Park)
WQ0014754001
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

April 14, 2008



Projection: Texas Statewide Mapping System
 (TSM5)

Scale 1:37,699

Legend

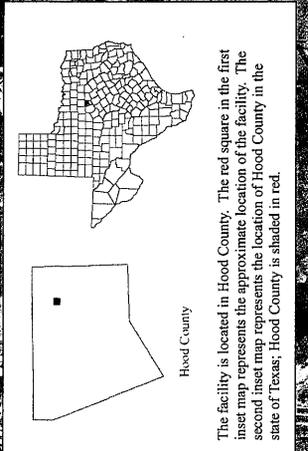
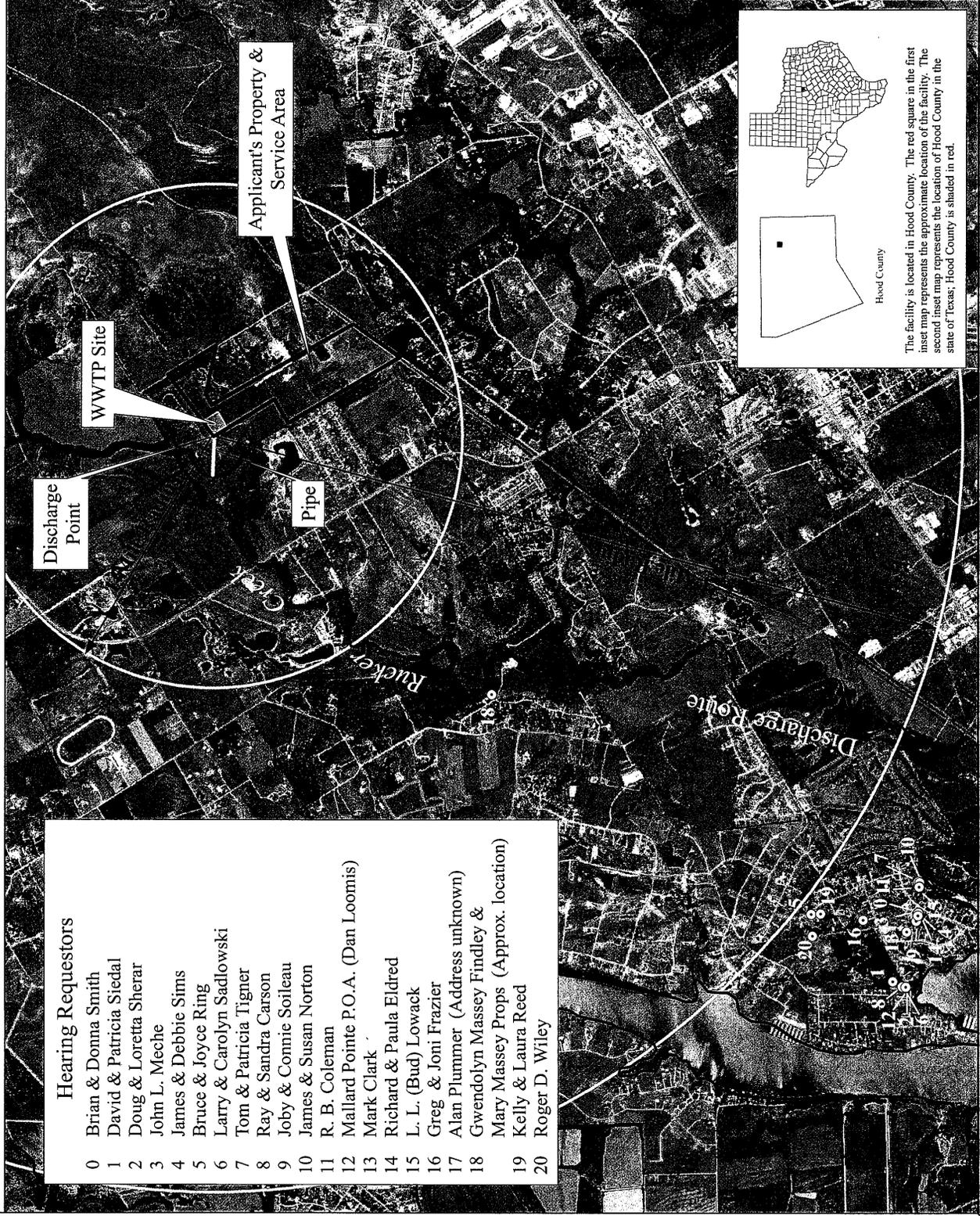
- WWTP
- Requestors

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the requestor information from the applicant. The coordinates 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 tx 221_1-1.

This map depicts the following:
 (1) The approximate location of the plant. This is labeled "WWTP Site".
 (2) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
 (3) Circle and arrow depicting 3-mile radius. This is labeled "3-Mile Radius".
 (4) Discharge Point. This is labeled "Discharge Point".

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.

McDonough, CRT-080414039



The facility is located in Hood County. The red square in the first inset map represents the approximate location of the facility. The second inset map represents the location of Hood County in the state of Texas; Hood County is shaded in red.

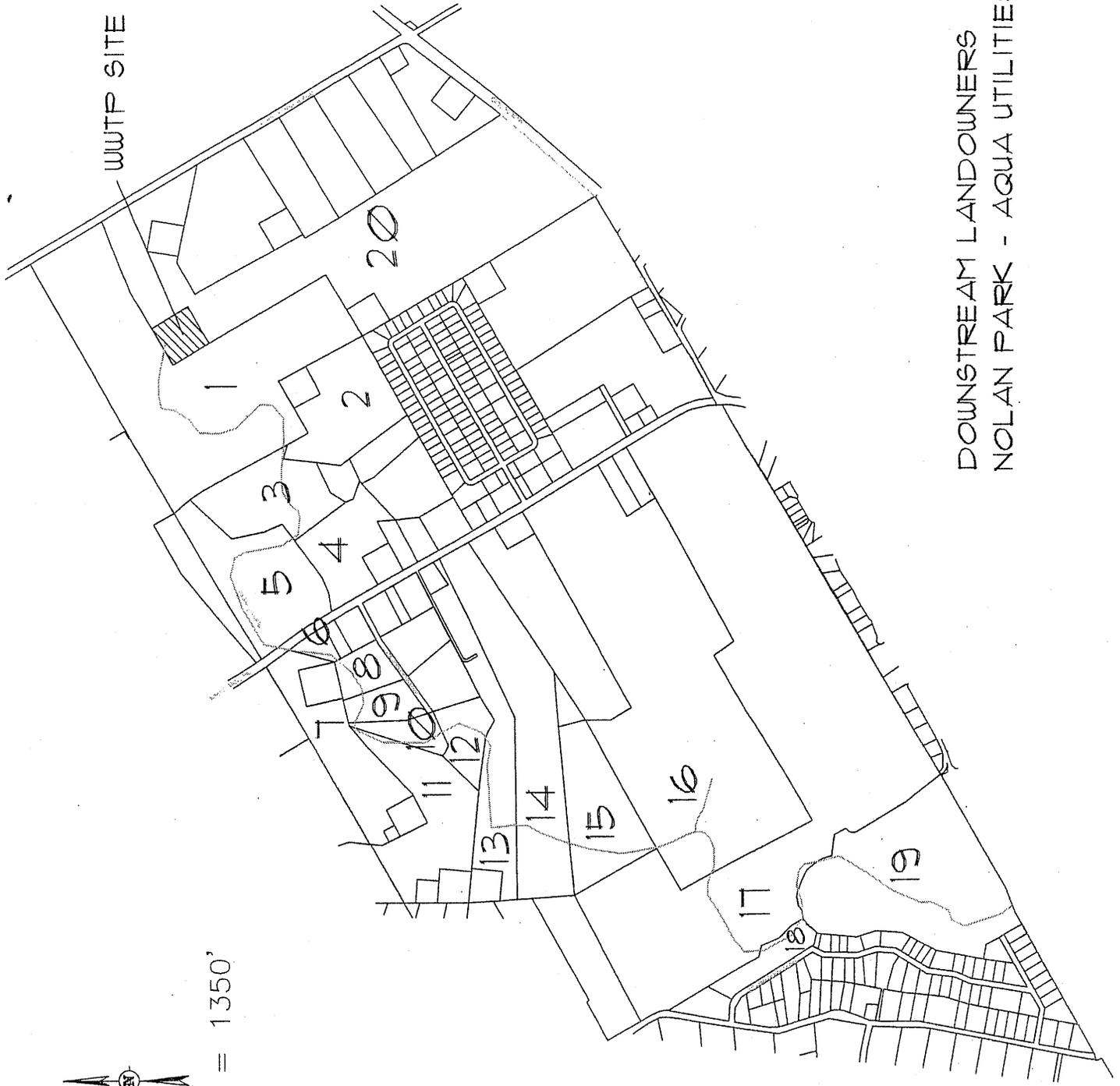
Hearing Requestors

- 0 Brian & Donna Smith
- 1 David & Patricia Siedal
- 2 Doug & Loretta Sherar
- 3 John L. Meche
- 4 James & Debbie Sims
- 5 Bruce & Joyce Ring
- 6 Larry & Carolyn Sadlowksi
- 7 Tom & Patricia Tigner
- 8 Ray & Sandra Carson
- 9 Joby & Connie Soileau
- 10 James & Susan Norton
- 11 R. B. Coleman
- 12 Mallard Pointe P.O.A. (Dan Loomis)
- 13 Mark Clark
- 14 Richard & Paula Eldred
- 15 L. L. (Bud) Lowack
- 16 Greg & Joni Frazier
- 17 Alan Plummer (Address unknown)
- 18 Gwendolyn Massey Findley & Mary Massey Props (Approx. location)
- 19 Kelly & Laura Reed
- 20 Roger D. Wiley

ATTACHMENT F



SCALE 1" = 1350'



DOWNSTREAM LANDOWNERS
NOLAN PARK - AQUA UTILITIES, INC.

**NOLAN PARK
HOOD COUNTY, TEXAS
LAND OWNERS**
(revised 12/28/06)

1 PAUL G RYDELL
4309 TAMWORTH ROAD
FORT WORTH, TX 76116

2 EDWARD & MALEA BALMUTH
4010 SAND CASTLE COURT
GRANBURY, TX 76049

3&4 AURTHER & PATRICIA LUSTY
1825 TEMPLE HALL HWY
GRANBURY, TX 76049

5 ROCK ENTERPRISES LTD
PO BOX 1071
SNYDER, TX 79550

6 JOHNNY L FAULKNER
2102 TEMPLY HALL HWY
GRANBURY, TX 76049

7 JAMES K MCGUFFIN
2000 TEMPLE HALL HWY
GRANBURY, TX 76049

8-12 W.A. BETZEL ETUX JEANNE
3400 BETZEL RANCH CT
GRANBURY, TX 76049

13-15 DAVID & LYNDEL CAMPBELL
PO BOX 74
GRANBURY, TX 76048

16 SHIRLEY W HARRELL
1500 TEMPLE HALL HWY
GRANBURY, TX 76049

17&19 SUNCHASE DEVELOPMENT CO
PO BOX 936
GRANBURY, TX 76049

18 MARY M PROPS ETAL
PO BOX 8295
HOUSTON, TX 77004

20 ROB HUGHITT
PO BOX 5012
GRANBURY, TX 76049

RECEIVED

JAN 03 2007

Water Quality Applications Team