

TCEQ Docket No. 2008-0559-MWD

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Application by City of Castroville §
For a Major Amendment to §
TPDES Permit No. WQ0010952001 §

Before the
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
CHIEF CLERK'S OFFICE

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. Introduction

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests on the application by City of Castroville (Applicant) for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010952001. The following persons requested a contested case hearing on this permit amendment application: Rose Aldape, Evangeline Bippert, Brenda Bowman, Roberto L. Chapa, David O. Chavez, Brittney Conn, Laurel D'Orsogna, Clinton Groff, Sidney Groff, Janice Haby, John Hall, Russell and Jennifer Hinson, Anna Mae Hitzfelder, Patrick Hitzfelder, Royce Hitzfelder, John Hohn (representing The Texas Rivers Protection Association), Janis Hunt, Jim Hunt, Debra L. Jungman, Virgil Jungman, Curtis Keller, Joseph Keller, Ladislaus J. Kowalik, Albert Krueger, Crystal M. Krueger, Cynthia L. Lange, Harvey Lee Kunze, Constance E. Mangold, Matt Mangold, L. R. McBroom, Shane Menchaca, Loretta Moczygamba, James Mueller, John Mueller, Rosaelia G. Navarre, Ray Packard, David and Cheryl Parker, John H. Ramsey, Rodney Reus, Stephen Reus, Jerry Rihn, Stanley Rihn, Bryan Royal, Ike Salinas, Joseph D. Schott, Donna L. Schueling, Janet Stock, Craig Tingey, R. L. Wagner, Jim Warnke, Dennis Wengenroth, Ray Youngblood, and Concerned Citizen at P.O. Box 580, La Coste, Texas 78039.

Attached for Commission consideration are the following:

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| Attachment A | Aerial Map of the Facility Site and Vicinity |
| Attachment B | Applicant's Affected Landowners Map |
| Attachment C | Fact Sheet and Executive Director's Preliminary Decision |
| Attachment D | Draft Permit |
| Attachment E | Executive Director's Response to Public Comments (RTC) |
| Attachment F | Compliance History |

The Office of the Chief Clerk previously mailed the RTC to all persons on the mailing list.

II. Description Of The Facility

The Applicant has applied to the TCEQ for a major amendment to its Texas Land Application Permit (TLAP), Permit No. WQ0010952001, to change from disposal via irrigation at a

daily average flow not to exceed 350,000 gallons per day to discharge into water in the state at a daily average flow not to exceed 900,000 gallons per day. The facility and disposal site are located approximately 0.9 mile southeast of the intersection of U.S. Highway 90 and Farm-to-Market Road 1343 in Medina County, Texas. The proposed draft permit is structured in four phases. In the Interim I phase only, the draft permit authorizes the disposal of the treated effluent at a daily average flow not to exceed 350,000 gallons per day via surface irrigation of 26.6 acres of a public access park, and 166.8 acres of non-public access pastureland. Application rates shall not exceed 2.03 acre-feet per year, per acre irrigated. The draft permit authorizes the discharge of treated domestic wastewater at a volume not to exceed a daily average flow of 350,000 gallons per day in the Interim II phase; at a volume not to exceed a daily average flow of 450,000 gallons per day in the Interim III phase; and at a volume not to exceed a daily average flow of 900,000 gallons per day in the final phase.

The effluent limitations in the Interim I phase of the draft permit, based on a 30-day average, are 20 mg/l BOD₅, and 20 mg/l TSS. The effluent limitations in the Interim II, III, and the final phase of the draft permit, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS, 1.0 mg/l Total Phosphorus, 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 treated effluent will be discharged into an unnamed natural drainage swale; then to the Medina River below the Medina Diversion Lake in Segment No. 1903 of the San Antonio River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed natural drainage swale. The designated uses for Segment No. 1903 are contact recreation, public water supply, and high aquatic life use.

III. Procedural Background

The amendment application for the City of Castroville wastewater treatment plant was received on December 8, 2006, and declared administratively complete on February 15, 2007. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on March 8, 2007, in the *Hondo Anvil Herald*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on May 31, 2007, in the *Hondo Anvil Herald*. A public meeting was held on November 29, 2007, in the City of Castroville and the public comment period ended on that date. The Executive Director's response to public comment (RTC) was filed on February 26, 2008. The deadline to file requests for a contested case hearing ended on April 3, 2008. Since this application was administratively complete after September 1, 1999, it is subject to the procedural requirements of House Bill 801 (76th Legislature, 1999).

IV. Legal Authority for Review of 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 Commission implemented HB 801 by adopting procedural rules in Title 30, Chapters 39, 50, and 55. The

application was declared administratively complete on February 15, 2007, and it is therefore subject to the procedural requirements of HB 801.

A. Requirements for Hearing Requests

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets the requirements found in 30 TAC § 55.201. A hearing request by an affected person must be in writing; filed no later than 30 days after the Chief Clerk mails the Executive Director's response to public comments; and substantially comply with the following:

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

See 30 TAC §§ 55.201(a), (c) and (d).

B. Requirement that Requestor be an "Affected Person"

In order to grant a contested case hearing, the Commission must next determine whether a requestor is an "affected person." An "affected person" is defined as anyone 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." *See* 30 TAC § 55.203(a). Governmental agencies and entities "with authority under state law over issues raised by the application may be considered affected persons." *See* 30

TAC § 55.203(b). The Commission must evaluate a number of factors when determining whether a person is an “affected person” under HB 801 and the Commission rules implementing it. The factors that must be considered include 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.

See 30 TAC § 55.203(c).

C. Referral to the State Office of Administrative Hearings

If the Commission determines that the requestor has met the requirements for requesting a hearing, the Commission may grant the request and “shall issue an order specifying the number and scope of the issues to be referred to” the State Office of Administrative Hearings (SOAH). See TEX. WATER CODE § 5.556(e) and 30 TAC § 50.115(b). The Commission may refer an issue to SOAH if 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.

See TEX. WATER CODE § 5.556(d) and 30 TAC § 50.115(c).

D. Response to Hearing Requests

Pursuant to Section 55.209 of the Commission rules, the Executive Director, the public interest counsel, and the applicant may file a response to a hearing request. A response to hearing request 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 RTC;
- (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.

See 30 TAC § 55.209(e).

In adopting the rules implementing HB 801, the Commission expressly declined to define the phrase “relevant and material.” The Commission, however, stated that “the meaning of the phrase ‘relevant and material’ will vary from case to case to reflect the peculiar facts of the particular permit at issue and of the statutes and rules applicable to that permit.” 24 TexReg 9015, 9029-31 (October 15, 1999).

Although the TCEQ’s rules lack specific guidance regarding whether an issue is relevant and material to the Commission’s decision, the Executive Director finds that other sources are useful in defining the terms. Relevance is defined in Black’s Legal Dictionary as “applying to the matter in question.” Rule 401 of the Texas Rules of Evidence defines relevant evidence as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” While these definitions are somewhat helpful, better guidance on what is relevant can be found in case law. In Sunshine Gas Company v. U.S. Dept. of Energy, 524 F. Supp. 834 (N.D. Tex. 1981), the court stated that relevancy is tied to the purpose of the action –

“Relevance” simply cannot be determined in the absence of defined “purpose,” whether that purpose be as sharply defined as in a criminal trial, less precisely delineated as in a civil proceeding, or more generally defined as in a grand jury inquiry or in an administrative agency investigation as here. In all situations, purpose in some degree must be defined . . . and relevance thereafter may be assessed.

Id. at 838 [quoting F.T.C. v. Texaco, Inc., 555 F.2d 862, 905 (D.C. Cir. 1977)]. See also, United States v. Powell, 379 U.S. 48, 58 (1964) (holding that the purpose for an administrative investigation must first be determined and then issues of inquiry must be

found relevant to that purpose).

Therefore, in determining the relevancy of an issue raised by an affected person, the Commission should first determine the purpose of its decision on the application. The decision on the application to be made by the Commission is whether the particular application at issue meets the requirements in the applicable statutes and rules, and whether the permit should be issued as drafted or with revisions to the conditions in the permit.

V. Evaluation/Analysis of the Hearing Requests

The TCEQ received timely filed hearing requests from Rose Aldape, Evangeline Bippert, Brenda Bowman, Roberto L. Chapa, David O. Chavez, Brittney Conn, Laurel D'Orsogna, Clinton Groff, Sidney Groff, Janice Haby, John Hall, Russell and Jennifer Hinson, Anna Mae Hitzfelder, Patrick Hitzfelder, Royce Hitzfelder, John Hohn (representing The Texas Rivers Protection Association), Janis Hunt, Jim Hunt, Debra L. Jungman, Virgil Jungman, Curtis Keller, Joseph Keller, Ladislaus J. Kowalik, Albert Krueger, Crystal M. Krueger, Cynthia L. Lange, Harvey Leekunze, Constance E. Mangold, Matt Mangold, L. R. McBroom, Shane Menchaca, Loretta Moczygamba, James Mueller, John Mueller, Rosaelia G. Navarre, Ray Packard, David and Cheryl Parker, John H. Ramsey, Rodney Reus, Stephen Reus, Jerry Rihn, Stanley Rihn, Bryan Royal, Ike Salinas, Joseph D. Schott, Donna L. Schueling, Janet Stock, Craig Tingey, R. L. Wagner, Jim Warnke, Dennis Wengenroth, Ray Youngblood, and Concerned Citizen at P.O. Box 580, La Coste, Texas 78039.

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

The Office of the Chief Clerk received a total of 59 hearing requests on this application.

Rose Aldape filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Aldape's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Evangeline Bippert filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Bippert's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Brenda Bowman filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Bowman's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Roberto L. Chapa filed timely hearing requests with the Office of the Chief Clerk on July 2, 2007, and April 3, 2008. In the April 3, 2008 request, Mr. Chapa authorized "the Texas River Protection Association (TRPA) to request a contested case hearing" on his behalf. It is not clear whether Mr. Chapa is a member of TRPA. The requests provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Chapa's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

David O. Chavez filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Chavez's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Brittney Conn filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Conn's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Laurel D'Orsogna filed a timely hearing request with the Office of the Chief Clerk July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. D'Orsogna's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Clinton Groff filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit

number; and listed disputed issues of concern. The request did not identify Mr. Groff's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Sidney Groff filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify the requestor's personal justiciable interest affected by the amendment application, the requestor's location and distance relative to the facility or the activity to be conducted at the facility, and how he or she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Janice Haby filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Haby's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

John Hall filed timely hearing requests with the Office of the Chief Clerk on July 2, 2007, and April 3, 2008. In the April 3, 2008 request, Mr. Hall authorized TRPA "to request a contested case hearing" on his behalf. It is not clear whether Mr. Hall is a member of TRPA. The requests provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Hall's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Russell and Jennifer Hinson filed a timely hearing request with the Office of the Chief Clerk on July 5, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Russell and Jennifer Hinson's location and distance relative to the facility or the activity to be conducted at the facility. *See* 30 TAC § 55.201(d)(2).

Ana Mae Hitzfelder filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Hitzfelder's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Patrick Hitzfelder filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Hitzfelder's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Royce Hitzfelder filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Hitzfelder's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

John Hohn (on behalf of TRPA) filed timely hearing requests with the Office of the Chief Clerk on April 2, 2008, and April 3, 2008. The requests provided sufficient contact information; stated that TRPA is an association with approximately 500 members, members of the association "own Medina River front property . . . downstream of proposed diversion," and frequently recreate in and around the Medina River; listed Tom Goynes as the president of TRPA; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify a representative or member of the association whose personal justiciable interest is affected by the amendment application, the location and distance of any member of the association relative to the facility or the activity to be conducted at the facility, and how any member of the association will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC §§ 55.201(d)(1); and 55.205.

Janis Hunt filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Hunt's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Jim Hunt filed a timely hearing request with the Office of the Chief Clerk on April 3, 2008. In the April 3, 2008, request, Mr. Hunt authorized TRPA "to request a contested case hearing" on his behalf. It is not clear whether Mr. Hunt is a member of TRPA. The requests provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Hunt's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be

conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Debra L. Jungman filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Jungman's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Virgil Jungman filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify the requestor's personal justiciable interest affected by the amendment application, the requestor's location and distance relative to the facility or the activity to be conducted at the facility, and how he or she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Curtis Keller filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Keller's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Joseph Keller filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Keller's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Ladislaus J. Kowalik filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Kowalik's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Albert Krueger filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit

number; and listed disputed issues of concern. The request did not identify Mr. Krueger's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Crystal M. Krueger filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Krueger's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Harvey Leekunze filed a timely hearing request with the Office of the Chief Clerk on April 3, 2008. In the request, Mr. Kunze authorized TRPA "to request a contested case hearing" on his behalf. It is not clear whether Mr. Kunze is a member of TRPA. The request provided sufficient contact information; identified the Applicant and the permit number; stated Mr. Kunze's location and distance from the facility; articulated how Mr. Kunze will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public; and listed disputed issues of concern.

Cynthia L. Lange filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Lange's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Constance Mangold filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify the requestor's personal justiciable interest affected by the amendment application, the requestor's location and distance relative to the facility or the activity to be conducted at the facility, and how he or she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Matt Mangold filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Mangold's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See*

30 TAC § 55.201(d)(2).

L. R. McBroom filed a timely hearing request with the Office of the Chief Clerk on April 3, 2008. The request authorized TRPA “to request a contested case hearing” on behalf of the requestor. It is not clear whether Mr. McBroom is a member of TRPA. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify the requestor’s personal justiciable interest affected by the amendment application, and the location and distance relative to the facility or the activity to be conducted at the facility. *See* 30 TAC § 55.201(d)(2).

Shane Menchaca filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Menchaca’s personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Loretta Moczygemba filed timely hearing requests with the Office of the Chief Clerk on July 2, 2007, and April 3, 2008. In the April 3, 2008 request, Ms. Moczygemba authorized TRPA “to request a contested case hearing” on her behalf. It is not clear whether Ms. Moczygemba is a member of TRPA. The requests provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Moczygemba’s personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

James Mueller filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Mueller’s personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

John Mueller filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Mueller’s personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Rosaelia G. Navarre filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Navarre's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

David and Cheryl Parker filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify David or Cheryl Parker's personal justiciable interest affected by the amendment application, their location and distance relative to the facility or the activity to be conducted at the facility, and how they will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Ray Packard filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request identified the Applicant and the permit number; and listed disputed issues of concern. The request did not provide sufficient contact information for Mr. Packard. The request listed an address of 3310 CR 3713 without indicating the city and state where the address is located. The request did not identify Mr. Packard's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

John H. Ramsey filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Ramsey's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Rodney Reus filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Reus' location and distance relative to the facility or the activity to be conducted at the facility. *See* 30 TAC § 55.201(d)(2).

Stephen Reus filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Reus' personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the

facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Jerry Rihn filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify the requestor's personal justiciable interest affected by the amendment application, the requestor's location and distance relative to the facility or the activity to be conducted at the facility, and how he or she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Stanley Rihn filed a timely hearing request with the Office of the Chief Clerk on July 5, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; stated the location and distance of his property relative to the facility; and listed disputed issues of concern.

Bryan Royal filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Royal's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Ike Salinas filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Salinas' personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Joseph D. Schott filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Schott's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Donna L. Schueling filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Schueling's personal justiciable interest affected by the amendment application, her location and distance relative to the

facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Janet Stock filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Ms. Stock's personal justiciable interest affected by the amendment application, her location and distance relative to the facility or the activity to be conducted at the facility, and how she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Craig Tingey filed a timely hearing request with the Office of the Chief Clerk on April 3, 2008. The request authorized TRPA "to request a contested case hearing" on behalf of Mr. Tingey. It is not clear whether Mr. Tingey is a member of TRPA. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Tingey's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

R. L. Wagner filed timely hearing requests with the Office of the Chief Clerk on July 2, 2007, and April 3, 2008. In the April 3, 2008 request, Mr. Wagner authorized TRPA "to request a contested case hearing" on his behalf. It is not clear whether Mr. Wagner is a member of TRPA. The requests provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Wagner's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Jim Warnke filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Warnke's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Dennis Wengenroth filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Wengenroth's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by

the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Ray Youngblood filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request provided sufficient contact information; identified the Applicant and the permit number; and listed disputed issues of concern. The request did not identify Mr. Youngblood's personal justiciable interest affected by the amendment application, his location and distance relative to the facility or the activity to be conducted at the facility, and how he will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

Concerned Citizen at P. O. Box 580, La Coste, Texas, filed a timely hearing request with the Office of the Chief Clerk on July 2, 2007. The request identified the Applicant and the permit number; and listed disputed issues of concern. However, the requestor provided insufficient contact information, failed to identify his or her personal justiciable interest affected by the amendment application, his or her location and distance relative to the facility or the activity to be conducted at the facility, and how he or she will be adversely affected by the facility or activity to be conducted at the facility in a manner not common to the general public. *See* 30 TAC § 55.201(d)(2).

The Executive Director concludes that Russell and Jennifer Hinson, Harvey Lee Kunze, Rodney Reus, and Stanley Rihn substantially complied with the requirements of 30 TAC §§ 55.201(c) and (d). Rose Aldape, Evangeline Bippert, Brenda Bowman, Roberto L. Chapa, David O. Chavez, Brittney Conn, Laurel D'Orsogna, Clinton Groff, Sidney Groff, Janice Haby, John Hall, Anna Mae Hitzfelder, Patrick Hitzfelder, Royce Hitzfelder, John Hohn (representing The Texas Rivers Protection Association), Janis Hunt, Jim Hunt, Debra L. Jungman, Virgil Jungman, Curtis Keller, Joseph Keller, Ladislaus J. Kowalik, Albert Krueger, Crystal M. Krueger, Cynthia L. Lange, Constance E. Mangold, Matt Mangold, L. R. McBroom, Shane Menchaca, Loretta Moczygemba, James Mueller, John Mueller, Rosaelia G. Navarre, Ray Packard, David and Cheryl Parker, John H. Ramsey, Stephen Reus, Jerry Rihn, Bryan Royal, Ike Salinas, Joseph D. Schott, Donna L. Schueling, Janet Stock, Craig Tingey, R. L. Wagner, Jim Warnke, Dennis Wengenroth, Ray Youngblood, and Concerned Citizen at P.O. Box 580, La Coste, Texas did not substantially comply with the requirements of 30 TAC § 55.201(d)(2).

B. Affected Person Status - Whether Requestors Meet the Requirements of an Affected Person

1. Rose Aldape

Ms. Aldape provided an address of 3706 Anaconda, San Antonio, Texas 78228, in her hearing request. The request did not provide distance information about Ms. Aldape's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Ms. Aldape's property relative to the facility. The hearing request also did not indicate whether Ms. Aldape owns property downstream or upstream of the facility. Ms. Aldape identified the following issues in her hearing request:

- Whether the volume of discharge authorized in the draft permit will cause serious groundwater and surface water impacts for the personal, agricultural, and business interests in the Medina River watershed. (Executive Director's RTC Nos. 1 and 10).
- Whether the discharge authorized in the draft permit will result in the pollution of surface water. (Executive Director's RTC Nos. 1, 4, and 5).

Ms. Aldape has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, and surface water are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ms. Aldape is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Aldape has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

2. Evangeline Bippert

Ms. Bippert provided an address of 13898 U.S. Hwy 90 W., #1, San Antonio, Texas 78245, in her hearing request. The request did not provide distance information about Ms. Bippert's property relative to the facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Ms. Bippert's property relative to the facility. The hearing request also did not indicate whether Ms. Bippert owns property downstream or upstream of the facility. However, the Applicant's Landowners Map listed Delvin Bippert as owning a river front property within one mile downstream of the facility. Although Mr. Delvin Bippert and Evangeline Bippert share a similar San Antonio address, the Executive Director, however, cannot determine the nature of their relationship or whether Ms. Bippert has ownership interest in the river front property based on the hearing request. Ms. Bippert identified the following issues in her hearing request:

- Whether the proposed amendment to change the method of disposal of treated domestic wastewater via irrigation to discharge at a daily average flow not to exceed 900,000 gallons per day into an unnamed natural drainage swale will adversely affect the health and safety of the general public who utilize the Castroville Regional Park for recreational activities. (Executive Director's RTC No. 1).
- Whether the volume of discharge will cause serious groundwater and surface water impacts for the personal, agricultural, and business interests in the Medina River watershed. (Executive Director's RTC Nos. 1 and 10).
- Whether the discharge authorized in the draft permit will result in the pollution of surface water? Stated differently, will the effluent limitations in the draft permit result in significant degradation of water quality in the Medina River below the Medina Diversion Lake and

- whether the limitations will maintain and protect existing uses of the Medina River.
- Whether the permit application adequately considers “the Texas Parks and Wildlife’s review and survey of affected wildlife including aquatic species, or the Federal Endangered Species Act.” (Executive Director’s RTC No. 2).
 - Whether the permit amendment application adequately addresses public comments regarding the authorized major discharge into a State of Texas river. (Executive Director’s RTC No. 3).
 - Whether the proposed discharge in the draft permit violates the “Federal Water Quality Act.”¹ (Executive Director’s RTC No. 4).
 - Whether the proposed discharge in the draft permit will impact natural resources of the Medina River. (Executive Director’s RTC No. 5).
 - Whether the proposed discharge location in the draft permit “is into a man-made open ditch [as opposed to a natural drainage swale] that currently serves as an over flow channel for the current effluent ponds,” and whether the alleged use of the channel violates the existing land application permit. (Executive Director’s RTC No. 6).
 - Whether the Applicant has a compliance history of violations relating to the discharge of untreated sewage into the Medina River. (Executive Director’s RTC No. 7).
 - Whether the Applicant is required to consider all landowners within one mile upstream and downstream from any discharge point into the Medina River; if so did the amendment application incorrectly consider only three landowners who own property within one mile downstream of the facility? (Executive Director’s RTC No. 8).
 - Whether the Applicant is required to address alternative options for the continued disposal of treated wastewater via irrigation in the amendment application, by acquiring and irrigating secondary sites adjacent to the facility. (Executive Director’s RTC No. 9).
 - Whether the Applicant is required to recycle the treated wastewater for other agricultural uses. (Executive Director’s RTC No. 9).

Ms. Bippert has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ms. Bippert is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Bippert has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

¹ The Executive Director assumes that the Interested Persons are referring to the Federal Water Pollution Control Act (FWPCA) or the federal Clean Water Act (CWA), 33 U.S.C.A. §§ 1251-1387 as amended. The response to Comment No. 4 is provided in the context of the FWPCA or CWA. All references to the CWA refer to 33 U.S.C.A. §§ 1251-1387 as amended.

3. **Brenda Bowman**

Ms. Bowman provided an address of 8222 Old Pearsall Road, San Antonio, Texas 78227, in her hearing request. The request did not provide distance information about Ms. Bowman's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Ms. Bowman's property relative to the facility. The hearing request also did not indicate whether Ms. Bowman owns property downstream or upstream of the facility. Ms. Bowman identified the following issues in her hearing request:

- Whether the volume of discharge authorized in the draft permit will cause serious groundwater and surface water impacts for the personal, agricultural, and business interests in the Medina River watershed. (Executive Director's RTC Nos. 1 and 10).
- Whether the discharge authorized in the draft permit will result in the pollution of surface water. (Executive Director's RTC Nos. 1, 4, and 5).

Ms. Bowman has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that will be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, and surface water are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant. It is doubtful that Ms. Bowman owns property within the vicinity of the facility that would be adversely affected if the instant amendment application is approved.

The Executive Director concludes that Ms. Bowman is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Bowman has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

4. **Roberto L. Chapa**

Mr. Chapa provided an address of 244 CR 579, La Coste, Texas 78039, in his hearing request. The request did not provide distance information about Mr. Chapa's property relative to the proposed facility or the discharge route. However, based on the address provided, the Executive Director's Aerial Map indicates that Mr. Chapa resides or owns property approximately two and one-quarter miles from the facility. Based on the Executive Director's Aerial Map, it appears that Mr. Chapa does not own property within one mile of the proposed facility. In addition to raising the same issues outlined in Section V(B)(2) of this pleading, Mr. Chapa requests that the Executive Director impose stricter numerical effluent limitation in the permit as follows: "5 (BOD), 5 (TSS), 2 (Nitrogen) and 1 (Phosphorus)."

Mr. Chapa has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His

concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant. Finally, Mr. Chapa authorized the TRPA to request a contested case hearing on his behalf. To the extent Mr. Chapa is a member of TRPA, the affected person's status of TRPA will be discussed below.

The Executive Director concludes that Mr. Chapa is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Chapa has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

5. David O. Chavez

Mr. Chavez did not provide a physical address in his hearing request. The request did not provide distance information about Mr. Chavez's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Chavez's property relative to the facility. The hearing request also did not indicate whether Mr. Chavez owns property downstream or upstream of the facility. Mr. Chavez raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Chavez has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Mr. Chavez is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Chavez has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

6. Brittney Conn

Ms. Conn provided an address of 210 PR 5753, La Coste, Texas 78039, in her hearing request. The request did not provide distance information about Ms. Conn's property relative to the proposed facility or the discharge route. However, based on the address provided, the Executive Director's Aerial Map indicates that Ms. Conn resides or owns property approximately two miles downstream from the facility. Ms. Conn raised the same issues outlined in Section V(B)(2) of this pleading in her hearing request.

Ms. Conn has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ms. Conn is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Conn has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

7. Laurel D’Orsogna

Ms. D’Orsogna provided an address of P. O. Box 302, La Coste, Texas 78039, in her hearing request. She did not provide a physical address in the request. The request did not provide distance information about Ms. D’Orsogna’s property relative to the proposed facility or the discharge route. Neither the Applicant’s Landowners Map nor the Executive Director’s Aerial Map shows the location of Ms. D’Orsogna’s property relative to the facility. The hearing request also did not indicate whether Ms. D’Orsogna owns property downstream or upstream of the facility. Ms. D’Orsogna raised the same issues outlined in Section V(B)(2) of this pleading in her hearing request.

Ms. D’Orsogna has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ms. D’Orsogna is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. D’Orsogna has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

8. Clinton Groff & Sidney Groff

The Groffs provided an address of 2381 CR 4713, La Coste, Texas 78039, in their hearing requests. The requests did not provide distance information about their property relative to the proposed facility or the discharge route. Neither the Applicant’s Landowners Map nor the Executive Director’s Aerial Map shows the location of their property relative to the facility. The hearing requests also did not indicate whether the Groffs own property downstream or upstream of the facility. They both raised the same issues outlined in Section V(B)(2) of this pleading in their

hearing requests.

The Groffs failed to articulate a personal justiciable interest related to their legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Their concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. They have not demonstrated that a reasonable relationship exist between their concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Clinton and Sidney Groff are not affected persons under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that they have personal justiciable interests affected by the proposed facility are timely furnished, the Executive Director may reconsider his recommendation.

9. Janice Haby

Ms. Haby provided an address of 217 May Street, Castroville, Texas 78009, in her hearing request. The request did not provide distance information about Ms. Haby's property relative to the proposed facility or the discharge route. However, the Executive Director's Aerial Map indicates that Ms. Haby resides or owns property approximately one and one half-mile upstream from the facility and discharge route. However, the Applicant's Landowners Map listed Stephen Haby as owning a river front property within one mile downstream of the facility. Although Mr. Haby and Janice Haby provided the same Castroville address, the Executive Director, however, cannot determine the nature of their relationship or whether Ms. Haby has ownership interest in the river front property based on the hearing request. Ms. Haby raised the same issues outlined in Section V(B)(2) of this pleading in her hearing request.

Ms. Haby has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ms. Haby is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Haby has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

10. John Hall

Mr. Hall provided an address of 479 CR 5711, La Coste, Texas 78039, in his hearing request.

The request did not provide distance information about Mr. Hall's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Hall's property relative to the facility. The hearing request also did not indicate whether Mr. Hall owns property downstream or upstream of the facility. In addition to raising the same issues outlined in Section V(B)(2) of this pleading, Mr. Hall requests that the Executive Director impose stricter numerical effluent limitation of "5 (BOD), 5 (TSS), 2 (Nitrogen) and 1 (Phosphorus)" in the draft permit.

Mr. Hall has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant. Finally, Mr. Hall authorized "the Texas River Protection Association (TRPA) to request a contested case hearing" on his behalf. To the extent Mr. Hall is a member of TRPA, the affected person's status of TRPA will be discussed below.

The Executive Director concludes that Mr. Hall is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Hall has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

11. Russell and Jennifer Hinson

The Hinsons provided an address of 244 CR 579, La Coste, Texas 78039, in their hearing request. They stated that their "family live ¾ mile from Castroville," and that they live "right on the Medina River" and fish and swim in the river. They indicated that they have a three-month old daughter, and expressed concerns that she might get sick as a result of the city "dumping sewage into the water." The request did not provide distance information about the Hinsons' property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of the Hinsons' property relative to the facility. The hearing request also did not indicate whether the Hinsons own property downstream or upstream of the facility. The Hinsons also raised the same issues outlined in Section V(B)(2) of this pleading.

The Hinsons have failed to articulate a personal justiciable interest related to their legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Their concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. Although they are concerned about the health of their child, by failing to provide their location in relation to the discharge point, they have not demonstrated that a reasonable relationship exist between their concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Russell and Jennifer Hinson are not affected persons under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that they have a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

12. Ana Mae Hitzfelder

Ms. Hitzfelder provided an address of 3090 CR 4713, La Coste, Texas 78039, in her hearing request. The request did not provide distance information about Ms. Hitzfelder's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Ms. Hitzfelder's property relative to the facility. The hearing request also did not indicate whether Ms. Hitzfelder owns property downstream or upstream of the facility. Ms. Hitzfelder raised the same issues outlined in Section V(B)(2) of this pleading in her hearing request.

Ms. Hitzfelder has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ms. Hitzfelder is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Hitzfelder has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

13. Patrick Hitzfelder

Mr. Hitzfelder provided an address of 2686 CR 4713, La Coste, Texas 78039, in his hearing request. The request did not provide distance information about Mr. Hitzfelder's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Hitzfelder's property relative to the facility. The hearing request also did not indicate whether Mr. Hitzfelder owns property downstream or upstream of the facility. Mr. Hitzfelder raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Hitzfelder has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment

plant.

The Executive Director concludes that Mr. Hitzfelder is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Hitzfelder has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

14. Royce Hitzfelder

Royce Hitzfelder provided an address of 2686 CR 4713, La Coste, Texas 78039, in his/her hearing request. The request did not provide distance information about Royce Hitzfelder's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Royce Hitzfelder's property relative to the facility. The hearing request also did not indicate whether Royce Hitzfelder owns property downstream or upstream of the facility. Royce Hitzfelder raised the same issues outlined in Section V(B)(2) of this pleading in the hearing request.

Royce Hitzfelder has failed to articulate a personal justiciable interest related to his/her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Royce Hitzfelder's concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. Royce Hitzfelder has not demonstrated that a reasonable relationship exists between his/her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Royce Hitzfelder is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Royce Hitzfelder has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

15. John Hohn/Texas Rivers Protection Association (TRPA)

John Hohn requested a contested hearing on behalf of TRPA. The request stated that TRPA is a non-profit corporation. A group or association is eligible to request a contested case hearing only if the following requirements are met:

- (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 are 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.

See 30 TAC § 55.205(a). For TRPA to qualify as a group seeking an affected person status, it must demonstrate that a member or members of the association have standing to request a hearing in their own rights. To have standing to request a hearing in their own right, the representative member of the association must be able to meet the requirements set forth in Section 55.203 of the Commission rules.

TRPA stated in its request that (1) it is an association with approximately 500 members, (2) members of the association "own Medina River front property with associated riparian rights located near downstream of the proposed diversion," and (3) members of the association frequently recreate in and around the Medina River. TRPA raised two issues in its request for hearing: (1) the effluent limits in the draft permit will have adverse impact on the water quality of the Medina River, and (2) the effluent limit will adversely affect the use and enjoyment of the Medina River downstream of the discharge point. TRPA requests that the Executive Director impose effluent limits of 5 mg/l BOD, 5 mg/l TSS, 2 mg/l nitrogen, and 1 mg/l phosphorus.

The request did not identify any member of the organization who would independently meet the standing requirements to request a hearing. The request failed to identify a member of the association whose personal justiciable interest will be affected by the amendment application. The request also did not provide the location and distance of any member of the association relative to the facility or the activity to be conducted at the facility. The Landowners map attached to the amendment application does not identify TRPA as an adjacent landowner. The Executive Director's aerial map does not show that TRPA or any of its members own property downstream or upstream of the facility or the discharge route.

Roberto L. Chapa, John Hall, Jim Hunt, Harvey Lee Kunze, L. R. McBroom, Loretta Moczygamba, Craig Tingey, and R. L. Wagner authorized TRPA to request a contested case hearing on their behalf. However, TRPA did not indicate the membership status of these individuals; failed to identify the interests of any of each of the individuals, and did not provide the location or distance of each of the individual's property or economic interest that would be affected by the activities to be conducted under the amended permit.

TRPA has failed to articulate a personal justiciable interest of a member of its association related to the member's legal right, duty, privilege, power, or economic interest that would be affected by the proposed wastewater treatment facility. Additionally, TRPA has not demonstrated that as an organization it has a member or members that "would otherwise have standing to request a hearing in their own right."

The Executive Director concludes that the information provided by TRPA fails to demonstrate that TRPA qualifies as an affected person under §§ 55.205(a) and 55.203(a) and (c). If additional information demonstrating that TRPA has a personal justiciable interest affected by the proposed amendment is timely furnished or meets the associational standing requirements, the Executive Director may reconsider his recommendation.

16. Janis Hunt

Ms. Hunt provided an address of 1555 CR 4713, La Coste, Texas, in her hearing request. The request did not provide distance information about Ms. Hunt's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Ms. Hunt's property relative to the facility. The hearing request also did not indicate whether Ms. Hunt owns property downstream or upstream of the facility. Ms. Hunt raised the same issues outlined in Section V(B)(2) of this pleading in her hearing request.

Ms. Hunt has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ms. Hunt is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Hunt has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

17. Jim Hunt

Mr. Hunt signed a hearing request form authorizing TRPA to request a contested case hearing on his behalf. The request did not indicate whether Mr. Hunt is a member of TRPA. Mr. Hunt provided an address of P. O. Box 1096, Castroville, Texas 78009, in his request. The request did not provide the location or distance information about Mr. Hunt's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Hunt's property relative to the facility. The hearing request also did not indicate whether Mr. Hunt owns property downstream or upstream of the facility. Mr. Hunt raised water quality issues for the wastewater treatment plant and requested that the Executive Director impose effluent limitations of "5 (BOD), 5 (TSS), 2 (Nitrogen) and 1 (Phosphorus)" in the draft permit.

Mr. Hunt has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concern about water quality is a general concern which is common to the general public. He has not demonstrated that a reasonable relationship exists between this concern and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Mr. Hunt is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Hunt has a personal

justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

18. Debra L. Jungman & Virgil Jungman

The Jungmans provided an address of 1150 CR 5713, La Coste, Texas 78039. The requests did not provide distance information about the Jungmans' property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of the Jungmans' property relative to the facility. The hearing requests also did not indicate whether the Jungmans own property downstream or upstream of the facility. The Jungmans raised the same issues outlined in Section V(B)(2) of this pleading in their hearing requests.

The Jungmans failed to articulate a personal justiciable interest related to their legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Their concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. They have not demonstrated that a reasonable relationship exist between their concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Debra and Virgil Jungman are not affected persons under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that the Jungmans have personal justiciable interests affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

19. Curtis Keller

Mr. Keller provided an address of 2795 CR 4713, La Coste, Texas 78039, in his hearing request. The request did not provide distance information about Mr. Keller's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Keller's property relative to the facility. The hearing request also did not indicate whether Mr. Keller owns property downstream or upstream of the facility. Mr. Keller raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Keller has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Curtis Keller is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Keller has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

20. Joseph Keller

Mr. Keller provided an address of P. O. Box 213, La Coste, Texas 78039, in his hearing request. The request did not provide a physical address or distance information about Mr. Keller's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Keller's property relative to the facility. The hearing request also did not indicate whether Mr. Keller owns property downstream or upstream of the facility. Mr. Keller raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Keller has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Joseph Keller is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Keller has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

21. Ladislaus J. Kowalik

Ladislaus Kowalik provided an address of 175 CR 579, La Coste, Texas 78039, in his/her hearing request. The request did not provide distance information about Mr. Kowalik's property relative to the facility or the discharge route. However, based on the address provided, the Executive Director's Aerial Map indicates that Mr. Kowalik resides or owns property approximately two and one-quarter miles from the facility. Mr. Kowalik raised the same issues outlined in Section V(B)(2) of this pleading in the hearing request.

Mr. Kowalik has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Mr. Kowalik's concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. Mr. Kowalik has not demonstrated that a reasonable relationship exists between his/her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ladislaus Kowalik is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ladislaus Kowalik has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

22. Albert Krueger

Mr. Krueger provided an address of 202 CR 5720, Castroville, Texas 78009, in his hearing request. The request did not provide distance information about Mr. Krueger's property relative to the facility or the discharge route. However, based on the address provided, the Executive Director's Aerial Map indicates that Mr. Krueger resides or owns property within one mile downstream from the facility but not on the discharge route. There appears to be an intervening stream between Mr. Krueger's property, the facility, and the discharge route. Mr. Krueger raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Krueger has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Albert Krueger is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Krueger has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

23. Crystal M. Krueger

Ms. Krueger provided an address of 10930 Castro, La Coste, Texas 78039, in her hearing request. The request did not provide distance information about Ms. Krueger's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Ms. Krueger's property relative to the facility. The hearing request also did not indicate whether Ms. Krueger owns property downstream or upstream of the facility. Ms. Krueger raised the same issues outlined in Section V(B)(2) of this pleading in her hearing request.

Ms. Krueger has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about

groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Crystal Krueger is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Krueger has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

24. Cynthia L. Lange

Ms. Lange provided an address of 1200 CR 5711, La Coste, Texas 78039, in her hearing request. The request did not provide distance information about Ms. Lange's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Ms. Lange's property relative to the facility. The hearing request also did not indicate whether Ms. Lange owns property downstream or upstream of the facility. Ms. Lange raised the same issues outlined in Section V(B)(2) of this pleading in her hearing request.

Ms. Lange has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Cynthia Lange is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Lange has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

25. Harvey Lee Kunze

Mr. Kunze authorized TRPA to request a contested case hearing for him. The request did not indicate whether Mr. Kunze is a member of TRPA. Mr. Kunze provided an address of P. O. Box 357, La Coste, Texas 78039, in his request. Mr. Kunze stated that he owns property "within one mile of the discharge point" from the facility. He indicated that he owns land "within a reasonable distance along the watercourse." Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Kunze's property relative to the facility. Mr. Kunze stated that his family uses the Medina River for contact recreation such as fishing and swimming. He intimated that he gets drinking water from shallow wells. Mr. Kunze stated that the discharge of effluent will affect his drinking water wells and his recreational use of the Medina River. Mr. Kunze expressed concerns that Castroville's plan to discharge 900,000 gallons of treated effluent through a man-made ditch and a regional park is not realistic.

Due to his statement that he owns land “within a reasonable distance” along the discharge, point, and fishes and swims in the Medina River, it appears that Mr. Kunze has demonstrated the existence of a personal justiciable interest not common to the general public. The water quality interests asserted by Mr. Kunze include issues that are protected by the Texas Water Code and the Commission rules implementing it. A reasonable relationship exists between his water quality interests and the activities to be conducted at the proposed facility due to the proximity of the site to his property. There may be an impact from the regulated activity on his property.

The Executive Director concludes that the information provided in Mr. Kunze’s request demonstrates that he is an affected person under 30 TAC §§ 55.203(a) and c(1)-(5).

26. Constance Mangold and Matt Mangold

The Mangolds stated in their hearing requests that their address is 16011 Garden St., La Coste, Texas 78039. The requests did not provide distance information about the Mangolds’ property relative to the proposed facility or the discharge route. Neither the Applicant’s Landowners Map nor the Executive Director’s Aerial Map shows the location of the Mangolds’ property relative to the facility. The hearing requests also did not indicate whether the Mangolds own property downstream or upstream of the facility. The Mangolds raised the same issues outlined in Section V(B)(2) of this pleading in their hearing requests.

The Mangolds failed to articulate a personal justiciable interest related to their legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Their concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. They have not demonstrated that a reasonable relationship exist between their concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Constance and Matt Mangold are not affected persons under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that they a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

27. L. R. McBroom

Mr. McBroom signed a hearing request form authorizing TRPA to request a contested case hearing for him. The request did not indicate whether Mr. McBroom is a member of TRPA. Mr. McBroom provided an address of 1315 Fiorella, P. O. Box 1649, Castroville, Texas 78009, in the request. The request did not provide the location or distance information about Mr. McBroom’s property relative to the proposed facility or the discharge route. Neither the Applicant’s Landowners Map nor the Executive Director’s Aerial Map shows the location of Mr. McBroom’s property relative to the facility. The hearing request also did not indicate whether Mr. McBroom owns

property downstream or upstream of the facility. Mr. McBroom raised water quality concerns about the wastewater treatment plant and requested that the Executive Director impose effluent limitations of “5 (BOD), 5 (TSS), 2 (Nitrogen) and 1 (Phosphorus)” in the draft permit.

Mr. McBroom has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His/her concern about water quality is a general concern which is common to the general public. Mr. McBroom has not demonstrated that a reasonable relationship exists between this concern and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that L. R. McBroom is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. McBroom has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

28. Shane Menchaca

Ms. Menchaca provided an address of P. O. Box 335, La Coste, Texas 78039, in her hearing request. The request did not provide distance information about Ms. Menchaca’s property relative to the proposed facility or the discharge route. Neither the Applicant’s Landowners Map nor the Executive Director’s Aerial Map shows the location of Ms. Menchaca’s property relative to the facility. The hearing request also did not indicate whether Ms. Menchaca owns property downstream or upstream of the facility. Ms. Menchaca raised the same issues outlined in Section V(B)(2) of this pleading in her hearing request.

Ms. Menchaca has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Shane Menchaca is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Menchaca has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

29. Loretta Moczygamba

Ms. Moczygamba provided an address of 211 CR 579, La Coste, Texas 78039, in her hearing request. The request did not provide distance information about Ms. Moczygamba’s property relative to the proposed facility or the discharge route. However, based on the address provided, the Executive Director’s Aerial Map indicates that Ms. Moczygamba resides or owns property

approximately two and one-half miles from the facility. In addition to raising the same issues outlined in Section V(B)(2) of this pleading, Ms. Moczygamba requests that the Executive Director impose stricter numerical effluent limitation of "5 (BOD), 5 (TSS), 2 (Nitrogen) and 1 (Phosphorus)" in the draft permit.

Ms. Moczygamba has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant. Finally, Ms. Moczygamba authorized TRPA to request a contested case hearing" on her behalf. To the extent Ms. Moczygamba is a member of TRPA, the affected person's status of TRPA was discussed above.

The Executive Director concludes that Ms. Moczygamba is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Moczygamba has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

30. James Mueller

Mr. Mueller provided an address of P. O. Box 670, La Coste, Texas 78039, in his hearing request. The request did not provide distance information about Mr. Mueller's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Mueller's property relative to the facility. The hearing request also did not indicate whether Mr. Mueller owns property downstream or upstream of the facility. Mr. Mueller raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Mueller has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that James Mueller is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Mueller has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

31. John Mueller

John Mueller provided an address of P. O. Box 670, La Coste, Texas 78039, in his hearing request. The request did not provide distance information about Mr. Mueller's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Mueller's property relative to the facility. The hearing request also did not indicate whether Mr. Mueller owns property downstream or upstream of the facility. Mr. Mueller raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Mueller has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that John Mueller is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Mueller has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

32. Rosaelia G. Navarre

Ms. Navarre provided an address of 19354 FM 471, Natalia, Texas 78059, in her hearing request. The request did not provide distance information about Ms. Navarre's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Ms. Navarre's property relative to the facility. The hearing request also did not indicate whether Ms. Navarre owns property downstream or upstream of the facility. Ms. Navarre identified the following issues in her hearing request:

- Whether the volume of discharge authorized in the draft permit will cause serious groundwater and surface water impacts for the personal, agricultural, and business interests in the Medina River watershed. (Executive Director's RTC Nos. 1 and 10).
- Whether the discharge authorized in the draft permit will result in the pollution of surface water. (Executive Director's RTC Nos. 1, 4, and 5).

Ms. Navarre has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, and surface water are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ms. Navarre is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Navarre has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

33. David and Cheryl Parker

The Parkers provided an address of P. O. Box 595, La Coste, Texas 78039, in their hearing request. The request did not provide distance information about their property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of their property relative to the facility. The hearing request also did not indicate whether the Parkers own property downstream or upstream of the facility. The Parkers raised the same issues outlined in Section V(B)(2) of this pleading in their hearing requests.

The Parkers failed to articulate a personal justiciable interest related to their legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Their concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. They have not demonstrated that a reasonable relationship exist between their concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that David and Cheryl Parker are not affected persons under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that the Parkers have a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

34. Ray Packard

Ray Packard provided an incomplete address of 3310 CR 3713 in his hearing request. The address did not include city and state information. The request did not provide distance information about Mr. Packard's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Packard's property relative to the facility. The hearing request also did not indicate whether Mr. Packard owns property downstream or upstream of the facility. Mr. Packard raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Packard has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ray Packard is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Packard has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

35. John H. Ramsey

Mr. Ramsey provided an address of 19354 FM 471 South, Natalia, Texas 78059, in his hearing request. The request did not provide location and distance information about Mr. Ramsey's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Ramsey's property relative to the facility. The hearing request also did not indicate whether Mr. Ramsey owns property downstream or upstream of the facility. Mr. Ramsey identified the following issues in his hearing request:

- Whether the volume of discharge authorized in the draft permit will cause serious groundwater and surface water impacts for the personal, agricultural, and business interests in the Medina River watershed. (Executive Director's RTC Nos. 1 and 10).
- Whether the discharge authorized in the draft permit will result in the pollution of surface water. (Executive Director's RTC Nos. 1, 4, and 5).

Mr. Ramsey has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, and surface water are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that John Ramsey is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Ramsey has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

36. Rodney Reus

Rodney Reus provided an address of 908 CR 5711, La Coste, Texas 78039, in his hearing request. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Reus' property relative to the facility. The hearing request also did not indicate whether Mr. Reus owns property downstream or upstream of the facility. Mr. Reus however, stated in his request that he gets drinking water from a well "which is the same depth as the river and the well is only about 100 yards from the river." The request did not provide location or distance information about the well and or property relative to the proposed facility or the discharge route. Additionally, Mr. Reus raised the same issues outlined in Section V(B)(2) of this pleading in his

hearing request.

Mr. Reus has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Because Mr. Reus failed to provide the distance and location information about his drinking water well, the Executive Director is unable to determine whether the well is likely to be adversely impacted by the activity to be conducted at the wastewater treatment plant. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Rodney Reus is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Reus has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

37. Stephen Reus

Stephen Reus provided an address of 728 CR 5711, La Coste, Texas 78039, in his hearing request. The request did not provide distance information about Mr. Reus' property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Reus' property relative to the facility. The hearing request also did not indicate whether Mr. Reus owns property downstream or upstream of the facility. Mr. Reus raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Reus has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Stephen Reus is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Reus has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

38. Jerry Rihn (Rihn)

Jerry Rihn provided an address of P. O. Box 624, La Coste, Texas 78039, in his/her hearing request. The request did not provide distance information about Jerry Rihn's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive

Director's Aerial Map shows the location of Jerry Rihn's property relative to the facility. The hearing request also did not indicate whether Rihn owns property downstream or upstream of the facility. Rihn raised the same issues outlined in Section V(B)(2) of this pleading in his/her hearing request.

Jerry Rihn has failed to articulate a personal justiciable interest related to his/her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His/her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. Jerry Rihn has not demonstrated that a reasonable relationship exists between his/her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Jerry Rihn is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Jerry Rihn has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

39. Stanley Rihn

Stanley Rihn provided an address of 279 CR 579, La Coste, Texas 78039, in his hearing request. The hearing request indicates that Mr. Rihn owns property approximately three miles downstream from the proposed discharge point. Mr. Rihn stated that he owns 121 acres of "property that goes to the river." However, the Executive Director's Aerial Map indicates that Mr. Rihn owns property approximately three miles from the facility but not on the discharge route. There is an intervening stream between Mr. Rihn's property, the facility, and the discharge route. In addition to raising the same issues outlined in Section V(B)(2) of this pleading, Mr. Rihn wanted to know about the long term impact of prolonged discharges of treated effluent into the Medina River.

Mr. Rihn has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Because of the distance of Mr. Rihn's property from the facility and the property not being on the discharge route, it is unlikely that his property interest will be adversely affected by the activities to be conducted at the wastewater treatment plant. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Stanley Rihn is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Rihn has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

40. Bryan Royal

Mr. Royal provided an address of P. O. Box 98, La Coste, Texas, in his hearing request. The request did not provide distance information about Mr. Royal's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Royal's property relative to the facility. The hearing request also did not indicate whether Mr. Royal owns property downstream or upstream of the facility. Mr. Royal raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Royal has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Bryan Royal is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Royal has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

41. Ike Salinas

Mr. Salinas provided an address of 1003 S. San Eduardo, San Antonio, Texas 78237, in his hearing request. The request did not provide distance information about Mr. Salinas' property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Salinas' property relative to the facility. The hearing request also did not indicate whether Mr. Salinas owns property downstream or upstream of the facility. Mr. Salinas raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Salinas has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ike Salinas is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Salinas has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may

reconsider his recommendation.

42. Joseph D. Schott

Mr. Schott provided an address of 2634 CR 4713, La Coste, Texas 78039, in his hearing request. The request did not provide distance information about Mr. Schott's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Schott's property relative to the facility. The hearing request also did not indicate whether Mr. Schott owns property downstream or upstream of the facility. Mr. Schott raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Schott has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Joseph Schott is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Schott has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

43. Donna L. Schueling

Ms. Schueling provided an address of P. O. Box 507, Castroville, Texas 78009, in her hearing request. The request did not provide distance information about Ms. Schueling's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Ms. Schueling's property relative to the facility. The hearing request also did not indicate whether Ms. Schueling owns property downstream or upstream of the facility. Ms. Schueling raised the same issues outlined in Section V(B)(2) of this pleading in her hearing request.

Ms. Schueling has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Donna Schueling is not an affected person under 30

TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Schueling has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

44. Janet Stock

Ms. Stock provided an address of 816 CR 5711, La Coste, Texas 78039, in her hearing request. The request did not provide distance information about Ms. Stock's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Ms. Stock's property relative to the facility. The hearing request also did not indicate whether Ms. Stock owns property downstream or upstream of the facility. Ms. Stock raised the same issues outlined in Section V(B)(2) of this pleading in her hearing request.

Ms. Stock has failed to articulate a personal justiciable interest related to her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. Her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. She has not demonstrated that a reasonable relationship exists between her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Janet Stock is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Ms. Stock has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

45. Craig Tingey

Mr. Tingey signed a hearing request form authorizing TRPA to request a contested case hearing on his behalf. The request did not indicate whether Mr. Tingey is a member of TRPA. Mr. Tingey provided an address of P. O. Box 1539, Castroville, Texas 78009, in his hearing request. The request did not provide the location or distance information about Mr. Tingey's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Tingey's property relative to the facility. The hearing request also did not indicate whether Mr. Tingey owns property downstream or upstream of the facility. Mr. Tingey raised water quality concerns about the wastewater treatment plant and requested that the Executive Director impose effluent limitations of "5 (BOD), 5 (TSS), 2 (Nitrogen) and 1 (Phosphorus)" in the permit.

Mr. Tingey has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concern about water quality is a general concern which is common to the general public. Mr. Tingey has not demonstrated that a reasonable relationship exists between this concern and the

proposed activities at the wastewater treatment plant. It is doubtful that Mr. Tingey owns property within the vicinity of the facility that would be affected if the instant amendment application is approved.

The Executive Director concludes that Craig Tingey is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Tingey has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

46. R. L. Wagner

Mr. Wagner provided an address of 479 CR 5711, La Coste, Texas 78039, in his hearing request. The request did not provide distance information about Mr. Wagner's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Wagner's property relative to the facility. The hearing request also did not indicate whether Mr. Wagner owns property downstream or upstream of the facility. In addition to raising the same issues outlined in Section V(B)(2) of this pleading, Mr. Wagner requests that the Executive Director impose numerical effluent limitation of "5 (BOD), 5 (TSS), 2 (Nitrogen) and 1 (Phosphorus)" in the permit.

Mr. Wagner has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant. Finally, Mr. Wagner authorized TRPA to request a contested case hearing on his behalf. To the extent Mr. Wagner is a member of TRPA, the affected person's status of TRPA was discussed in Section V(B)(15) of this pleading.

The Executive Director concludes that R. L. Wagner is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Wagner has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

47. Jim Warnke

Mr. Warnke provided an address of 218 CR 5712, La Coste, Texas 78039, in his hearing request. The request did not provide distance information about Mr. Warnke's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Warnke's property relative to the facility. The hearing request also did not indicate whether Mr. Warnke owns property downstream or upstream of the facility. Mr. Warnke raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Warnke has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Jim Warnke is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Warnke has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

48. Dennis Wengenroth

Mr. Wengenroth provided an address of 3212 CR 4713, La Coste, Texas 78039, in his hearing request. The request did not provide distance information about Mr. Wengenroth's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Wengenroth's property relative to the facility. The hearing request also did not indicate whether Mr. Wengenroth owns property downstream or upstream of the facility. Mr. Wengenroth raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Wengenroth has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Dennis Wengenroth is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Wengenroth has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

49. Ray Youngblood

Mr. Youngblood provided an address of 2717 CR 4713, La Coste, Texas 78039, in his hearing request. The request did not provide location and distance information about Mr. Youngblood's property relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Mr. Youngblood's property relative to the facility. The hearing request also did not indicate whether Mr.

Youngblood owns property downstream or upstream of the facility. Mr. Youngblood raised the same issues outlined in Section V(B)(2) of this pleading in his hearing request.

Mr. Youngblood has failed to articulate a personal justiciable interest related to his legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. He has not demonstrated that a reasonable relationship exists between his concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Ray Youngblood is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Mr. Youngblood has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

50. Concerned Citizen

Concerned Citizen provided an address of P. O. Box 580, La Coste, Texas 78039, in his/her hearing request. The name on the request was indiscernible and no physical street address was furnished. The request did not provide location or distance information of any property owned by Concerned Citizen relative to the proposed facility or the discharge route. Neither the Applicant's Landowners Map nor the Executive Director's Aerial Map shows the location of Concerned Citizen's property relative to the facility. The hearing request also did not indicate whether Concerned Citizen owns property downstream or upstream of the facility. Concerned Citizen raised the same issues outlined in Section V(B)(2) of this pleading in his/her hearing request.

Concerned Citizen has failed to articulate a personal justiciable interest related to his/her legal right, duty, privilege, power, or economic interest that would be affected by the amendment application. His/her concerns about the potential impact the discharge might have on the Medina River, groundwater, surface water, and natural resources are general concerns which are common to the general public. Concerned Citizen has not demonstrated that a reasonable relationship exists between his/her concerns about groundwater and surface water contamination and the proposed activities at the wastewater treatment plant.

The Executive Director concludes that Concerned Citizen is not an affected person under 30 TAC §§ 55.203(a) and (c)(2) – (5). If additional information demonstrating that Concerned Citizen has a personal justiciable interest affected by the proposed facility is timely furnished, the Executive Director may reconsider his recommendation.

C. Whether Issues Raised Are Referable to SOAH for a Contested Case Hearing.

In addition to recommending to the Commission those persons who qualify as affected persons, the Executive Director analyzes issues raised in accordance with the regulatory criteria.

Unless otherwise noted, the issues discussed below were all raised during the public comment period. None of the issues were raised solely in a comment which has been withdrawn. All the identified issues in the response are considered disputed, unless otherwise noted.

1. Whether the proposed amendment will adversely affect the health and safety of the general public who utilize the Castroville Regional Park for recreational activities.

This issue was raised in the Executive Director's Response to Public Comment (RTC) number 1. The issue involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends referral to SOAH.

2. Whether the volume of discharge will adversely impact groundwater (including drinking water wells) and surface water for the personal, agricultural, and business interests in the Medina River watershed.

This issue was raised in the Executive Director's Response to Public Comment (RTC) numbers 1 and 10. The issue involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends referral to SOAH.

3. Whether the discharge authorized in the draft permit will result in pollution of surface water? Stated differently, will a discharge meeting the effluent limits in the draft permit result in significant degradation of water quality in the Medina River below the Medina Diversion Lake and whether the limitations will maintain and protect existing uses of the Medina River.

This issue was raised in the Executive Director's Response to Public Comment (RTC) numbers 4, 5, 10, 12 and 14. The issue involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends referral to SOAH.

4. Whether a discharge meeting the interim and final phase effluent limits in the draft permit will have an adverse impact on the recreational use and enjoyment of the Medina River downstream of the point of discharge.

This issue was raised in the Executive Director's Response to Public Comment (RTC) number 1. The issue involves a question of fact and it is relevant and material to the decision on this

application.

The Executive Director concludes that this issue is relevant and material and recommends referral to SOAH.

5. Whether the permit application adequately considers “the Texas Parks and Wildlife review and survey of affected wildlife including aquatic species, or the Federal Endangered Species Act.”

This issue was raised in the Executive Director’s Response to Public Comment (RTC) number 2. The issue involves a question that is not relevant and material to the decision on this application.

The Memorandum of Agreement (MOA) between the Commission and the United States Environmental Protection Agency (Region 6), requires the Commission to address endangered species issues through interagency coordination. The following excerpts from the MOA delineate the Commission’s role with respect to endangered species concerns:

The Commission will involve “the United States Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and Texas Parks and Wildlife Department (TPWD) during the permitting process to address endangered species issues in TPDES permit.”

The Commission “will address the effects on endangered species . . . through setting and enforcing water quality standards which undergo EPA approval with USFWS, NMFS . . . and TPWD consultation.” The Commission will “consider endangered species issues . . . identified by NMFS, USFWS.”

If USFWS, NMFS, or TPWD comments during the public comment period to express endangered species concerns, the Commission will coordinate with commenting agency to “resolve the relevant issues.”

Finally, “[n]otification, receipt of comments, or discussion with the various agencies over endangered species . . . issues shall not automatically result in a [Commission] or SOAH hearing on a permit application or entitle the NMFS, USFWS . . . or other persons to become a party to any hearing convened. Determination related to granting hearing requests are solely within the jurisdiction of the commission.”²

The Commission acting through the Executive Director fulfilled its obligations under the MOA with respect to endangered species concerns in this case. Neither the USFWS nor the TPWD commented on this permit. Any issue(s) regarding endangered species is resolved through USFWS and TPWD.

² See, MOA between TNRCC and U.S. EPA, pp. 27, 33-35 (Executed September 14, 1998).
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The Executive Director concludes that this issue is not relevant and material and recommends against referral to SOAH.

6. Whether the permit amendment application adequately addresses public comments regarding the authorized major discharge into a State of Texas river.

This issue was raised in the Executive Director's Response to Public Comment (RTC) number 3. The issue involves a question of law and it is not relevant and material to the decision on this application.

The Executive Director concludes that this issue is not relevant and material and recommends against referral to SOAH.

7. Whether the proposed discharge authorized in the draft permit violates the "Federal Water Quality Act."

This issue was raised in the Executive Director's Response to Public Comment (RTC) number 4. The issue involves a question of fact and law and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends referral to SOAH.

8. Whether the proposed discharge in the draft permit will adversely impact the uses of the Medina River.

This issue was raised in the Executive Director's Response to Public Comment (RTC) number 5. The issue involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends referral to SOAH.

9. Whether the proposed discharge location in the draft permit "is into a man-made open ditch [as opposed to a natural drainage swale] that currently serves as an over flow channel for the current effluent ponds," and whether the alleged use of the channel violates the existing land application permit.

This issue was raised in the Executive Director's Response to Public Comment (RTC) number 6. The issue involves a question of law and it is not relevant and material to the decision on this application. Whether the discharge is into a man-made ditch or into a natural drainage swale is immaterial to the Commission's decision on this permit under Section 26.001(5) of the Water Code defining water in the state as including "all other bodies of surface water, natural or artificial" Additionally, the existing permit in this case is a no-discharge Texas Land Application Permit

(TLAP). If the major amendment is granted, the permit will be changed to authorize such a discharge. Therefore, violation of a TLAP provision is not relevant and material to a decision on a discharge application.

The Executive Director concludes that this issue is not relevant and material and recommends against referral to SOAH.

10. Whether the compliance history for the Applicant includes violations relating to the discharge of untreated sewage into the Medina River.

This issue was raised in the Executive Director's Response to Public Comment (RTC) number 7. The issue involves a question of fact as to the Applicant's compliance history. The issue is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends referral to SOAH.

11. Whether the Applicant is required to consider all landowners within one mile upstream and downstream from any discharge point into the Medina River.

This issue was raised in the Executive Director's Response to Public Comment (RTC) number 8. The issue involves a question of law and it is not relevant and material to the decision on this application.

An application for a wastewater discharge permit "for the disposal of any waste into or adjacent to a watercourse . . . shall show the ownership of the tracts of land adjacent to the treatment facility and for a reasonable distance along the watercourse from the proposed point of discharge. The applicant shall list on a map, or in a separate sheet attached to a map, the names and addresses of the owners of such tracts of land as can be determined from the current county tax rolls or other reliable sources. The application shall state the source of the information." 30 TAC § 305.48(a)(2).

For most water quality applications, the agency prepares two public notices; the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) (30 TAC § 39.551(b) and the Notice of Application and Preliminary Decision (NAPD) (30 TAC § 39.551(c). The applicant is required to publish these notices in the newspaper of largest circulation in the county where the facility is located. With respect to a facility located in a municipality, the applicant shall publish the notices in a newspaper of general circulation in the municipality. 30 TAC § 39.405(f)(1) and 39.418(b)(1). The Applicant is required to provide a copy of the application, proposed draft permit and the Executive Director's preliminary decision in a public place for viewing and copying. See 30 TAC §§ 405(g); 39.413; 39.418; and 39.419. Where applicable, Section 39.418(b)(2) requires the Office of the Chief Clerk to provide mailed notice of the NORI to the adjacent landowners named on the application map. See also, 30 TAC § 39.413(1). The Office of the Chief Clerk is required to provide mailed notice of the NAPD to the adjacent landowners named on the application map. The notice requirement for a water quality application does not require the

Applicant or the Office of the Chief Clerk to provide mailed notice to every landowner one mile upstream and downstream. Adjacent landowners and downstream landowners within a reasonable distance along the watercourse are entitled to mailed notice. The Applicant identified 19 adjacent and downstream property owners in the adjacent landowners' map attached to the application. Therefore, there is no legal requirement to notify landowners upstream of a discharge point of a river.

The Executive Director concludes that this issue is not relevant and material and recommends against referral to SOAH.

12. Whether the Applicant is required to address alternative options to the continued disposal of treated wastewater via irrigation in the amendment application, by acquiring and irrigating secondary sites adjacent to the facility.

This issue was raised in the Executive Director's Response to Public Comment (RTC) number 9. The issue involves a question of law and it is not relevant and material to the decision on this application.

The Executive Director concludes that this issue is not relevant and material and recommends against referral to SOAH.

13. Whether the Applicant is required to recycle the treated wastewater for other agricultural uses.

This issue was raised in the Executive Director's Response to Public Comment (RTC) number 9. The issue involves a question of law and it is not relevant and material to the decision on this application.

The Executive Director concludes that this issue is not relevant and material and recommends against referral to SOAH.

14. Whether the Executive Director should impose numerical effluent limitation of "5 (BOD), 5 (TSS), 2 (Nitrogen) and 1 (Phosphorus)" in the draft permit.

This issue was raised in the Executive Director's Response to Public Comment (RTC) number 14. The issue involves a question of fact and it is relevant and material to the decision on this application.

The Executive Director concludes that this issue is relevant and material and recommends referral to SOAH.

VI. Duration of the Contested Case Hearing

The Executive Director recommends that the duration for a contested case hearing on this matter between the preliminary hearing and the presentation of a proposal for decision before the

Commission, be nine months.

VII. Executive Director's Recommendations

The Executive Director recommends that the Commission determines that Harvey Lee Kunze *qualify as an affected persons.*

The Executive Director further recommends that the Commission finds that Rose Aldape, Evangeline Bippert, Brenda Bowman, Roberto L. Chapa, David O. Chavez, Brittney Conn, Laurel D'Orsogna, Clinton Groff, Sidney Groff, Janice Haby, John Hall, Russell and Jennifer Hinson, Anna Mae Hitzfelder, Patrick Hitzfelder, Royce Hitzfelder, John Hohn (representing The Texas Rivers Protection Association), Janis Hunt, Jim Hunt, Debra L. Jungman, Virgil Jungman, Curtis Keller, Joseph Keller, Ladislaus J. Kowalik, Albert Krueger, Crystal M. Krueger, Cynthia L. Lange, Constance E. Mangold, Matt Mangold, L. R. McBroom, Shane Menchaca, Loretta Moczygamba, James Mueller, John Mueller, Rosaelia G. Navarre, Ray Packard, David and Cheryl Parker, John H. Ramsey, Rodney Reus, Stephen Reus, Jerry Rihn, Stanley Rihn, Bryan Royal, Ike Salinas, Joseph D. Schott, Donna L. Schueling, Janet Stock, Craig Tingey, R. L. Wagner, Jim Warnke, Dennis Wengenroth, Ray Youngblood, and Concerned Citizen at P.O. Box 580, La Coste, Texas 78039 *are not affected persons.*

The Executive Director also recommends that the Commission finds that the following disputed issues of fact were raised during the comment period and are relevant and material to the Commission's decision on this application:

1. Whether the proposed amendment will adversely affect the health and safety of the general public who utilize the Castroville Regional Park for recreational activities.
2. Whether the volume of discharge will adversely impact groundwater (including drinking water wells) and surface water for the personal, agricultural, and business interests in the Medina River watershed.
3. Whether the discharge authorized in the draft permit will result in the pollution of surface water? Stated differently, will a discharge meeting the effluent limits in the draft permit result in significant degradation of water quality in the Medina River below the Medina Diversion Lake and whether the limitations will maintain and protect existing uses of the Medina River.
4. Whether a discharge meeting the interim and final phase effluent limits in the draft permit will have an adverse impact on the recreational use and enjoyment of the Medina River downstream of the point of discharge.
7. Whether the proposed discharge authorized in the draft permit violates the "Federal Water Quality Act."

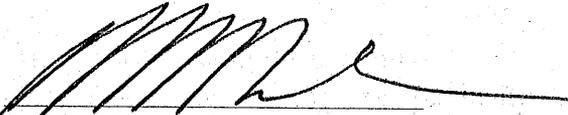
8. Whether the proposed discharge in the draft permit will adversely impact the uses of the Medina River.
10. Whether the compliance history for the Applicant includes violations relating to the discharge of untreated sewage into the Medina River.
14. Whether the Executive Director should impose numerical effluent limitation of "5 (BOD), 5 (TSS), 2 (Nitrogen) and 1 (Phosphorus)" in the draft permit.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Glenn Shankle, Executive Director

Robert Martinez, Director
Environmental Law Division

By 

D. A. Chris Ekoh, Staff Attorney
Environmental Law Division
State Bar No. 06507015
P. O. Box 13087 (MC-173)
Austin, Texas 78711-3087
512/239-5487 Fax: 512/239-0606

Representing the Executive Director of the
Texas Commission on Environmental Quality

CERTIFICATE OF SERVICE

I certify that on July 8, 2008, the "Executive Director's Response to Hearing Requests" for TPDES Permit No. WQ0010952001 was filed with the Office of the Chief Clerk, Texas Commission on Environmental Quality; and copies mailed to the attached mailing list.



D. A. Chris Ekoh, Staff Attorney
Environmental Law Division
Texas Bar No. 06507015

MAILING LIST
Docket No. 2008-0559-MWD
TPDES Permit No. WQ0010952001
City of Castroville

FOR THE APPLICANT:

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City of Castroville
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Fax:

Bruce Alexander
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Fax:

Gustavo Gonzalez, P.E.
G. Gonzalez Engineering
11230 West Avenue, Suite 2208
San Antonio, Texas 78213

FOR THE EXECUTIVE DIRECTOR:

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Kent Trede
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FOR OFFICE OF PUBLIC ASSISTANCE:

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Texas Commission on Environmental Quality
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Austin, Texas 78711-3087

FOR THE CHIEF CLERK:

LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk, MC-105
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Austin, Texas 78711-3087

FOR ALTERNATIVE DISPUTE RESOLUTION

Kyle Lucas
Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
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Austin, Texas 78711-3087

OFFICE OF PUBLIC INTEREST COUNCIL

Blas J. Coy, Jr.
Texas Commission on Environmental Quality
Office of Public Interest, MC-103
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Austin, Texas 78711-3087
Fax: 512/239-6377

REQUESTERS

Rose Aldape
3706 Anaconda
San Antonio, Texas 78228

Evangeline Bippert
13898 U.S. Hwy. 90, #1
San Antonio, Texas 78245
Brenda Bowman
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San Antonio, Texas 78252

Roberto L. Chapa
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La Coste, Texas 78039

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Castroville, Texas 78009

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Laurel D'Orsogna
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La Coste, Texas 78039

Sidney Groff
2381 CR 4713
La Coste, Texas 78039

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Castroville, Texas 78009

John Hall
479 CR 5711
La Coste, Texas 78039

Russell and Jennifer Hinsor
1639 CR 4713
La Coste, Texas 78039

Anna Mae Hitzfelder
3090 CR 4713
La Coste, Texas 78039

Patrick Hitzfelder
2686 CR 4713
La Coste, Texas 78039

Royce Hitzfelder
2686 CR 4713
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San Marcos, Texas 78666
512/396-0066 Fax: 512/396-0075

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Jim Hunt
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Castroville, Texas 78009

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La Coste, Texas 78039

Virgil Jungman
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La Coste, Texas 78039

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Harvey Leekunze
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LaCoste, Texas 78039

Constance E. Mangold
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La Coste, Texas 78039

Matt Mangold
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La Coste, Texas 78039

L. R. McBroom
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P. O. Box 1649
Castroville, Texas 78009

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La Coste, Texas 78039

Loretta Moczygamba
211 CR 579
La Coste, Texas 78039

James Mueller
P. O. Box 670
La Coste, Texas 78039

John Mueller
P. O. Box 670
La Coste, Texas 78039

Rosaelia G. Navarre
19354 FM 471
Natalia, Texas 78059

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3310 CR 3713
La Coste, Texas 78039

Janet Stock
816 CR 5711
La Coste, Texas 78039-1801

David and Cheryl Parker
P. O. Box 595
La Coste, Texas 78039

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Natalia, Texas 78059-2341

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La Coste, Texas 78039

Stephen Reus
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La Coste, Texas 78039

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La Coste, Texas 78039

Stanley Rihn
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La Coste, Texas 78039

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La Coste, Texas 78039

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San Antonio, Texas 78237

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La Coste, Texas 78039

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Castroville, Texas 78009

Craig Tingey
P. O. Box 1539
Castroville, Texas 78009

R. L. Wagner
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La Coste, Texas 78039

Jim Warnke
218 CR 5712
78039 La Coste, Texas 78039

Dennis Wengenroth
3212 CR 4713
La Coste, Texas 78039

Ray Youngblood
2717 CR 4713
La Coste, Texas 78039

Concerned Citizen
P.O. Box 580
La Coste, Texas

Attachment A

City of Castroville WWTP Permit Amendment
TPDES No. WQ0010952001
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

June 26, 2008



Projection: Texas Statewide Mapping System (TSMS)

Scale 1:41,284

Legend

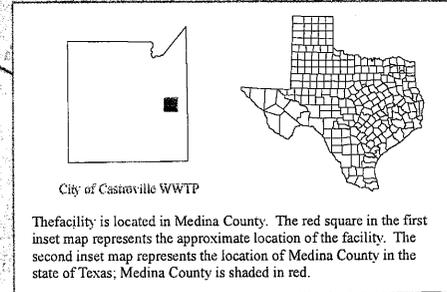
- Requestor
- Facility
- Discharge Point

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the requestor information from the applicant. The counties are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a source photograph from the 2004 U.S. Department of Agriculture Imagery Program. The imagery is one-meter Color-Infrared (CIR). The image classification number is tx325_1-1.

This map depicts the following:

- (1) The approximate location of the facility. This is labeled "Facility."
- (2) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius."
- (3) Circle and arrow depicting 2-mile radius. This is labeled "2-Mile Radius."
- (4) Discharge Point. This is labeled "Discharge Point."
- (5) Discharge Route. This is labeled "Discharge Route."

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.



- Requestors**
- 1 – Rose Aldape (Beyond 2.5 mi. radius)
 - 2 – Evangeline Bippert (Not found)
 - 3 – Brenda Bowman (Beyond 2.5 mi. radius)
 - 4 – Roberto L. & Consuelo Chapa
 - 5 – David O. Chavez (Not found)
 - 6 – Brittney Conn
 - 7 – Laurel Orsagna (Not found)
 - 8 – Clinton Groff (Not found)
 - 9 – Sidney Groff (Not found)
 - 10 – Janice Haby
 - 11 – John Hall (Beyond 2.5 mi. radius)
 - 12 – Russell & Jennifer Hinson (Not found)
 - 13 – Anna Mae Hitzfelder (Not found)
 - 14 – Patrick Hitzfelder (Not found)
 - 15 – Royce Hitzfelder (Not found)
 - 16 – Janis Hunt (Not found)
 - 17 – Debra L. Jungman (Not found)
 - 18 – Virgil Jungman (Not found)
 - 19 – Curtis Keller (Not found)
 - 20 – Joseph Keller (Not found)
 - 21 – Ladislaus J. Kowalik
 - 22 – Albert Krueger
 - 23 – Crystal M. Krueger (Beyond 2.5 mi. radius)
 - 24 – Cynthia L. Lange (Not found)
 - 25 – Constance E. Mangold (Beyond 2.5 mi. radius)
 - 26 – Matt Mangold (Beyond 2.5 mi. radius)
 - 27 – Shane Menchaca (Not found)
 - 28 – Loretta Moczygamba
 - 29 – James Mueller (Not found)
 - 30 – John Mueller (Not found)
 - 31 – Rosaelia G. Navarre (Beyond 2.5 mi. radius)
 - 32 – Ray Packard (Not found)
 - 33 – David & Cheryl Parker (Not found)
 - 34 – John H. Ramsey (Beyond 2.5 mi. radius)
 - 35 – Rodney Reus (Beyond 2.5 mi. radius)
 - 36 – Stephen Reus (Beyond 2.5 mi. radius)
 - 37 – Jerry Rihn (Not found)
 - 38 – Stanley Rihn
 - 39 – Bryan Royal (Not found)
 - 40 – Ike Salinas (Beyond 2.5 mi. radius)
 - 41 – Joseph D. Schott (Not found)
 - 42 – Donna L. Schueling (Not found)
 - 43 – Janey Stock (Beyond 2.5 mi. radius)
 - 44 – R.L. Wagner (Beyond 2.5 mi. radius)
 - 45 – Jim Warnke (Beyond 2.5 mi. radius)
 - 46 – Dennis Wengenroth (Not found)
 - 47 – Ray Youngblood (Not found)
 - 48 – John Hohn (Not found)
 - 49 – Jim Hunt (Not found)
 - 50 – Harvey Leekunze (Not found)
 - 51 – L.R. McBroom (Not found)
 - 52 – Craig Tingey (Not found)

Attachment B

LIST OF ADJACENT PROPERTY OWNERS
CITY OF CASTROVILLE WWTP
PERMIT NO. WQ0010952001

1. MR STEPHEN HABY
217 MAY ST
CASTROVILLE TX 78009
2. MR DELVIN BIPPERT
13898 HWY 90 W
SAN ANTONIO TX 78245
3. MR JOSEPH BONUGLI
130 W SKYVIEW DR
SAN ANTONIO TX 78228
4. MR AND MRS GLENFORD BOEHME
1654 HWY 90 W
CASTROVILLE TX 78059
5. MR AND MRS GAIL F BOEHME
1977 CR 4516
CASTROVILLE TX 78009
6. SAME AS 5
7. HDR INVESTMENTS
1313 LORENZO ST 1
CASTROVILLE TX 78009
8. ARCHBISHOP OF SA DIOCESE
2716 W WOODLAWN AVE
SAN ANTONIO TX 78228
9. SAME AS 8
10. SAME AS 8
11. MR AND MRS ROBERT LEE
1314 GENTILZ ST
CASTROVILLE TX 78009
12. T-T TRUST
PO BOX 65
SABINAL TX 78681

Received
FEB 12 2007
Water Quality Application Team

13. SAME AS 12

14. SAME AS 12

15. MR AND MRS ROBERT W PETERSON
1410 LISBON ST
CASTROVILLE TX 78009

16. SAME AS 15

17. MR AND MRS CHARLES SUEHS
PO BOX 634
CASTROVILLE TX 78009

18. MR GILBERT KEMPF
1009 LOWER LA COSTE RD
CASTROVILLE TX 78009

19. BMA IRRIGATION
PO BOX 170
NATALIA TX 78059

SUMMARY OF EFFLUENT DATA

The following is a summary of the applicant's Monthly Effluent Report data for the period September 2004 through September 2006. The average of Daily Avg value is computed by averaging of all 30-day average values for the reporting period for each parameter.

<u>Parameter</u>	<u>Average of Daily Avg</u>
Flow, MGD	0.327
BOD ₅ , mg/l	7.58
TSS, mg/l*	23.35

* The facility exceeded the limit of 20 mg/l for BOD₅ on page 2a of the existing permit in two of the 24 months. Also the facility exceeded the TSS limit of 20 mg/l TSS in five of the 24 months.

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 0.35 MGD, at an interim II volume not to exceed a daily average flow of 0.35 MGD, at an interim III volume not to exceed a daily average flow of 0.45 MGD and at a final volume not to exceed a daily average flow of 0.90 MGD.

In the interim I phase only, the draft permit authorizes the disposal of the treated effluent at a daily average flow not to exceed 0.35 MGD via surface irrigation of 26.6 acres of a public access park and 166.8 acres of non-public access pastureland. Application rates shall not exceed 2.03 acre-feet per year per acre irrigated. The effluent limitations in the interim I phase of the draft permit, based on a 30-day average, are 20 mg/l BOD₅ and 20 mg/l TSS. The effluent limitations in the interim II phase, the interim III phase and the final phase of the draft permit, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS, 1.0 mg/l Total Phosphorus 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 pretreatment requirements that are appropriate for a facility of this size and complexity. The facility does not appear to receive significant industrial wastewater contributions.

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ permitted landfill, Covell Landfill, Permit No. H2093, in Bexar County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

SUMMARY OF CHANGES FROM APPLICATION

The applicant requested effluent limitations, based on a 30-day average, of 65 mg/l BOD₅, 20 mg/l TSS, and 1.0 mg/l minimum dissolved oxygen (DO) in the existing phase and 10 mg/l BOD₅, 15 mg/l TSS, 2 mg/l NH₃-N and 2.0 mg/l DO in the interim and final phase. However, effluent limitations in the interim I phase of the draft permit, based on

a 30-day average, are 20 mg/l BOD₅, 20 mg/l TSS and 4.0 mg/l DO, and the effluent limitations in the interim II phase, in the interim III phase and in the final phase of the draft permit, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS, 1.0 mg/l total phosphorus and 4.0 mg/l minimum dissolved oxygen (DO).

SUMMARY OF CHANGES FROM EXISTING PERMIT

The existing permit authorizes the disposal of effluent by irrigation, however, the draft permit authorizes the disposal of effluent into waters in the state.

The existing permit authorizes a daily average flow of 0.35 MGD. The draft permit authorizes a daily average flow of 0.35 MGD in the interim I phase, a daily average flow of 0.35 in the interim II phase, a daily average flow of 0.45 MGD in the interim III phase and a daily average flow of 0.90 MGD in the final phase. The permittee is currently operating in the interim I phase.

The effluent limitations in the existing permit, based on a 30-day average, are 20 mg/l BOD₅, 20 mg/l TSS. More stringent effluent limitations are required in the proposed draft permit in the interim II phase, in the interim III phase and in the final phase than are required in the current permit. The monitoring frequency requirements for Biochemical Oxygen Demand, Total Suspended Solids and Chlorine residual are increased in the 0.35 MGD phase in the interim II phase of the draft permit.

The Standard Permit Conditions, Sludge Provisions, and Other Requirements sections of the draft permit have been updated. Pretreatment language has been added to the draft permit for the interim II, the interim III, and the final phases.

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application received December 18, 2006 and additional information received February 5, 2007.
2. TLAP Permit No. WQ0010952001 issued November 8, 2005.
3. The effluent limitations and/or conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.10.
4. The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Domestic Wastewater Effluent Limitations.
5. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division. Interoffice memorandum from the Storm Water & Pretreatment Team of the TCEQ Water Quality Division.
6. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.
7. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.

8. Texas 2004 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, May 13, 2005; approved by USEPA on May 8, 2006.
9. "TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," Document No. 98-001.000-OWR-WQ, May 1998.

PROCEDURES FOR FINAL DECISION

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

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

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding.

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

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

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

For additional information about this application contact Amewusika Clara Dake at (512) 239-4570.

Dake

Amewusika Clara Dake, Permit Coordinator
Municipal Permits Team
Wastewater Permitting Section (MC 148)

March 29, 2007
Date

Attachment D



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

TPDES PERMIT NO. WQ0010952001
[For TCEQ Office Use Only:
EPA ID No. TX0129364]

This amendment supersedes and
replaces TLAP Permit No. 10952-001
issued November 8, 2005.

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

City of Castroville

whose mailing address is

1209 Fiorella Street
Castroville, Texas 78009

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

located approximately 0.9 mile southeast of the intersection of U.S. Highway 90 and Farm-to-Market Road 1343 in Medina County, Texas

Interim I Phase: The permittee is authorized to dispose of treated domestic wastewater effluent at a daily average flow not to exceed 0.35 million gallons per day (MGD) via surface irrigation of 26.6 acres of a public access park and 166.8 acres of non-public access pasture land. Application rates shall not exceed 2.03 acre-feet per year per acre irrigated.

Interim II, Interim III and Final Phases: to an unnamed natural drainage swale; thence to the Medina River below the Medina Diversion Lake in Segment No. 1903 of the San Antonio 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, **March 1, 2012.**

ISSUED DATE:

For the Commission

INTERIM I EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Conditions of the Permit: During the period beginning upon the date of issuance and lasting through completion of the 0.35 million gallons per day (MGD) discharge facility, the permittee is authorized to dispose of treated effluent via irrigation. No discharge of pollutants into water in the State is authorized.

A. Effluent Limitations

Character: Treated Domestic Sewage Effluent

Volume: 30-day Average - 0.35 * MGD from the treatment system

Quality: The following effluent limitations shall be required:

<u>Parameter</u>	<u>Effluent Concentrations</u>			
	<u>(Not to Exceed)</u>			
	<u>Daily</u> <u>Average</u> mg/l	<u>7-day</u> <u>Average</u> mg/l	<u>Daily</u> <u>Maximum</u> mg/l	<u>Single</u> <u>Grab</u> mg/l
Biochemical Oxygen Demand (5-day)	20	30	45	65
Total Suspended Solids	20	30	45	65

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units.

The effluent shall be chlorinated in a chlorine contact chamber to a residual of 1.0 mg/l with a minimum detention time of 20 minutes.

B. Monitoring Requirements:

<u>Parameter</u>	<u>Monitoring Frequency</u>	<u>Sample Type</u>
Flow	Five/week	Instantaneous
Biochemical Oxygen Demand (5-day)	One/month	Grab
Total Suspended Solids	One/month	Grab
pH	One/month	Grab
Chlorine	One/month	Grab

The monitoring shall be done after the final treatment unit and prior to land application. These records shall be maintained on a monthly basis and be available at the plant site for inspection by authorized representatives of the Commission for at least three years.

The effluent limitations on this page are for the 26.6 acres of a public access park.

* The combined flow of the effluent going to the park and pasture land shall not exceed 0.350 MGD on a 30-day average basis.

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon completion of the 0.35 million gallons per day facility and lasting through completion of the expansion to the 0.45 million gallons per day (MGD) facility, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.35 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 590 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Minimum Self-Monitoring Requirements</u>	
	Daily Avg mg/l(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Measurement Frequency	Single Grab Sample Type
Flow, MGD	Report	N/A	Report	N/A	Instantaneous	Five/week
Biochemical Oxygen Demand (5-day)	10 (29)	15	25	35	one/week	Grab
Total Suspended Solids	15 (44)	25	40	60	one/week	Grab
Total Phosphorus	1.0 (2.9)	2	4	6	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 III EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion of the 0.45 million gallons per day (MGD) facility and lasting through the completion of the expansion to the 0.90 MGD facility, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.45 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 660 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Minimum Self-Monitoring Requirements</u>	
	Daily Avg mg/l(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Measurement Frequency	Single Grab Sample Type
Flow, MGD	Report	N/A	Report	N/A	Instantaneous	Five/week
Biochemical Oxygen Demand (5-day)	10 (38)	15	25	35	one/week	Grab
Total Suspended Solids	15 (56)	25	40	60	one/week	Grab
Total Phosphorus	1.0 (3.8)	2	4	6	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 completion of expansion of the 0.90 million gallons per day (MGD) facility 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 0.90 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,250 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Minimum Self-Monitoring Requirements</u>	
	Daily Avg mg/l(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Daily Max. Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing meter
Biochemical Oxygen Demand (5-day)	10 (75)	15	25	35	One/week	Composite
Total Suspended Solids	15 (113)	25	40	60	One/week	Composite
Total Phosphorus	1.0 (7.5)	2	4	6	One/week	Composite

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 daily 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 twice per month by grab sample.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
6. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

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

1. Flow Measurements

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

2. Concentration Measurements

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

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

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

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

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

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

2. Test Procedures

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

3. Records of Results

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

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

4. Additional Monitoring by Permittee

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

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

7. Noncompliance Notification

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

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

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

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

10. Signatories to Reports

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

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

PERMIT CONDITIONS

1. General

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

2. Compliance

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

3. Inspections and Entry

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

4. Permit Amendment and/or Renewal

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

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

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy.

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

OPERATIONAL REQUIREMENTS

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

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

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

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

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

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

- c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
 10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85 percent, unless otherwise authorized by this permit.
 11. Facilities which generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
 - a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
 - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
 - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Environmental Cleanup Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
 - d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.
 - e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
 - f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:
 - i. Volume of waste and date(s) generated from treatment process;
 - ii. Volume of waste disposed of on-site or shipped off-site;
 - iii. Date(s) of disposal;
 - iv. Identity of hauler or transporter;
 - v. Location of disposal site; and
 - vi. Method of final disposal.
 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 Permitting and Remediation Support Division and the Regional Director (MC Region 13) 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, Permitting and Remediation Support 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 13) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

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

TABLE 1

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

* Dry weight basis

3. Pathogen Control

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

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

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

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

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

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

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

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

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

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

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

Alternative 1 -

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

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

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

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

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

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

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

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

4. Vector Attraction Reduction Requirements

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

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

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

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

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

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

Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container.

Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 percent based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90 percent based on the moisture content and total solids prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

- Alternative 9 -
- i. Sewage sludge shall be injected below the surface of the land.
 - ii. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.
 - iii. When sewage sludge that is injected below the surface of the land is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

- Alternative 10-
- i. Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.
 - ii. When sewage sludge that is incorporated into the soil is Class A with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

C. Monitoring Requirements

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

PCBs - once during the term of this permit

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

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

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

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

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

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

A. Pollutant Limits

Table 2

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

Table 3

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

* Dry weight basis

B. Pathogen Control

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

C. Management Practices

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

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

D. Notification Requirements

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

E. Record keeping Requirements

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

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

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

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

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

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

F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 13) 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 Permitting and Remediation Support Division and the Regional Director (MC Region 13) 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, Permitting and Remediation Support 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 13) 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 13) 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 shall notify the TCEQ Regional Office (MC Region 13) and the Applications Review and Processing Team (MC 148) of the Water Quality Division, in writing at least forty-five (45) days prior to the completion of the new facility and prior to completion of each additional phase.
4. The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.
5. Prior to the date that the interim II, interim III and final phases are in effect, 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 interim II, interim III, and final permitted effluent limitations required on Page 2a, Page 2b, and Page 2c of the permit.
6. 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. 1903 of the San Antonio River Basin and any subsequent updating of the water quality model for Segment No. 1903, 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.
7. 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).

8. During the Interim I phase, the permittee is authorized to dispose of treated effluent via surface irrigation of 26.6 acres of a public access park and 166.8 acres of non-public access pasture land. (See Attachment A.)

a. The permittee shall maintain and operate the treatment facility in order to achieve optimum efficiency of treatment capability. This shall include required monitoring of effluent flow and quality as well as appropriate grounds and building maintenance.

Application rates to the irrigated land shall not exceed 2.03 acre-feet per year per acre irrigated. The permittee is responsible for providing equipment to determine application rates and maintaining accurate records of the volume of effluent applied. These records shall be made available for review by the TCEQ and shall be maintained for at least three years.

b. Irrigation practices shall be designed and managed so as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Tailwater control facilities shall be provided as necessary to prevent the discharge of any wastewater from the irrigated land.

c. Wastewater shall not be applied for irrigation during rainfall events or when the ground is frozen or saturated.

d. The permittee shall erect adequate signs stating that the irrigation water is from a non-potable water supply for any area where treated effluent is stored or where there exist hose bibs or faucets. Signs shall consist of a red slash superimposed over the international symbol for drinking water accompanied by the message "DO NOT DRINK THE WATER" in both English and Spanish. All piping transporting the effluent shall be clearly marked with these same signs.

e. Spray fixtures for the irrigation system shall be of such design that they cannot be operated by unauthorized personnel.

f. Irrigation with effluent shall be accomplished only when the area specified is not in use.

g. The permittee shall maintain a long term contract with the owner(s) of the land application site which is authorized for use in this permit, or own the land authorized for land application of treated effluent.

h. The permittee shall obtain representative soil samples from the root zones of the disposal site and analyze the samples as outlined in the following paragraph.

An annual analysis of a representative soil sample taken from the root zone of the irrigated site shall be made. Each soil boring shall be separated into three samples according to the following depth zones: 0 to 6 inches, 6 to 18 inches and 18 to 30 inches below the ground surface. Each zone shall be thoroughly mixed prior to being analyzed. Sampling procedures shall employ accepted techniques of soil science for obtaining representative analytical results. Analysis shall be performed for pH, total nitrogen, potassium, phosphorus and conductivity.

The permittee shall submit the results of the soil sample analyses to the TCEQ Regional Office (MC Region 13) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division during September of each year.

- i. Permanent transmission lines shall be installed from the holding pond to each tract of land to be irrigated utilizing effluent from that pond.
- j. If the effluent for irrigating the public access park is to be transferred to a holding pond or tank, rechlorination prior to the effluent being delivered into the irrigation system will be required. A trace chlorine residual shall be maintained in the effluent at the point of irrigation application.

CONTRIBUTING INDUSTRIES AND PRETREATMENT REQUIREMENTS

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

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

Attachment E

PROPOSED AMENDMENT TO TCEQ TPDES PERMIT NO. WQ0010952001

2008 FEB 26 PM 2:03

Application By § Before the
CHIEF CLERK'S OFFICE Castroville for an Amendment to § TEXAS COMMISSION ON
TPDES Permit No. WQ0010952001 § ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application of the City of Castroville, (Applicant) for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010952001, and the Executive Director's preliminary decision on the application. Pursuant to 30 Texas Administrative Code (TAC) Section 55.156, before an application is approved and a permit is issued, the Executive Director 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: Rose Aldape, Evangeline Bippert, Brenda Bowman, Roberto L. and Consuelo Chapa, David O. Chavez, Brittney Conn, Laurel D'Orsogna, Clinton Groff, Sidney Groff, Janice Haby, John Hall, Russell and Jennifer Hinson, Anna Mae Hitzfelder, Patrick Hitzfelder, Royce Hitzfelder, Janis Hunt, Debra L. Jungman, Virgil Jungman, Curtis Keller, Joseph Keller, Ladislaus J. Kowalik, Albert Krueger, Crystal M. Krueger, Cynthia L. Lange, Constance E. Mangold, Matt Mangold, Shane Menchaca, Loretta Moczygamba, James Mueller, John Mueller, Rosaelia G. Navarre, Ray Packard, David and Cheryl Parker, John H. Ramsey, Rodney Reus, Stephen Reus, Jerry Rihn, Stanley Rihn, Bryan Royal, Ike Salinas, Joseph D. Schott, Donna L. Schueling, Janet Stock, R. L. Wagner, Jim Warnke, Dennis Wengenroth, Ray Youngblood, Michael S. Copp and Rita R. Copp, Robert Ziebell, Rodney Hitzfelder, Concerned Citizen at 3212 CR 4713, LaCoste, Texas 78039, Concerned Citizen at 1003 S. San Eduardo, San Antonio, Texas 78237, and Concerned Citizen at P.O. Box 580, LaCoste, Texas 78039, collectively referred to as "Interested Persons." On January 24, 2008, N. Terry Monday filed a late comment. This response addresses all 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 City of Castroville, has applied to the TCEQ for a major amendment to its Texas Land Application Permit (TLAP), Permit No. 10952-001, to change from disposal via irrigation at a daily average flow not to exceed 350,000 gallons per day to discharges into water in the state at a daily average flow not to exceed 900,000 gallons per day. The proposed draft permit is structured in four phases. In the Interim I phase only, the draft permit authorizes the disposal of

the treated effluent at a daily average flow not to exceed 350,000 gallons per day via surface irrigation of 26.6 acres of a public access park, and 166.8 acres of non-public access pastureland. Application rates shall not exceed 2.03 acre-feet per year per acre irrigated. The draft permit authorizes the discharge of treated domestic wastewater at a volume not to exceed a daily average flow of 350,000 gallons per day in Interim II phase; at a volume not to exceed a daily average flow of 450,000 gallons per day in Interim III phase; and at a volume not to exceed a daily average flow of 900,000 gallons per day in the final phase.

The effluent limitations in the Interim I phase of the draft permit, based on a 30-day average, are 20 mg/l BOD₅, and 20 mg/l TSS. The effluent limitations in Interim II, III, and the final phase of the draft permit, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS, 1.0 mg/l Total Phosphorus, 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 treated effluent will be discharged into an unnamed natural drainage swale; then to the Medina River below the Medina Diversion Lake in Segment No. 1903 of the San Antonio River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed natural drainage swale. The designated uses for Segment No. 1903 are contact recreation, public water supply, and high aquatic life use.

Procedural Background

The amendment application for the City of Castroville was received on December 18, 2006 and declared administratively complete on February 13, 2007. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on March 8, 2007 in the *Hondo Anvil Herald*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on May 31, 2007 in the *Hondo Anvil Herald*. A public meeting was held on November 29, 2007 in the City of Castroville. The Notice of Public Meeting was published on October 25, 2007 in the *Hondo Anvil Herald*. The public comment period ended on November 29, 2007. This application was administratively complete on or after September 1, 1999; therefore, it is subject to the procedural requirements adopted pursuant to House Bill 801, (76th Legislature, 1999).

COMMENTS AND RESPONSES

COMMENT 1:

The Interested Persons commented that the proposed discharge will adversely affect the health and safety of the general public who utilize the Castroville Regional Park. They expressed concerns that the recreational interests in the Medina River watershed would be affected. They stated that the park is used by the general public, including children for activities such as soccer, high contact recreation activities including swimming, fishing, hiking, and permitted boating. They commented that the volume of discharge will cause serious groundwater and surface water impacts for the personal, agricultural, and business interests in the Medina River watershed. They stated that Medina River is designated as one of the State's most pristine rivers.

RESPONSE 1:

The proposed draft permit was developed to protect aquatic life, human health and the environment in accordance with the Texas Surface Water Quality Standards. As part of the permit application process, the Executive Director must determine the uses of the receiving water and set effluent limits that are protective of those uses. The effluent limits in the draft permit are set to maintain and protect the existing instream uses. In this case, the treated wastewater from the plant will be discharged into an unnamed natural drainage swale; then to the Medina River below the Medina Diversion Lake in Segment No. 1903 of the San Antonio River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed natural drainage swale. The designated uses for Segment No. 1903 are contact recreation, public water supply, and high aquatic life use. The permit is intended to protect these uses.

The proposed draft permit includes effluent limitations and monitoring requirements for 5-day Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), Total Phosphorus, minimum Dissolved Oxygen (DO), Chlorine Residual, and pH to ensure that discharges from the wastewater treatment plant meet water quality standards for the protection of surface water, groundwater, and human health in accordance with TCEQ rules and policies. The proposed draft permit includes requirements for the disposal of domestic sludge generated from the wastewater treatment facility based on TCEQ rules. The Executive Director expects that human health and the environment will be protected if the Applicant operates and maintains the facility as permitted and in accordance with TCEQ rules. The Executive Director has determined that the proposed draft permit is protective of the environment, water quality, and human health in accordance with TCEQ rules and requirements. Any noncompliance with the terms of the proposed draft permit could result in enforcement action against the Applicant.

COMMENT 2:

The Interested Persons commented that the permit application did “not consider the Texas Parks and Wildlife review and survey of affected wildlife including aquatic species, or the Federal Endangered Species Act.”

RESPONSE 2:

No priority watershed of critical concern has been identified in Segment No. 1903. The facility associated with this permit action is located within Medina County, and the Peck's Cave Amphipod (*Stygobromus pecki*), Comal Springs Dryopid Beetle (*Stygoparnus comalensis*), and the San Marcos Springs Salamander (*Eurycea nana*) are listed in the county. However, they are listed for the county only because they potentially occur within the watersheds in the county due to recharge features of the Edwards Aquifer. This facility is located below the recharge zone. Accordingly, the discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic dependent species, 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; *updated*, October 21, 1998). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic

dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The 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.

COMMENT 3:

The Interested Persons commented that the application did not adequately address public comments regarding a major discharge into "a State of Texas river" (Medina River).

RESPONSE 3:

This document provides response to all relevant and material, or significant public comment (formal or informal, written or oral) received during the public comment period between March 8, 2007, (when the NORI was published) and November 29, 2007, (when a public meeting was held to receive comments on this application).

COMMENT 4:

The Interested Persons stated that the proposed discharge in the draft permit violates the "Federal Water Quality Act."¹

RESPONSE 4:

The draft permit for this facility was prepared in compliance with the requirements of Section 402 of the Clean Water Act (CWA)² and the regulations promulgated by the United States Environmental Protection Agency (EPA) to implement the Act.³ On September 14, 1998, EPA delegated the National Pollutant Discharge Elimination System to the State of Texas.⁴ The State of Texas accordingly enacted laws and regulations instituting the Texas Pollutant Discharge Elimination System. The discharges authorized by this permit comply with the CWA, the TPDES permits, the Texas Surface Water Quality Standards, and the TCEQ rules and regulations relating to water quality.

¹ The Executive Director assumes that the Interested Persons are referring to the Federal Water Pollution Control Act (FWPCA) or the federal Clean Water Act (CWA), 33 U.S.C.A. §§ 1251-1387 as amended. The response to Comment No. 4 is provided in the context of the FWPCA or CWA. All references to the CWA refer to 33 U.S.C.A. §§ 1251-1387 as amended.

² 33 U.S.C.A. § 1342.

³ Specifically, see 40 Code of Federal Regulations (CFR), Part 123 as it relates to state program requirements.

⁴ See Memorandum of Agreement Between the Texas Natural Resources Conservation Commission and the U.S. Environmental Protection Agency, Region 6, Concerning the National Pollutant Discharge Elimination System (September 14, 1998).

COMMENT 5:

The Interested Persons stated that the proposed discharge will impact natural resources of the Medina River. They stated that this is the time to protect their natural heritage by not allowing pollution of surface waters that would follow their children and all future generations. **Mr. Robert Ziebell** stated that he owns property in Castroville that is downstream from the Castroville sewage plant, on the Medina River. He stated that over the last seven years he has seen the quality of water continue to decline and become choked with algae and other pollutants that aggravate such growth in the river. **Loretta Rihn Moczygamba** commented that she was concerned for the children who swim in Medina River and would like to know the types of chemicals going into the river.

RESPONSE 5:

All permits under the TPDES program are written to contain effluent limitations that protect existing uses and preclude degradation of existing water quality. The proposed draft permit was developed to protect aquatic life, human health and the environment in accordance with the Texas Surface Water Quality Standards. As part of the permit application process, the Executive Director must determine the uses of the receiving water and set effluent limits that are protective of those uses. The effluent limits in the draft permit are set to maintain and protect the existing instream uses. The proposed draft permit includes effluent limits and monitoring requirements to ensure that discharges from the wastewater treatment plant meet water quality standards for the protection of surface water, groundwater, and human health in accordance with TCEQ rules and policies. In this case, the treated wastewater from the plant will be discharged into an unnamed natural drainage swale; then to the Medina River below the Medina Diversion Lake in Segment No. 1903 of the San Antonio River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed natural drainage swale. The designated uses for Segment No. 1903 are contact recreation, public water supply, and high aquatic life use. The Executive Director determines that these uses will be protected if the facility is operated and maintained as required by the proposed permit and TCEQ regulations.

The proposed discharge would consist of domestic municipal wastewater. The permit application indicates that the plant will treat only municipal domestic wastewater. The numeric effluent limitations in the draft permit for Interims II, III, and the final phase based on a 30-day average, are 10 mg/l BOD5, 15 mg/l TSS, 1.0 mg/l Total Phosphorus, 4.0mg/l 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 prohibited from "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," without prior notice to the Commission. The Applicant must report the proposed changes to the Commission and "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." See Permit Condition No. 4(d). This facility will be permitted to accept, store and process only domestic wastewater. Acceptance of any other waste is unauthorized.

COMMENT 6:

The Interested Persons stated that the "proposed discharge location is into a man-made open ditch that currently serves as an over flow channel for the current effluent ponds." They commented that the drainage swale is not a natural stream. They indicated that the channel is in violation of current discharge permits that require effluent to be treated before being pumped on to land.

RESPONSE 6:

The application submitted to the TCEQ indicated that the discharge was into an unnamed natural drainage swale. The fact that the drainage ditch or swale is man-made or naturally occurring does not affect the permit application process as long as it is surface water in the state. If the drainage ditch or swale is man-made, and receives surface water or runoff, the water would be considered surface water in the state. Texas Surface Water Quality Standards apply to all surface waters in the state.

The current permit requires effluent to be treated before being land applied for irrigation. The permit authorized the permittee to dispose of treated domestic wastewater effluent via surface irrigation not to exceed a daily average flow of 350,000 gallons. The permit prohibits the unauthorized discharge of wastewater or any other waste. Permit Condition, No. 2(g) defines unauthorized discharge as "any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Special Provisions section" of the current permit. Under Special Provision, No. 5 in the current permit, "wastewater shall not be applied for irrigation during rainfall events or when the ground is frozen or saturated." Special Provision, No. 4 in the current permit states that irrigation practices shall be designed and managed so as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Tailwater control facilities shall be provided as necessary to prevent the discharge of any wastewater from the irrigated land." Any deviation from the discharges authorized in the current permit would constitute a noncompliance for which an enforcement action can be brought against the Applicant. To file an environmental complaint against this or any other entity regulated by the TCEQ, please visit our website at www.tceq.state.tx.us/compliance/complaints/index.html and complete our online form. You may also report a complaint by sending us an e-mail at cmplaint@tceq.state.tx.us, or by calling us toll-free at 1-888-777-3186.

COMMENT 7:

The Interested Persons expressed concern that the Applicant has a record of violations of its current permit "with untreated sewage being discharged into the Medina River." They stated that "a discharge permit must not be granted to an entity with such records of violations under the current permit."

RESPONSE 7:

The Commission must consider the Applicant's compliance history in an application to renew or amend a permit. Compliance with all permit conditions is required under the Applicant's current permit, and failure to comply could result in the denial of a permit amendment. In this case, the ED has considered the Applicant's compliance history and finds nothing in the compliance history that would justify the denial of the instant amendment application.

A review of the compliance history for the Applicant reveals that the facility has an "average" classification with a rating of 2.55. In addition to conducting periodic inspections of wastewater treatment facilities, the TCEQ regional office conducts investigations based on complaints received from the public. The facility under consideration was investigated on May 22, 2003, June 24, 2005, January 1, 2006, September 28, 2007, and January 14, 2008. Between December 18, 2002, and February, 2008, the facility received only one written notice of violation (NOV) for a minor noncompliance for failure to obtain necessary authorization to expand or upgrade the wastewater treatment facility and/or collection facilities.

TCEQ investigates noncompliance with TCEQ rules or permit. A noncompliance may result in the Applicant receiving an NOV. If violations are discovered, they may be resolved by the TCEQ Field Operations Division or referred to the TCEQ Enforcement Division for formal enforcement proceedings. Under Section 7.052 of the Texas Water Code, a maximum administrative penalty of \$10,000 per day per violation may be assessed against a noncompliant entity. Interested Persons are encouraged to report any environmental violations by this or any other entity regulated by the TCEQ by calling toll-free 1-888-777-3186, or 1-210-490-3096 to reach the TCEQ regional office in your area, or by e-mail at complaint@TCEQ.state.tx.us.

COMMENT 8:

The Interested Persons contend that the application must consider all landowners within one mile upstream and downstream from any discharge point into the Medina River. They stated that the application incorrectly considered only three land owners who are within one mile downstream from the point of discharge. They maintain that there are landowners entitled to notice who were not provided notice of this application because the Applicant did not identify all the landowners within one mile radius of the point of discharge. **John Hall** commented that if the treated effluent will be discharged into the natural drainage swale, then the one mile radius ("buffer zone") should be calculated from the point of discharge into the swale. He indicated that additional landowners were excluded because the one mile radius was not calculated from the point of discharge into the swale. **R. L. Wagner** commented that the discharge point was "calculated to limit the number of affected parties who can" request a contested hearing. He indicated that the regional park owned by the Applicant should not be included in the calculation of the one mile radius (the calculation should start at the edge of the park where the treated wastewater is discharged into the river).

RESPONSE 8:

The Commission rules require the Applicant to submit an ownership map which shows the facility and each of its intake and discharge structures. "The map shall depict the approximate boundaries of the tract of land owned or to be used by the applicant and shall extend at least one mile beyond the tract boundaries sufficient to show . . . the ownership of tracts of land adjacent to the facility and within a reasonable distance from the proposed point or points of discharge." 30 TAC § 305.45(a)(6)(D). An application for a wastewater discharge permit "for the disposal of any waste into or adjacent to a watercourse . . . shall show the ownership of the tracts of land adjacent to the treatment facility and for a reasonable distance along the watercourse from the proposed point of discharge. The applicant shall list on a map, or in a separate sheet attached to a map, the names and addresses of the owners of such tracts of land as can be determined from the current county tax rolls or other reliable sources. The application shall state the source of the information." 30 TAC § 305.48(a)(2).

For most water quality applications, the agency prepares two public notices; the Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) (30 TAC § 39.551(b) and the Notice of Application and Preliminary Decision (NAPD) (30 TAC § 39.551(c)). The applicant is required to publish these notices in the newspaper of largest circulation in the county where the facility is located. With respect to a facility located in a municipality, the applicant shall publish the notices in a newspaper of general circulation in the municipality. 30 TAC § 39.405(f)(1) and 39.418(b)(1). The Applicant is required to provide a copy of the application, proposed draft permit and the Executive Director's preliminary decision in a public place for viewing and copying. See 30 TAC §§ 405(g); 39.413; 39.418; and 39.419. Where applicable, Section 39.418(b)(2) requires the Office of the Chief Clerk to provide mailed notice of the NORI to the adjacent landowners named on the application map. See also, 30 TAC § 39.413(1). The Office of the Chief Clerk is required to provide mailed notice of the NAPD to the adjacent landowners named on the application map. The notice requirement for a water quality application does not require the Applicant or the Office of the Chief Clerk to provide mailed notice to every landowner within one mile radius of the facility. Adjacent landowners and downstream landowners within a reasonable distance along the watercourse are entitled to mailed notice. The Applicant identified 19 adjacent and downstream property owners in the adjacent landowners' map attached to the application. Lastly, the draft permit does not authorize the Applicant to discharge treated wastewater into tidally affected water, therefore there is no requirement to consider landowners one mile upstream from the point of discharge.

The Applicant does not determine who is an "affected person" for purposes of requesting a contested case hearing. Any individual or entity potentially affected by the activities to be conducted under the application may request a contested case hearing under Chapter 55 of the Commission rules. The Commissioners will determine the merits of each person's claim and make a determination as to whether the person qualifies as an affected person entitled to a contested case hearing under the rules.

COMMENT 9:

The Interested Persons stated that the application does not address alternative beneficial reuse options available to the Applicant, such as wastewater irrigation of adjacent lands. They questioned why the wastewater cannot be recycled for other agricultural uses. They indicated that recycled water could be of great benefit for the immediate region and have not been fully researched. **Mr. John Hall** cited Marble Falls as an example of a city utilizing its wastewater for beneficial reuse for irrigation purposes.

RESPONSE 9:

The Texas Water Code, Section 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The Executive Director does not have the authority to mandate beneficial reuse of wastewater, different discharge location, or a different type of wastewater treatment plant. The Executive Director evaluates applications for wastewater treatment plants based on the information provided in the application. The Executive Director can recommend issuance or denial of an application based on whether the application complies with TCEQ regulations and water quality standards. It is the responsibility of the applicant to decide what to do with the effluent from the wastewater treatment plant consistent with the Texas Water Code and the Texas Surface Water Quality Standards. Under Chapter 210, Title 30 TAC, a permittee may obtain authorization to reuse its effluent if it has a permit.

In this case however, the Applicant is currently operating under a Texas Land Application Permit (TLAP) which authorizes disposal of wastewater via surface irrigation at a daily average flow not to exceed 350,000 gallons per day. Interim phase I of the proposed draft permit authorizes disposal of treated domestic wastewater at a daily average flow not to exceed 350,000 gallons per day via surface irrigation of 26.6 acres of a public access park and 166.8 acres of non-public access pasture land.

COMMENT 10:

The Interested Persons expressed concerns that the volume of discharge will cause serious groundwater problems which would affect the personal, agricultural, business and recreational interests in the Medina River watershed. **Mr. Rodney L. Reus** stated that he gets drinking water from a source which is the same depth as the river; and the well is approximately 100 yards from the river.

RESPONSE 10:

The Texas Water Development Board's (TWDB) records show that the groundwater used for public water supply (PWS), and the City of Castroville's PWS wells, comes from the Edwards Aquifer which produces groundwater from 700 feet to over 1,000 feet below ground level. The confining sediment layers between the surface and the Edwards Aquifer prevents the Edwards groundwater quality degradation from the wastewater discharge. Other water wells were located along the water course of the Medina River that produce shallow groundwater from 39 feet to 67 feet below ground level. This shallow groundwater is likely connected to the

surface water contained in the Medina River. The mixing and dilution of the wastewater discharged to the Medina River is not expected to pose a measurable water quality change in water wells producing groundwater adjacent to the Medina River used for agricultural or business purposes. In the interest of public safety, the agency would further recommend water treatment disinfection for anyone using surface water, or shallow groundwater that is in connection with surface water. This would treat elevated bacteria that occur from natural stormwater events resulting from precipitation runoff. Finally, the numeric effluent limits in the draft permit are set to protect water quality, the environment, and human health. The Executive Director expects that water quality will be protected if the Applicant operates and maintains the facility as permitted and in accordance with TCEQ rules.

COMMENT 11:

The Interested Persons requested that their names be added to the mailing list for this application and any application affecting water quality in Medina County.

RESPONSE 11:

In accordance with Sections 39.407 and 39.413(14) of the Commission rules, the Office of the Chief Clerk will add your names to the mailing list for this application. Section 39.407 requires the Office of the Chief Clerk to "maintain a list of persons requesting notice of an application," while Section 39.413 directs the Office of the Chief Clerk to provide mail notice to "persons who filed public comment or hearing requests on or before the deadline for filing public comment or hearing requests."

COMMENT 12:

Mr. Stanley Rihn stated that he lives three miles down the river from the proposed discharge and owns 121 acres of land that "goes to the river." He would like to know the quality of water after the effluent is discharged to the river for a prolonged period of time. Mr. John Hall asked if TCEQ will strive for the highest quality of water for all streams in the state of Texas, including the Medina, without regard to the streams location, the privileged cities and towns that are near its banks, or the money necessary for those cities and towns to bring the stream and rivers up to the highest state standard due to their discharge of waste effluent into them.

RESPONSE 12:

At three miles downstream of the proposed discharge, the quality of the water in the Medina River is predicted to be very close to background levels. Water quality model predicted concentrations of 6.0 mg/l DO, 1.6 mg/l BOD₅, and 0.6 mg/l ammonia nitrogen (NH₃-N) are very similar to the background concentrations of 6.1 mg/l DO, 1.3 mg/l BOD₅, and 0.1 mg/l NH₃-N. The Water Quality Assessment Team of TCEQ evaluates the dissolved oxygen impacts for every new, renewed, and amended wastewater permit at the discharger's final permitted flow, operating on a continuous basis, to meet the numerical criteria of the receiving waters. The

Medina River below the Medina Diversion Lake (Segment No. 1903) is not currently listed on the State's inventory of impaired and threatened waters.

In accordance with 30 TAC § 307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, the Executive Director performed an antidegradation review of the receiving waters. A Tier I antidegradation review determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses are imposed as permit conditions in the proposed draft permit. A Tier II review determined that by adding permit requirements for a phosphorus limit of 1.0 mg/l to the permit, no significant degradation of water quality is expected in the Medina River below the Medina Diversion Lake. The Executive Director expects that existing uses in the Medina River below the Medina Diversion Lake will be maintained and protected if the Applicant operates and maintains the facility as permitted and in accordance with TCEQ rules.

COMMENT 13:

Mr. John Hall wanted to know the exact location of the point of discharge from the wastewater treatment facility.

RESPONSE 13:

The location of the point of discharge is defined in the permit application. The discharge point, as shown in the permit application, is approximately 0.8 km (0.5 mi) upstream of the swale's confluence with the Medina River.

COMMENT 14:

Mr. John Hall asked why TCEQ would allow the proposed effluent limitations of 20 mg/l BOD₅ and 20 mg/l TSS into the receiving water without raising the quality standard to the highest levels possible. Mr. Hall stated that New Braunfels and Kerrville had 5 mg/l BOD₅, 5 mg/l TSS, 2 mg/l Nitrogen and 1 mg/l Phosphorus limitations. Mr. Hall asked if TCEQ based criteria for the quality of effluent into the river on the quality of water in that river. **Mike and Rita Copp** requested that the effluent limitations and monitoring requirements be set consistent with all other discharge sites within the State of Texas. **Mr. Wagner** demands stricter effluent limits similar to the limits for New Braunfels and Kerrville.

RESPONSE 14:

The 20 mg/l BOD₅ and 20 mg/l TSS effluent set is only a temporary effluent set for the interim I phase. No discharges into waters in the state are authorized under this phase; the only authorized disposal with the effluent set above is via surface irrigation. The required effluent set in the draft permit of 10 mg/l BOD₅, 15 mg/l TSS, 1.0 mg/l Total Phosphorus, and 4.0 mg/l DO, are based on the impacts from the discharge and maintaining the numerical criteria of the unnamed drainage ditch, and the Medina River. Effluent limits for New Braunfels and Kerrville were not derived from water quality modeling. They were voluntarily requested (New Braunfels), or set by watershed rule (Kerrville).

COMMENT 15:

Mr. John Hall asked if TCEQ differentiates between the rivers of the State of Texas, as to which ones should have a higher quality of water, and a higher quality of effluent pumped into them.

RESPONSE 15:

The TCEQ, in the Texas Surface Water Quality Standards (§§307.1-307.10), identifies the designated segments (rivers) of the State of Texas and their associated different uses and criteria. The Texas Surface Water Quality Standards are revised every three years and are subject to public review and comment.

Generally, deterministic water quality modeling is done to recommend effluent limits to meet numerical criteria. Site specific uses and criteria are established based on the available information, and a preliminary determination of the aquatic life uses in the area. This is then used to assign aquatic life uses and to set the corresponding dissolved oxygen criterion for both classified segments, as well as unclassified water bodies. This regulatory action was based on the water quality standards which used background data specific to the Medina River. The antidegradation policy also requires that no activities subject to regulatory action will be allowed that lowers water quality by more than a de minimis extent with the one exception that it is shown to the Commission's satisfaction that the lowering of water quality is necessary for important economic or social development. The Applicant has not requested the economic or social development exception to the antidegradation policy.

COMMENT 16:

Mr. John Hall asked if TCEQ was allowing lower quality standard for the effluent due to City of Castroville's monetary situation.

RESPONSE 16:

Effluent limit recommendations are only based on impacts to the receiving waters. TCEQ is specifically prohibited from considering economic factors in setting water quality effluent limits. Also, as previously stated, there should be no lowering of water quality as a result of the proposed discharge.

COMMENT 17:

Mr. John Hall asked for clarification of the following statement: "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." Mr. Hall asked if the statement means that TCEQ is contemplating changing a permit that does not have or meet effluent limitations.

RESPONSE 17:

The Applicant currently has a land application permit which does not authorize discharge into or adjacent to water in the state. The Applicant has now applied for a permit to be able to discharge treated domestic wastewater. If the application is approved, the Commission will issue a permit changing the City of Castroville's permit from a no discharge permit to a discharge permit.

The WQMP started referencing discharge permits since March 1, 2007. The Applicant does not currently have a discharge permit. It was not referenced in the State's WQMP at the time of the last permit action, on March 1, 2007. However, the Environmental Protection Agency (EPA) has since reviewed the proposed discharge and approved the draft effluent limits; as of July 2, 2007, the City of Castroville was included in the WQMP.

COMMENT 18:

Mr. John Hall asked what considerations TCEQ has made for the next severe drought where the Medina River dries up so that there is no flow.

RESPONSE 18:

Effluent limits are based on low flow conditions when effect on water quality is greatest. The EPA determined that critical low flow in the Medina River (Segment No. 1903) is 17.9 cfs (11.6) MGD. This is over 12 times greater than the proposed discharge of 900,000 gallons per day.

COMMENT 19:

Mr. John Hall asked what safeguards TCEQ and the City of Castroville have in place for noncompliance if the City of Castroville is allowed to discharge into the Medina River. He stated that the City of Castroville had exceeded the limit of the existing permit for BOD by 8% and TSS by 21% in the last 24 months. He warned about the possibilities of a catastrophe if City of Castroville is permitted to discharge treated wastewater into the Medina River from their current plant and their current effluent limits of 20 mg/l BOD5 and 20 mg/l TSS. He is concerned that the City of Castroville might exceed their effluent limitations by neglect or mechanical failure.

RESPONSE 19:

The Commission takes environmental noncompliance seriously. When noncompliance occurs, the Commission investigates the noncompliance and assesses a fine, penalty, or other sanctions as the situation warrants. The TCEQ Regional Office conducts periodic inspections of wastewater facilities and conducts investigations based on complaints received from the public. To report complaints about this or any other facility, please contact the TCEQ at 1-888-777-3186, or 1-210-490-3096 to reach the TCEQ Regional Office in your area, or by e-mail at complaint@TCEQ.state.tx.us. Noncompliance with TCEQ rules or permit may result in the

Applicant receiving a notice of violation. If violations are discovered, they may be resolved by the TCEQ's Field Operations Division or referred to the TCEQ Enforcement Division for formal enforcement proceedings. Under Texas Water Code (TWC), Section 7.052, a maximum administrative penalty of \$10,000 per day per each violation may be assessed. TWC, Section 7.053 and TCEQ's Enforcement Policy and Guidelines delineate the factors TCEQ may consider when determining a penalty. A fine for an environmental violation will vary for a variety of reasons, including: the severity of the violation, the compliance history of the permittee, the permittee's degree of responsibility for the violation, and the permittee's good faith. For more information regarding TCEQ enforcement actions and procedures, please visit TCEQ's website at www.tceq.state.tx.us/ and click on "Compliance, Enforcement and Cleanups."

The Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater. For example, Operational Requirement No. 4 in the proposed draft permit states that 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, and/or retention of inadequately treated wastewater. In addition, the plans and specifications for domestic sewage treatment works associated with any domestic wastewater permit must be approved by TCEQ. Permit Condition No. 2(d) in the proposed draft permit requires the Applicant to take all reasonable steps to minimize or prevent any discharge, disposal or other permit violation which has a reasonable likelihood of adversely affecting human health and the environment. Permit Condition No. 2(g) in the proposed draft permit states that there shall be no unauthorized discharge of wastewater or any other waste. These permit provisions are designed to help prevent unauthorized discharges of raw sewage. If an unauthorized discharge occurs, the Applicant is required to report it to TCEQ within 24 hours. If the Applicant fails to report the unauthorized discharge to TCEQ within the prescribed time period, the Applicant will be subject to an enforcement action by TCEQ. At the time of any accidental discharge, TCEQ and other local governmental entities will determine if nearby residents need to be notified of any leak or runoff based on the severity and potential health impact of the discharge.

The Applicant is required to maintain the quality and quantity of effluent in the permit. Permit Condition No. 4(d) in the proposed draft permit contains the following provision: "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."

The draft permit includes effluent limitations and monitoring requirements designed to ensure that treated effluent meets the Texas Surface Water Quality Standards for the protection of surface water and human health according to TCEQ rules and policies. The City of Castroville must meet all the design criteria in TCEQ rules; abide by all the permit conditions and requirements, including the numerical effluent limitations, monitoring and reporting, and prohibition against unauthorized discharges. Permit Condition No. 2(b) requires the Applicant to comply with all permit conditions. Failure to comply with any permit condition constitutes a

violation, and is ground for an enforcement action, denial of permit amendment or renewal, or permit revocation or suspension.

COMMENT 20:

Mr. Robert Ziebell asked how he could help the state to use the effluent for recycling. He asked if there are programs or motivation for the discharge to be used for recycling.

RESPONSE 20:

Information on recycling of wastewater may be found in 30 TAC Chapter 210. The Water Quality Division has personnel who conduct statewide seminars on the beneficial reuse or recycling of wastewater.

COMMENT 21:

Mr. Robert Ziebell asked if there was an overview of other communities upstream in terms of the amount of effluent being discharged, and if there was a maximum total standard for the Medina River.

RESPONSE 21:

When reviewing a permit application, technical staff (modeler) considers the cumulative impacts of all point source that discharges into the receiving waters. The cumulative impacts to the Medina River (Segment No. 1903) have been quantified. There are no other permitted point source discharges to the Medina River upstream of the City of Castroville. The maximum waste loading for the Medina River, Segment No. 1903 at this location is 813 lb/day Ultimate Oxygen Demand (UOD). The proposed discharge of 0.9 MGD and 10 mg/l BOD5 represents 563 lb/day UOD.

COMMENT 22:

Mr. R.L. Wagner objected to the proposed discharge through a natural drainage swale which goes through a public park used by children. Mr. Wagner admitted 24 photos to illustrate that the drainage swale does not have the capacity to carry the proposed 900,000 gallons per day. Mr. Wagner would like additional assurances regarding what would happen during flood events.

RESPONSE 22:

The proposed maximum discharge of 0.9 MGD in the final phase of this facility is predicted to increase the "natural drainage swale" to an average 0.7 feet deep and 25.3 feet wide. TCEQ has no jurisdiction to address flooding issues in the wastewater permitting process. 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. The draft permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. Other Requirement No. 4 in the draft permit requires the

Applicant to "provide facilities for the protection of its wastewater treatment facility from the 100-year flood." the Applicant indicates the facility is located above the 100-year flood plain. For flooding concerns, please contact the local flood plain administrator for your area. If you need help finding the local flood plain administrator, please call the TCEQ Resource Protection Team at 512-239-4691. The flood plain administrator for your area can request a low-interest loan for flood control protection from the Texas Water Development Board.

COMMENT 23:

Mr. R.L. Wagner questioned whether TCEQ does its job of public safety and requested assurances that it will. He asked about TCEQ fines and said he brought a news headline from the "Castroville Anvil" of October 18, 2007, which stated that "city assures that water is safe, despite notices from TCEQ." He indicated that he wanted the newspaper clip placed in the records to show that there are differences of opinion as to whether the agency does its job of "public safety."

RESPONSE 23:

The Texas Surface Water Quality Standards (30 TAC Chapter 307) state that "surface waters will not be toxic to man, or to terrestrial or aquatic life." The methodology in the "Implementation of the TCEQ Standards via Permitting" is designed to ensure that no source will be allowed to discharge any wastewater which: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of drinking water supplies, or (4) results in the aquatic bioaccumulation which threatens human health.

The Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater. For example, Operational Requirement No. 4 in the proposed draft permit states that 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, and/or retention of inadequately treated wastewater. In addition, the plans and specifications for domestic sewage treatment works associated with any domestic wastewater permit must be approved by TCEQ. Permit Condition No. 2(d) in the proposed draft permit requires the Applicant to take all reasonable steps to minimize or prevent any discharge, disposal or other permit violation which has a reasonable likelihood of adversely affecting human health and the environment. Permit Condition No. 2(g) in the proposed draft permit states that there shall be no unauthorized discharge of wastewater or any other waste. These permit provisions are designed to help prevent unauthorized discharges of raw sewage. If an unauthorized discharge occurs, the Applicant is required to report it to the TCEQ within 24 hours. If the Applicant fails to report the unauthorized discharge to the TCEQ within the prescribed time period, the Applicant may be subject to enforcement. At the time of any accidental discharge, TCEQ and other local governmental entities will determine if nearby residents need to be notified of any leak or runoff based on the severity and potential health impact of the discharge.

As part of the application process, TCEQ must determine the uses of the receiving water and set effluent limits that are protective of those uses. The TCEQ Water Quality Assessment Section has determined that the proposed draft permit for the facility meets the requirements of the Texas Surface Water Quality Standards which are established to protect human health and terrestrial and aquatic life. In accordance with 30 TAC § 307.5 and the TCEQ implementation procedures for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. This review has preliminarily determined that no significant degradation of high quality waters is expected and that existing uses will be maintained and protected.

The draft permit in this case was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards. The draft permit was established to be protective of human health and the environment provided the Applicant operates and maintains the facility according to TCEQ rules and the requirements in the permit. The Executive Director has determined that this draft permit would be protective of the environment, water quality, aquatic and terrestrial life, and human health. The draft permit includes effluent limitations and monitoring requirements designed to ensure that treated effluent meets the Texas Surface Water Quality Standards for the protection of surface water and human health according to TCEQ rules and policies.

Finally, the City of Castroville must meet all the design criteria in TCEQ rules; abide by all the permit conditions and requirements, including the numerical effluent limitations, monitoring and reporting requirements, and prohibition against unauthorized discharges. Permit Condition No. 2(b) requires the Applicant to comply with all permit conditions. Failure to comply with any permit condition constitutes a violation, and is ground for an enforcement action, denial of permit amendment or renewal, or permit revocation or suspension. The Commission takes environmental noncompliance seriously. When noncompliance occurs, the Commission investigates the noncompliance and assesses a fine, penalty, or other sanctions as the situation warrants.

The TCEQ Regional Office conducts periodic inspections of domestic wastewater treatment facilities and conducts investigations based on complaints received from the public. To report complaints about this or any other facility, please contact the TCEQ at 1-888-777-3186 or 1-210-490-3096 to reach the TCEQ Regional Office in your area or by e-mail at complaint@TCEQ.state.tx.us. Noncompliance with TCEQ rules or the permit may result in the Applicant receiving a notice of violation. If violations are discovered, they may be resolved by the TCEQ field operations Division or referred to the TCEQ Enforcement Division for formal enforcement proceedings. Under Texas Water Code (TWC), Section 7.052, a maximum administrative penalty of \$10,000 per day per each violation may be assessed. TWC, Section 7.053 and TCEQ's Enforcement Policy and Guidelines delineate the factors TCEQ may consider when determining a penalty. A fine for an environmental violation will vary for a variety of reasons, including: the severity of the violation, the compliance history of the permittee, the permittee's degree of responsibility for the violation, and the permittee's good faith. For more information regarding TCEQ enforcement actions and procedures, please visit TCEQ's web site at www.tceq.state.tx.us/ and click on "Compliance, Enforcement and Cleanups."

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

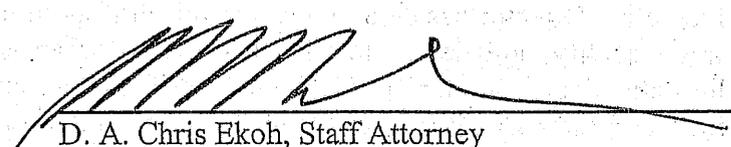
No changes were made to the proposed draft permit in response to public comments.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle, Executive Director

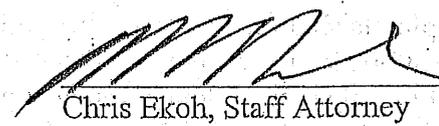
Robert Martinez, Director
Environmental Law Division



D. A. Chris Ekoh, Staff Attorney
Environmental Law Division
State Bar No. 06507015
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-5487
Representing the Executive Director of the
Texas Commission on Environmental Quality

CERTIFICATE OF SERVICE

I certify that on February 26, 2008, the "Executive Director's Response to Public Comment" for TPDES Permit No. WQ0010952001 was filed with the Office of the Chief Clerk, Texas Commission on Environmental Quality.



Chris Ekoh, Staff Attorney
Environmental Law Division
State Bar No. 06507015

CHIEF CLERKS OFFICE

2008 FEB 26 PM 2:04

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Attachment F

Compliance History

Customer/Respondent/Owner-Operator:	CN600647614	City of Castroville	Classification: AVERAGE	Rating: 2.55
Regulated Entity:	RN101721645	CITY OF CASTROVILLE	Classification: AVERAGE	Site Rating: 0.25
<hr/>				
ID Number(s):	WASTEWATER	PERMIT	WQ0010952001	
	WASTEWATER	PERMIT	TX0129364	
	WASTEWATER LICENSING	LICENSE	WQ0010952001	
Location:	.9 M SE OF HWY 90 AND FM 1343 INTERSECTION		Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	June 27, 2008			
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.			
Compliance Period:	December 10, 2001 to June 27, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Phone:			

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|-----|------------|----------|
| 1 | 05/22/2003 | (31024) |
| N/A | | |
| 2 | 06/24/2005 | (379270) |
| 3 | 01/02/2006 | (449807) |
| 4 | 09/28/2007 | (594683) |
| 5 | 01/14/2008 | (610293) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | | |
|--------------|---|----------|-----------------|-------|
| Date: | 06/30/2005 | (379270) | | |
| Self Report? | NO | | Classification: | Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.126(a) | | | |
| Description: | Failure to obtain the necessary authorization to expand and/or upgrade the wastewater treatment and/or collection facilities. | | | |
- 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

Site Name	Address	City	State	Zip	Lat	Long	County	Notes
1	1234 Main St	Houston	TX	77001	29.7629	-95.3698	Harris	...
2	5678 Elm St	Dallas	TX	75201	32.7767	-96.7969	Dallas	...
3	9101 Oak St	Austin	TX	78701	30.2672	-97.7431	Cook	...
4	2345 Pine St	San Antonio	TX	78201	29.5129	-98.5075	Brewster	...
5	6789 Cedar St	Fort Worth	TX	76101	32.7555	-97.3308	Tarrant	...
6	1011 Birch St	El Paso	TX	79901	31.7614	-106.4850	El Paso	...
7	1213 Spruce St	San Diego	CA	92101	32.7157	-117.1611	San Diego	...
8	1415 Willow St	Phoenix	AZ	85001	33.4484	-112.0740	Maricopa	...
9	1617 Poplar St	Chicago	IL	60601	41.8819	-87.6278	Cook	...
10	1819 Hickory St	New York	NY	10001	40.7128	-74.0060	New York	...
11	2021 Walnut St	Los Angeles	CA	90001	34.0522	-118.2437	Los Angeles	...
12	2223 Chestnut St	Philadelphia	PA	19101	39.9526	-75.1652	Philadelphia	...
13	2425 Olive St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
14	2627 Madison St	Seattle	WA	98101	47.6062	-122.3321	King	...
15	2829 Park St	Portland	OR	97201	45.5152	-122.6750	Multnomah	...
16	3031 Taylor St	Denver	CO	80201	39.7392	-104.9903	Denver	...
17	3233 Adams St	San Jose	CA	95101	37.3382	-121.8883	San Jose	...
18	3435 Grant St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
19	3637 Franklin St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
20	3839 Hayes St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
21	4041 Folsom St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
22	4243 Divisadero St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
23	4445 Geary St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
24	4647 Sutter St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
25	4849 Stockton St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
26	5051 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
27	5253 Vallejo St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
28	5455 California St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
29	5657 Lombard St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
30	5859 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
31	6061 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
32	6263 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
33	6465 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
34	6667 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
35	6869 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
36	7071 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
37	7273 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
38	7475 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
39	7677 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
40	7879 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
41	8081 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
42	8283 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
43	8485 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
44	8687 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
45	8889 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
46	9091 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
47	9293 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
48	9495 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
49	9697 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...
50	9899 Broadway St	San Francisco	CA	94101	37.7749	-122.4200	San Francisco	...