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Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 15, 2008

VIA HAND DELIVERY

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

RE: Application by Julie Ann Thames for Permit No. WQ0014753001; TCEQ Docket No. 2008-0785-MWD

Dear Ms. Castañuela:

Enclosed for filing in the above styled application is the original and eleven copies of:

"Executive Director's Response to Hearing Requests."

If you have any questions or comments, please call me at 239-2679. Thank you for your attention to this matter.

Sincerely,

Handwritten initials "SR" inside a circle.

Handwritten signature of Scott R. Shoemaker.

Scott R. Shoemaker, Staff Attorney
Environmental Law Division MC 173

Enclosures

cc: Mailing List

2008 SEP 15 PM 2:30
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

TCEQ Docket Number 2008-0785-MWD

2008 SEP 15 PM 2:30

Application by
Julie Ann Thames
For Permit No. **WQ0014753001**

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Before the
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
CHIEF CLERKS OFFICE

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests and Requests for Reconsideration (Response) on the application by Julie Ann Thames (Applicant) for Permit Number WQ0014753001. Hearing requests were received from Duval Anglin, Mrs. Bob Cantrell, Jr., John and Anne Buller, John Clements, Crestview Farm 250, L.P represented by Pope, Hardwicke, Christie, Schell, Kelly & Ray, L.L.P. (Crestview), and Dale and Mary Rector.

Attached for Commission consideration are the following:

- Attachment A – Draft Permit
- Attachment B – Statement of Basis/Technical Summary and Executive Director's Preliminary Decision
- Attachment C – Compliance History of the Applicant and Facility
- Attachment D – Executive Director's Response to Public Comment (RTC)
- Attachment E – Map of the Facility Site

Copies of this response are provided to the parties. The RTC was previously mailed by the Office of the Chief Clerk to all persons on the mailing list.

II. Facility Description

The Applicant applied for a new permit to authorize the discharge of treated domestic wastewater as a daily average flow not to exceed 10,000 gallons per day. The proposed facility would serve the Primrose Mobile Home Park. Effluent would be discharged via pipe to an unnamed tributary; then to Rock Creek; then to Benbrook Lake in Segment No. 0830 of the Trinity River Basin. The facility would be located approximately 7 miles west of the City of Burleson, approximately 2 miles south of FM 1187, and approximately 3/8 mile west of FM 1902, Johnson County, Texas.

III. Procedural Background

The application was received on October 25, 2006 and declared administratively complete on November 15, 2006. The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published on December 17, 2006 in the *Cleburne Times*

Review. The ED completed the technical review of the application on January 23, 2007 and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) was published on May 3, 2007 in the *Cleburne Times Review*. A public meeting was held on November 15, 2007 in Joshua, Texas. Additional time was taken to process this application. The location description contained in the draft permit, the first and second public notices, and the public meeting notice had an error based upon incorrect information provided in the application. In order to correct the defect, the Applicant was required to publish a combined NORI/NAPD with the new location description. The combined NORI/NAPD was published on December 21, 2007 in the *Cleburne Times Review*. This notice was also mailed to those on the landowner and mailing list. Accordingly, the public comment period was extended until January 22, 2008. The RTC was filed on April 3, 2008 and the period for requesting reconsideration or a contested case hearing ended on May 12, 2008. Since this application was administratively complete after September 1, 1999, it is subject to House Bill 801 (76th Legislature, 1999).

IV. The Evaluation Process for Hearing Requests

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the commission's consideration of hearing requests. The application was declared administratively complete on November 15, 2006 and therefore is subject to the HB 801 requirements. The commission implemented HB 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55.

A. Responses to Requests

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

Responses to hearing requests must specifically address:

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

30 TAC § 55.209(e).

B. Hearing Request Requirements

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

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

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

- (1) give the 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.

30 TAC § 55.201(d).

C. Requirement that Requestor be an "Affected Person"

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

- (a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.

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

30 TAC § 55.203.

D. Referral to the State Office of Administrative Hearings

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.” 30 TAC § 50.115(b). “The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: (1) involves a disputed question of fact; (2) was raised during the public comment period; and (3) is relevant and material to the decision on the application.” 30 TAC § 50.115(c).

V. Analysis of the Requests

A. Analysis of the Hearing Requests.

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

Duval Anglin and Crestview filed timely written hearing requests raising disputed issues of fact. Their requests gave appropriate contact information, identified their personal justiciable interests alleged to be adversely affected by the application, requested a hearing, and listed various issues.

The hearing requests of Mrs. Bob Cantrell, Jr., John and Anne Buller, John Clements, and Dale and Mary Rector were not timely filed. The deadline to request a contested case hearing was May 12, 2008. Mrs. Cantrell, Jr. filed her hearing request on June 23, 2008. John and Anne Buller, John Clements, and Mary and Dale Rector filed their hearing requests on June 18, 2008.

All of these requests were over a month past the deadline for filing a hearing request. Therefore, the ED recommends that the Commission find that these requestors have not substantially complied with the requirements of 30 TAC §§ 55.201(c) and (d) and deny their hearing requests.

The ED recommends the Commission find that Duval Anglin's and Crestview's hearing requests substantially comply with the requirements of 30 TAC §§ 55.201(c) and (d). The ED recommends the remainder of the hearing requests be denied because they were not timely filed.

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

Based on his address, Duval Anglin's property is located adjacent to the discharge route, downstream, and within a mile of the proposed point of discharge. *See* Attachment E. He is also listed on the Applicant's landowner list as either being adjacent to the proposed facility or within one mile downstream on the proposed discharge route. He has concerns about how the discharge may impact his health and safety; and how it could impact his use of his land and the adjacent stream. These concerns are not common to members of the general public due to his proximity to the proposed regulated activity.

The ED recommends the Commission find that Duval Anglin is an affected person according to the factors in 30 TAC § 55.203.

Crestview indicates that it is the owner of an approximately 250 acre tract of land abutting Rock Creek, situated approximately two river miles downstream of the proposed discharge. Crestview states that they will be adversely impacted by the proposed discharge because agricultural activities will be negatively impacted, residential uses may be constrained, and current recreational uses of the creek would be impaired. In order to assess a more accurate location, ED staff referred to Tarrant County Appraisal District data. Based on this data, Crestview appears to be located approximately 3 miles downstream from the point of discharge. *See* Attachment E. Although Crestview raises numerous issues and their property appears to be adjacent to the creek, their proximity to the facility, relative to the amount of the discharge (10,000 gallons per day) suggests that it is unlikely they will be impacted by the regulated activity.

The ED recommends the Commission find that Crestview is not an affected person according to the factors in 30 TAC § 55.203.

The remaining hearing requestors did not file timely hearing requests, so no affected person analysis was performed by the ED for those persons.

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

The ED analyzed the issues raised by the timely hearing requestors in accordance with the regulatory criteria and his analysis and recommendations follow.

ISSUE 1. Whether the draft permit is protective of the environment, water quality, agricultural uses, recreational uses, residential uses, native prairie areas, water supply, and human health?

Crestview disputes that the proposed draft permit is protective of the environment, water quality, and human health. Crestview indicates that its property is used for agricultural and recreational purposes, and depends upon Rock Creek for water supply. Crestview further indicates that their property is ultimately intended for residential use. Crestview states that they will be adversely impacted by the proposed discharge because agricultural activities will be negatively impacted, residential uses may be constrained, and current recreational uses of the creek would be impaired. Crestview disputes that the proposed draft permit is in the public interest, and disputes that the ED has adequately considered public interest concerns, public policy, and environmental considerations in granting the permit. Crestview elaborates, stating that the proposed location of discharge will directly and adversely impact native prairie areas that are part of a proposed public recreational and park areas. Crestview disputes that the ED has adequately considered the cumulative effects of the permit on discharges into streams that feed into Lake Benbrook and to the potential cumulative impact of those discharges on Lake Benbrook and surrounding areas. This issue was raised during the public comment period, raises a concern related to water quality permitting requirements, and is therefore relevant and material to a decision on this application.

The ED recommends the Commission find that this issue is referable to SOAH.

ISSUE 2. Whether the Applicant's compliance history raises issues as to whether she can comply with a material term of the draft permit, or warrants denial or alteration of the permit?

Duval Anglin states that the Applicant has failed miserably countless times to carry out her duties as an OSSF owner. Crestview disputes that the Commission has properly considered the Applicant's prior compliance history and history of prior enforcement actions in the application. Crestview further states that the Applicant has a poor history of compliance in the past, including a long history of unresolved complaints from neighbors of odors, and should not be permitted to increase her treatment operation because the Commission "hopes" that she will be in compliance in the future. Applicants' compliance history is considered during the permitting process. This issue was raised during the public comment period, raises a concern related to water quality permitting requirements, and is therefore relevant and material to a decision on this application.

The ED recommends the Commission find that this issue is referable to SOAH.

ISSUE 3. Whether the proposed discharge route is water in the state?

Duval Anglin contends that the unnamed tributary listed in the discharge route description is not property of the state until the banks are 3 feet tall. This issue was raised during the public comment period, raises a concern related to water quality permitting requirements, and is therefore relevant and material to a decision on this application.

The ED recommends the Commission find that this issue is referable to SOAH.

ISSUE 4. Whether the Commission should employ site-specific testing and case specific consideration?

Crestview states that, given the proximity of the point of discharge to Lake Benbrook, the likely impact on tall grass prairie lands and potential recreational and park lands, and the substantial opposition of neighboring landowners over whose property the treated effluent will have to flow, the Commission should employ site-specific testing and a case-specific consideration. The analysis and testing requested by Crestview go beyond what the rules require the Applicant to provide in the application for a wastewater discharge permit. Therefore, this issue is not relevant and material to a decision on this application.

The ED recommends the Commission find that this issue is not referable to SOAH.

ISSUE 5. Whether the discharge will cause or significantly contribute to flooding along the discharge route?

Duval Anglin indicates that the Applicant would be contaminating pasture land during the rainy season when the creek is out of its banks. Duval Anglin indicates that the proposed tributary is in a flood plain, and says that it takes only ½ inch of rain for the creek to overflow its banks. To the extent this issue refers to water quality, it is addressed in issue #1 above. Otherwise, this issue refers to flooding matters, and they are not relevant and material to a decision on this application.

The ED recommends the Commission find that this issue is not referable to SOAH.

ISSUE 6. Whether TCEQ or the Applicant's engineer was required to conduct an on-site inspection of the creek bed?

Citing 30 TAC § 285.30, Duval Anglin contends that the engineering firm employed by the Applicant did not walk the creek bed to see where it went and how tall the banks were. He further contends that no one from the state followed the creek bed to see where it went and how it would affect animals and neighbors. In raising this issue, Mr. Anglin refers to 30 TAC § 285.30, which refers to OSSFs. Accordingly, Mr. Anglin is raising an issue related to the OSSF and not to the application at hand. To the extent this issue refers to water quality issues related to this application, that issue has been addressed above. Accordingly, this issue is not relevant and material to a decision on this application.

The ED recommends the Commission find that this issue is not referable to SOAH.

ISSUE 7. Whether the Applicant has complied with 30 TAC § 285.60?

Citing 30 TAC § 285.60, Duval Anglin states that he has not seen the Applicant's engineer's license number on any of the paperwork. In raising this issue, Mr. Anglin refers to 30

TAC § 285.60, which refers to OSSFs. Accordingly, Mr. Anglin is raising an issue related to the OSSF and not to the application at hand. Accordingly, this issue is not relevant and material to a decision on this application.

The ED recommends the Commission find that this issue is not referable to SOAH.

ISSUE 8. Whether the proposed point of discharge is located on another's property, and whether the proposed discharge would result in a trespass?

Duval Anglin indicates that the Applicant would be dumping on another's property. Crestview disputes that the ED has adequately considered whether the proposed permit is feasible as written because the proposed discharge point is located on private property and no provision has been made to acquire the necessary private property rights to discharge treated effluent on another person's property. The draft permit would not authorize a trespass, and in the event a landowner decides that the discharge would be a trespass, the draft permit does not inhibit the ability of a landowner to pursue a civil action to determine whether the discharge would be a trespass. Accordingly, this issue is not relevant and material to a decision on this application.

The ED recommends the Commission find that this issue is not referable to SOAH.

ISSUE 9. Whether the Applicant's OSSF is within 50 feet of a stream, creek, pond, or lake?

Duval Anglin states that the required separation for an OSSF is 50 feet from any stream, creek, pond, or lake. This issue does not raise a concern related to the application at hand. Accordingly, it is not relevant and material to a decision on this application.

The ED recommends the Commission find that this issue is not referable to SOAH.

ISSUE 10. Whether the proposed activity would decrease property values?

Duval Anglin indicates that the Applicant would depreciate the value of another's property. Property values are not currently considered during the application process. Accordingly, this issue is not relevant and material to a decision on this application.

The ED recommends the Commission find that this issue is not referable to SOAH.

VI. Duration of the Contested Case Hearing

Should there be a contested case hearing on this permit application, the ED recommends a contested case hearing duration of nine months from the preliminary hearing to the presentation of a proposal for decision before the Commission.

VII. Executive Director's Recommendation

The ED recommends the following actions by the Commission:

1. Find that Duval Anglin is an affected person for the reasons cited.
2. Deny the hearing requests of Crestview, John and Anne Buller, John Clements, and Mary and Dale Rector for the reasons cited.
3. Refer issues #1 through #3 to SOAH for a proceeding of nine months duration from the date of the preliminary hearing to the presentation of the proposal for decision.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Mark R. Vickery, P.G., Executive Director

Robert Martinez, Director
Environmental Law Division




Scott Ramsey Shoemaker, Staff Attorney
Environmental Law Division
State Bar No. 24046836

Representing the Executive Director of the
Texas Commission on Environmental
Quality

CERTIFICATE OF SERVICE

I certify that on September 15, 2008, the original and eleven copies of the "Executive Director's Response to Hearing Requests" for Permit No. WQ0014753001 were filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was mailed to all persons on the mailing list.

(A)

Scott Ramsey Shoemaker

Scott Ramsey Shoemaker, Staff Attorney
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TEXAS
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ON ENVIRONMENTAL
QUALITY

2008 SEP 15 PM 2:30

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CLEBURNE TX 76031-9013

NIYAM NETTLES
2818 HAWCO DR
GRAND PRAIRIE TX 75052

PATRICIA SERRANO
3604 HUDGINS RANCH RD
ROANOKE TX 76262-3802

D'ANDRE AALON NUTTER
3750 PARADISE HILLS DR APT 28201
EULESS TX 76040-2410

CHELSEA SESSION
612 LILLARD RD UNIT C
ARLINGTON TX 76012-4995

GREGORY PAIGE
2509 ESCALANTE AVE
FORT WORTH TX 76112-6132

AL SHEALEY
5600 S COOPER ST APT 109
ARLINGTON TX 76017-4477

KELSEY PERKINS
2500 RATTIKIN RD
FORT WORTH TX 76105-5225

JENNIFER SHEALEY
5600 S COOPER ST APT 109
ARLINGTON TX 76017-4477

KORENA PERKINS
2500 RATTIKIN RD
FORT WORTH TX 76105-5225

TONY SMITH
1104 BESSIE ST
FORT WORTH TX 76104-1535

JOYCE PURVIANCE
6458 WINSCOTT PLOVER RD
FORT WORTH TX 76126-9422

TANISHA SWAIN
18211 KELLY BLVD APT 433
DALLAS TX 75287-4669

TRISHA TAYLOR
3516 BROOKHURST LN
ARLINGTON TX 76014-3518

ANTHONY TIMMONS
621 FULLER ST
ARLINGTON TX 76011-7029

JUDY WALTHER
4602 PLACID PL
AUSTIN TX 78731-5515

FRED B WERKENTHIN, JR
BOOTH AHRENS & WERKENTHIN PC
515 CONGRESS AVE STE 1515
AUSTIN TX 78701-3504

CLEVE C WEYENBERG
CEO, TEX TECH ENVIRONMENTAL INC
1125 S BURLESON BLVD
BURLESON TX 76028-4900

LORENZO WILBORN, JR
209 HOLLANDALE CIR APT B, BLDG 209
ARLINGTON TX 76010-2386

VALDA WILLIAMS
2624 DIVER CT
FORT WORTH TX 76119-1604

TAMEKA WINSTON
1816 WIMBLEDON OAKS LN NO 403
ARLINGTON TX 76017-7933

Attachment A – Draft Permit



TPDES PERMIT NO. WQ0014753001
[For TCEQ Office Use Only:
EPA ID No. TX0129089]

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

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

Julie Ann Thames

whose mailing address is

10401 FM 1902
Crowley, Texas 76036

is authorized to treat and discharge wastes from the Primrose Mobile Home Wastewater Treatment Facility, SIC Code 6515

located approximately 7 miles west of the City of Burleson, approximately 2 miles south of FM 1187 and approximately 3/8 mile west of FM 1902 in Johnson County, Texas

via pipe to an unnamed tributary; thence to Rock Creek; thence to Benbrook Lake in Segment No. 0830 of the Trinity River Basin

only according with effluent limitations, monitoring requirements and other conditions set forth in this permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

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

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

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

The daily average flow of effluent shall not exceed 0.010 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 21 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u>	
	Daily Avg mg/(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Report Daily Avg. & Max. Measurement Frequency	Single Grab Sample Type
Flow, MGD	Report	N/A	Report	Five/week	Instantaneous
Biochemical Oxygen Demand (5-day)	10 (0.83)	15	25	One/week	Grab
Total Suspended Solids	15 (1.3)	25	40	One/week	Grab

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

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

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

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

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

DEFINITIONS AND STANDARD PERMIT CONDITIONS

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

1. Flow Measurements

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

2. Concentration Measurements

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

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

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

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

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

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

2. Test Procedures

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

3. Records of Results

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

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

4. Additional Monitoring by Permittee

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

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

7. Noncompliance Notification

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

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

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

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

10. Signatories to Reports

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

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

PERMIT CONDITIONS

1. General

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

2. Compliance

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

3. Inspections and Entry

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

4. Permit Amendment and/or Renewal

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

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

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy.

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

OPERATIONAL REQUIREMENTS

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

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

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

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

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

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

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

The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.
 12. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with Chapter 361 of the Texas Health and Safety Code.

SLUDGE PROVISIONS

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

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

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

B. Testing Requirements

1. Sewage sludge shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method, which receives the prior approval of the TCEQ for the contaminants listed in Table 1 of 40 CFR Section 261.24. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division and the Regional Director (MC Region 4) within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 4) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

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

TABLE 1

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

* Dry weight basis

3. Pathogen Control

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

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

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

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

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

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

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

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

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

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

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

Alternative 1 -

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

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

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

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

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

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

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

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

4. Vector Attraction Reduction Requirements

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

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

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

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

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

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

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

C. Monitoring Requirements

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

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

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

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

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

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

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

A. Pollutant Limits

Table 2

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

Table 3

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

* Dry weight basis

B. Pathogen Control

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

C. Management Practices

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

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

D. Notification Requirements

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

E. Record keeping Requirements

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

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

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

6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained.

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

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

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

F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 4) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 1 of each year the following information:

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

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

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

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

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

Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division and the Regional Director (MC Region 4) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 4) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

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

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

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

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

G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 4) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year the following information:

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

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

OTHER REQUIREMENTS

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

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

2. No later than forty-five (45) days after issuance of this permit, the permittee shall provide the TCEQ Wastewater Permitting Section (MC 148) and the TCEQ Regional Office (MC Region 4) a copy of the contract with the third party that will operate the facility on a contract basis for review to ensure compliance with the terms and conditions of this permit. The permittee shall demonstrate that the term of the third party contract exceeds the term of the permit. At a minimum, the contract must specify that for the term of the permit, the facility will be operated and maintained by the third party. The contract must also include provisions stating the third party's responsibilities under the permit. Any provisions in the contract that address compliance with the terms and conditions of this permit or the third party's responsibilities under this permit will be reviewed by the TCEQ Wastewater Permitting Section and the TCEQ Regional Office (MC Region 4).
4. The third party must document its presence at the facility for a minimum of one hour per day, seven days per week, and must be otherwise available by telephone or pager seven days per week. Records of the third party's presence at the facility must be maintained (signed logbook) and available at the facility for inspection by authorized representatives of the commission for at least three years. The third party must submit a copy of the signed logbook each month, to the TCEQ Regional Office (MC Region 4), by the 20th day of the following month.
5. The third party shall inspect the facility seven days per week and maintain at the facility a record of these inspections. These records must be available at the facility for inspection by the authorized representatives of the commission for at least three years. During this daily inspection the proper operation and maintenance of the treatment pond system must be checked by the third party to ensure compliance with the terms and conditions of the permit. These records must also be submitted each month, to the TCEQ Regional Office (MC Region 4), by the 20th day of the following month.
6. If the third party gives notice that it wishes to terminate the contract with the permittee, or if for any reason the third party is no longer servicing the permitted facility, the permittee must notify the TCEQ Regional Office (MC Region 4) as soon as it is aware of the break in service. Included in the notice shall be an action plan to replace the current third party with another qualified third party.
7. The permittee must submit copies of all self-reported effluent monitoring performed by the third party and certified copies of all lab analysis each month, to the TCEQ Regional Office (MC Region 4), by the 20th day of the following month.

8. 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.
9. The facility is not located in the Coastal Management Program boundary.
10. 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. 0830 of the Trinity River Basin and any subsequent updating of the water quality model for Segment No. 0830, 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.
11. 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).
12. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
13. According to the requirements of 30 TAC Section 311.63 (a)(2), the permittee shall employ filtration to supplement suspended solids removal.
14. Reporting requirements according to 30 TAC Sections 319.1-319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge, whichever occurs first, from the facility described by this permit. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 4) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first.
15. Prior to construction of the treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary submittal letter in accordance with the requirements in 30 TAC Section 317.1. If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and a final engineering design report which comply with 30 TAC Chapter 317, Design Criteria for Sewerage Systems. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2 of the permit.

**Attachment B – Statement of Basis/Technical Summary
& Executive Director’s Preliminary Decision**

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

DESCRIPTION OF APPLICATION

Applicant: Julie Ann Thames; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014753001, (TX0129089)

Regulated Activity: Domestic Wastewater Permit

Type of Application: New Permit

Request: New Permit

Authority: Federal Clean Water Act, Section 402; Texas Water Code Section 26.027; 30 TAC Chapters 305, 307, 309, 312, 319, 30; Commission policies; and EPA guidelines.

EXECUTIVE DIRECTOR RECOMMENDATION

The executive director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The proposed permit includes an expiration date of September 1, 2012 according to 30 TAC Section 305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.010 million gallons per day. The proposed wastewater treatment facility will serve Primrose Mobile Home Park.

PROJECT DESCRIPTION AND LOCATION

The Primrose Mobile Home Park Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units include a bar screen, aeration basin, final clarifier, sludge digester, and a chlorine contact chamber. The facility has not been constructed.

Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at a TCEQ authorized land or co-disposal landfill. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The plant site will be located approximately 7 miles west of the City of Burleson, approximately 2 miles south of FM 1187 and approximately 3/8 mile west of FM 1902 in Johnson County, Texas. The treated effluent will be discharged via pipe to an unnamed tributary; thence to Rock Creek; thence to Benbrook Lake in Segment No. 0830 of the Trinity River Basin. The unclassified receiving water uses are no significant aquatic life uses for the unnamed tributary and high aquatic life uses for Rock Creek. The designated uses for Segment No. 0830 are high aquatic life use, public water supply, and contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Rock Creek, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

The effluent limitations in the draft permit have been reviewed for consistency with the State of Texas Water Quality Management Plan (WQMP). The proposed effluent limitations are not contained in the approved WQMP. However, these limits will be included in the next WQMP update. This discharge is less than 0.2 MGD and has been evaluated consistent with the modeling MOA between TCEQ and the EPA. A Waste Load Evaluation has not been completed for the segment.

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

Segment No. 0830 is not currently listed on the State's inventory of impaired and threatened waters (the 2004 Clean Water Act Section 303(d) list).

SUMMARY OF EFFLUENT DATA

N/A - The facility has not been constructed.

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at a volume not to exceed a daily average flow of 0.010 million gallons per day.

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

The permittee shall comply with the requirements of 30 TAC Section 309.13 (a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC Section 309.13(e).

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at a TCEQ authorized land or co-disposal landfill. 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 Standard Industrial Classification Code (SIC) has been changed to 6515, corresponding to Operators of Residential Mobile Home Sites.

The applicant requested limits of 20 mg/l BOD₅, 20 mg/l TSS, and 2 mg/l DO. Both the statewide lake rule and the Benbrook Lake Watershed Protection Rule require limits no less stringent than 10 mg/l BOD₅, 15 mg/l TSS, and 4 mg/l DO.

SUMMARY OF CHANGES FROM EXISTING PERMIT

N/A - New Permit.

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application received October 25, 2006.
2. The effluent limitations and/or conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.10. The effluent limitations and/or conditions in the draft permit comply with the requirements in Watershed Protection, 30 TAC Chapter 311, Subchapter G: Lakes Worth, Eagle Mountain, Bridgeport, Cedar Creek, Arlington, Benbrook and Richland-Chambers.
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.
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.

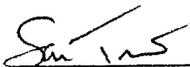
Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding.

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 Samuel Treviño at (512) 239-4618.



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

January 23, 2007
Date

Attachment C – Compliance History

Compliance History

Customer/Respondent/Owner-Operator:	CN601960743 THAMES, JULIE ANN	Classification: AVERAGE	Rating: 2.75
Regulated Entity:	RN101228005 PRIMROSE MOBILE HOME PARK	Classification: AVERAGE	Site Rating: 2.75
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	1260108 1260108
Location:	1 MI S OF FM 1187 AND 0.5 MI W ON FM 1902		Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 04, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 2002 to August 31, 2007		

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

Name: Shoemaker, Scott Phone: _____

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? MCMURRY, LAWRENCE WAYNE
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.

- Effective Date: 07/14/2006 ADMINORDER 2006-0049-PWS-E
- Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
Description: Failed to maintain water works operation and maintenance records.
- Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failed to compile and maintain a facility operations manual for operator review and reference.
- Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failed to maintain an up-to-date chemical and microbiological monitoring plan for the distribution system.
- Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failed to ensure the three 315-gallon pressure tanks are inspected annually by water system personnel or a contracted inspection service.
- Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Failed to provide a minimum well production capacity of at least 1.5 gallons per minute ("gpm") per connection. Specifically, the water system has 29 connections which should provide a minimum well production of 43.5 gpm, but is only providing 24 gpm, which is approximately 45% deficient.
- Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Failed to provide a pressure tank capacity of at least 50 gallons per connection. Specifically, the water system has 29 connections which should provide a minimum pressure tank capacity of 1,450 gallons, but is only providing 945 gallons, which is approximately 35% deficient.

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 12/16/2005 (435620)
- 2 03/09/2007 (543275)
- 3 04/20/2007 (557210)
- 4 06/11/2007 (563617)

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

Date: 01/19/2007 (535809)

Self Report? NO

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Description: Failure to prevent an unauthorized discharge of wastewater from the treatment system.

Self Report? NO

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121

Description: Failure to obtain a discharge permit to operate the facility.

Date: 04/25/2007 (557210)

Self Report? NO

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121

Description: Failure to prevent the unauthorized discharge of wastewater from the treatment system.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Attachment D – Executive Director’s Response to Public Comment

PROPOSED TPDES PERMIT NO. WQ0014753001

2008 APR -3 PM 3: 52

APPLICATION BY	§	BEFORE THE
JULIE ANN THAMES	§	CHIEF CLERKS OFFICE
for PERMIT NO. 14753-001	§	TEXAS COMMISSION ON
	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on Julie Ann Thames's (Applicant) application for a new Texas Pollutant Discharge Elimination System (TPDES) permit, No.WQ0014753001, and the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comment letters and comments at the public meeting from the following persons:

- | | |
|--------------------------|-----------------------|
| Louella Abbasi | Lois Horn |
| Chelsea Adesulu | Jeff Howard |
| Nicholas Ailey | Leon Janusy |
| Cheryl Ananda | Rebecca Jeffries |
| Duval Anglin | James and Jan Johnson |
| Maribeth Ashley | Christian Jones |
| Cindy Ayers | Jarriel Jones |
| John Baker | Omar Kearns |
| Romeasha Baker | Julius Longshaw |
| Alexis Dunn | Kathryn Mackensney |
| Stephen Dickman | Carter Mahanay |
| David Bell | Gerald Manos |
| Jan Bell | Jarid Manos |
| Katrina Bell | Ann Mayo |
| Joshua Bennett | Chassity McLean |
| Mikala Bennett | Marshall Netherland |
| Wanda and Floyd Blakeley | Niyam Netties |
| Evan Blekkenk | Stacey Bell Norton |
| Althea and Robert Bloom | D'Andre Aaron Nutter |
| Sylvia and Robert Borum | Gregory Paige |
| Bettene Bossard | Kelsey Perkins |
| Bonita Bowman | Korena Perkins |
| Sandra Brown | Dennis Purviance |
| Roland Brucks | Joyce Purviance |
| Tony Burgess | HalRay |

HOUSTON
JANUARY 1990

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30100

State Representative Lon Burnam
Ann Clements Butler
John Butler
Andrew Cantrell
John and Andra Cantrell
John Cantrell
Patsy and Bob Cantrell
Peg Cantrell
R.A. Cantrell
Dominique
Oaneyla Ciezus
John Clements
Dorothy Condon
Dian Crews
Katricia Dawson
Diamond Darsey
Emmet Earl
Lauren Earl
Mary Eleto
Luverne Embry
BobbyFaucett
Durwain Ford
Jasmine Ford
Chrishaun Fowler
Iesha Gonzales
Juanita Gonzalez
Timothy Griffin
Andrew Henderson
Ava Hernandez
Jack Hill
Leon James
Woody Forssard
London Maddox

Mary Rector
Sam Rector Jr.
Manuel Rios
Rachel Roberts
Nathan Roman
Brian Rowe
Mary Runyan
Carl Schrader
Patricia Serrano
Chelsea Session
Al Shealey
Jennifer Shealy
Tony Smith
Tanisha Swain
Robert Syper
Trisha Taylor
Anthony Timmons
Idon Wadsworth
Weldon Wadsworth
Judy Walther
Lorenzo Wilborn
Valda Williams
Tameka Winston
Kambry Zimmer
Mary Cato
Dajeana – No last name given
Maia – No last name given
T.J.
Tarrant Regional Water District
Concerned Citizens who left no name or whose
name was illegible
Lee Christie

This Response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

The Applicant has applied to the TCEQ for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 10,000 gallons per day. The proposed wastewater treatment facility will serve the Primrose Mobile Home Park.

The treated effluent will be discharged via pipe to an unnamed tributary; thence to Rock Creek; thence to Benbrook Lake in Segment No. 0830 of the Trinity River Basin. The unclassified receiving water uses are no significant aquatic life uses for the unnamed tributary and high aquatic life uses for Rock Creek. The designated uses for Segment No. 0830 are high aquatic life use, public water supply, and contact recreation. The facility will be located approximately 7 miles west of the City of Burleson, approximately 2 miles south of FM 1187 and approximately 3/8 mile west of FM 1902, Johnson County, Texas.

Procedural Background

The permit application was received on October 25, 2006, and declared administratively complete on November 15, 2006. The Notice of Application and Intent to Obtain Water Quality Permit (NORI) was published December 17, 2006 in the *Cleburne Times Review*. The Notice of Application and Preliminary Decision (NAPD) was published May 03, 2007 in the *Cleburne Times Review*. The Notice of Public Meeting was published on October 15, 2007 in the *Cleburne Times Review*. TCEQ held a public meeting on November 15, 2007 at Joshua Community Room, 909 South Broadway Street, Joshua, Texas 76058. The combined NORI and NAPD was published on December 21, 2007 in the *Cleburne Times Review*. The public comment period ended on January 22, 2008. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

Comments were received expressing concern that the treated wastewater discharge will pollute the water, affect animals and wildlife, impair contact recreation, impact the ecosystem, cause health problems, harm agriculture, and pollute drinking and bathing water. Other comments indicated that Rock Creek is one of the few remaining pristine streams in north Texas and worry about the impact this discharge will have on this stream. Further comments indicated that tall grass prairie, which is the main constituent of the Fort Worth Prairie Park, is the most endangered major ecosystem in North America. Commenters additionally add that the Fort Worth Prairie Park is serving as a teaching ground for city children, students from Texas Christian University and The University of Texas-Arlington.

RESPONSE 1:

As part of the permit application process, the ED must determine the uses of the receiving water and set effluent limits that are protective of those uses. The draft permit includes effluent limitations and monitoring requirements for 10 mg/l BOD₅ (Biochemical Oxygen Demand (5-day)), 15 mg/l TSS (Total Suspended Solids), 4.0 mg/l minimum dissolved oxygen (DO),

chlorine residual and pH to ensure that the proposed wastewater treatment plant meets water quality standards for the protection of surface water quality, groundwater, aquatic and terrestrial life, and human health according to TCEQ rules and policies. The ED has determined that the proposed draft permit is protective of the environment, water quality, and human health and that it meets TCEQ rules and requirements.

In this case, the unclassified receiving water uses are no significant aquatic life uses for the unnamed tributary and high aquatic life uses for Rock Creek. The designated uses for Segment No. 0830 are high aquatic life use, public water supply, and contact recreation. The ED determined that the proposed draft permit is protective of the environment, water quality, human health, and it meets TCEQ rules and requirements, if the Applicant operates and maintains the facility as required by the proposed permit and regulations.

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

In addition, according to available TCEQ Source Water Assessment Data, there are no surface water intakes for public water supply located in the vicinity of the discharge.

COMMENT 2:

Commenters expressed concern about bacteria being put into the creek and the release of excess treatment chemicals going into the stream including chlorine. Other comments state that no chlorine or other chemical disinfectants should be used prior to discharge. Commenters also want ultraviolet disinfection or other non-chemical means used to safeguard the health of aquatic life in this stream.

RESPONSE 2:

Chlorination is a commonly used disinfection method for domestic wastewater because of its ability to inactivate or destroy pathogenic organisms with less difficulty, and it is safer to operate. The draft permit requires the facility to chlorinate for disinfection purposes. The rules require disinfection in a manner conducive to the protection of both public health and aquatic life by requiring a minimum detention time of 20 minutes at peak hydraulic flow for the wastewater in the chlorination chamber and a minimum chlorine residual of 1.0 mg/l in the effluent to continue disinfection after discharge. The rules and draft permit also set a maximum chlorine residual of 4.0 mg/l designed not to impact aquatic life in the receiving waters.

COMMENT 3:

Commenters question whether the permit should be issued before the environmental impacts of the discharge are fully understood, and whether TCEQ has performed a specific environmental study of the impact of the effluent on Rock Creek. Commenters question the impact of the

discharge on Benbrook Reservoir. Commenters want the TCEQ to evaluate whether the water quality will impact Lake Benbrook and the Lake Benbrook watershed. Commenters also want the cumulative impacts of all wastewater discharges on Lake Benbrook and the Lake Benbrook watershed analyzed. Additionally, Commenters indicate that the Army Corps of Engineers (COE) has an interest in the overall quality of water in Lake Benbrook, and that disposal of effluent into the drainage may not be in either the overall public interest, or the interest of the COE.

RESPONSE 3:

The draft permit complies with the Lake Benbrook watershed rules found in 30 TAC Sections 311.61 through 311.66. These rules apply to the Lake Benbrook Watershed including five stream miles upstream of the pool level of Lake Benbrook. The effluent limitations contained in the draft permit, 10 mg/l BOD₅, 15 mg/l TSS, and 4.0 mg/l DO comply with Section 311.63. Additionally, a requirement to employ filtration to supplement suspended solids removal has been added as item 12 on page 24 of Other Requirements Section of the draft permit as required by Section 311.63(a)(2). Section 311.66 requires more stringent requirements than those specified in 30 TAC Section 311.63, on a case-by-case basis, wherever appropriate to maintain desired water quality levels. However, because of the relatively small size of the proposed discharge, the ED has determined that the effluent limits in the draft permit will protect and maintain water quality in Rock Creek as well as Benbrook Lake.

COMMENT 4:

Commenters were concerned about damage to wetlands and natural habitat between the proposed site and Benbrook Lake.

RESPONSE 4:

The United States Army Corps of Engineers (USACE) regulates certain activities occurring in waters of the United States, including wetlands, under Section 404 of the Clean Water Act and Section 10 of the River and Harbors Act of 1899. A USACE permit is required for the discharge of dredged or fill material into waters of the US, including wetlands. According to the Benbrook quadrant wetland inventory map of the USACE, there are no wetlands in the proposed discharge route except for a few stock tanks and surface water channels like creeks and ditches.

COMMENT 5:

Commenters worry that the depletion of oxygen may end up leading to a fish kill.

RESPONSE 5:

Based on the model result, the proposed effluent set of 10 mg/l BOD₅, 15 mg/l TSS, and 4.0 mg/l minimum DO is adequate to ensure that the DO level will be maintained above the criteria established by the Water Quality Standards Team of the TCEQ. These criteria are 2.0 mg/l DO for the unnamed tributary and 5.0 mg/l DO for Rock Creek. If the plant operates in accordance

with the terms of the permit no fish kill is expected to occur due to the discharge of treated wastewater.

COMMENT 6:

Commenters requested that the plant have 50% excess treatment capacity and that the permit require tertiary treatment. Additionally, Commenters indicate that small sewage treatment systems usually do not perform tertiary polishing to remove nutrients, and they are known to discharge chlorinated water. Commenters express concerns about the implementation of the watershed rules and focus on the fact the draft permit did not have a tertiary filter requirement until after it was brought to TCEQ's attention.

RESPONSE 6:

If the facility operates properly, there should not be any circumstances where the discharge exceeds the permitted flow. Operational Requirements No. 8 of the proposed draft permit states that when the flow reaches 75% of the permitted daily average flow for three consecutive months, the Applicant must initiate engineering and financial planning for expansion or upgrade of the domestic wastewater treatment or collection facilities. When the flow reaches 90 percent of the permitted daily average flow for three consecutive months, the Applicant must obtain authorization from TCEQ to begin constructing the necessary additional treatment or collection facilities.

In accordance to the requirements of Section 311.63(a)(2) and based on the comments received, a requirement to employ filtration to supplement suspended solids removal has been added as item 12 on page 24 of Other Requirements Section of the draft permit. In addition to filtration, the permit will have disinfection which is also a form of tertiary treatment.

COMMENT 7:

Commenters pointed out that the Notice of Public Meeting published in the *Cleburne Times Review* on October 15, 2007 states that TCEQ has determined that a phosphorus limit of 0.1 mg/l is necessary to prevent significant degradation of water quality. Commenters want effluent limits on phosphorus and possibly limits for total nitrogen and ammonia in the draft permit. Commenters state that self-reporting requirements should also apply to the requested effluent limits for phosphorus and ammonia-nitrogen. Additionally, Commenters note that the reservoir is listed on the 305(b) list as impaired for chlorophyll *a* and ammonia; and that excessive phosphorus is a contributor to high chlorophyll *a* levels. Commenters want TCEQ to address the causes of this impairment in the permitting process. Commenters also want TCEQ to run QUAL-TX modeling for phosphorus to estimate the concentrations in Rocky Creek. Commenters also note some species will be favoured by the eutrophication and the increased dry-season flow, and their increase will cause cascading effects throughout the food web, which will change the character of the aquatic biota. Finally, Commenters note that analysis strongly suggests that there will be filamentous algae problems in the creek as a result of this discharge as well as additional loading to Lake Benbrook.

RESPONSE 7:

The phosphorus limit of 0.1 mg/l indicated on the Notice of Public Meeting published in the *Cleburne Times Review* on October 15, 2007 was an editing error in the notice. The permit drafted does not include this requirement. A Combined NORI and NAPD were published on December 21, 2007 in the *Cleburne Times Review*, to correct this mistake.

The ED has determined that the effluent limits in the draft permit will protect and maintain water quality in Rock Creek as well as Benbrook Lake. The ED evaluates the need for effluent limits on total nitrogen or phosphorus on a case by case basis. The proposed discharge is 10,000 gallons per day and travels over 4.5 miles before reaching Benbrook Lake. Therefore, the ED does not consider it necessary to model total nitrogen or phosphorus. Although Benbrook Lake is currently listed on the Texas Water Quality Inventory 305(b) report with concerns for chlorophyll *a* and ammonia it is not currently listed on the State's Clean Water Act Section 303(d) list of impaired water bodies. Therefore, limits on total nitrogen, phosphorus, or ammonia are not warranted in this case. If the plant is operated properly there should be no problems with chlorophyll *a* or phosphorus as a result of this discharge. Additionally, because of the relatively small size of the proposed discharge, no monitoring and reporting requirements for nitrogen, phosphorus, or ammonia were included in the draft permit.

Based upon the proposed draft permit and its requirements no degradation is expected to water quality or aquatic biota within the discharge route.

The TCEQ is currently developing nutrient criteria and reserves the right to implement nutrient limits if such action is warranted.

COMMENT 8:

Commenters indicate that the TCEQ has authority to establish more stringent sampling requirements. Commenters want the minimum self-reporting requirements for BOD₅, TSS, and DO reduced from once per week to once every four days.

RESPONSE 8:

The draft permit requires the permittee to sample the flow five times per week by instantaneous measurement; BOD₅, TSS and minimum DO once per week by Grab sample; the Chlorine Residual five times per week by grab sample; and the pH once per month by grab sample. This is based on the requirements found in TCEQ rules for facilities designed to discharge less than 500,000 gallons per day. These effluent monitoring requirements can be found in Section 319.9(a).

COMMENT 9:

Commenters want the Applicant to consider an alternative method of disposal instead of discharging to Rock Creek.

RESPONSE 9:

In Section 26.027 of the Texas Water Code, the Legislature has authorized the TCEQ to issue permits for discharges into water in the state. The permitting process protects the water quality of the state's rivers, lakes and coastal waters. If a proposed discharge would result in a violation of a water quality standard, the TCEQ cannot issue the permit. TCEQ rules do not allow the ED to determine or mandate a different facility location, different discharge location, alternative means of conveyance and disposal, or different type of wastewater treatment plant if the proposed facility complies with the applicable rules and statutes.

COMMENT 10:

Commenters expressed odor concerns, and stated that property that lies north of the proposed facility location will be directly affected by potential air born pollutants as a result of prevailing south winds in this area. In addition, Commenters expressed concern about chemical air pollutants.

RESPONSE 10:

TCEQ rules require domestic wastewater treatment facilities to meet buffer zone or other requirements for the abatement and control of nuisance odor according to 30 TAC Section 309.13(e). These rules provide three options for applicants to satisfy the nuisance odor abatement and control requirement. An applicant can meet this requirement by ownership of the buffer zone area, by restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant, or by providing odor control. The Applicant is intending to meet the buffer zone requirements by ownership of the buffer zone area in accordance with 30 TAC Section 309.13(e)(1). If the permit is issued and if the facility has problems with odor or other issues that need to be addressed, contact the TCEQ at 1-888-777-3186 to reach the TCEQ region office in your area.

Due to the size and nature of this facility the only chemical of concern might be chlorine. If the permit is granted, the design and specifications for the facility will be evaluated by the TCEQ. To protect from possible chlorine issues the facility must be designed in compliance with 30 TAC Section 317.6(b)(1)(A-G).

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

COMMENT 11:

Commenters question whether a Class "C" operator is more appropriate for this facility. In addition, Commenters want trained and licensed personnel to treat the wastewater. Commenters raise the issue of Ms. Thames past compliance history. They state that Ms. Thames' current

system has malfunctioned for years and is currently not fixed. Commenters state they have lived with the smell of the sewer in the air and creek for the last six years, and that there is stagnant water standing in the creek. Commenters feel TCEQ has not adequately addressed the problem, and after calls to the Dallas Region the problem still persists.

RESPONSE 11:

Ms. Thames has been cited by the TCEQ in the past for her current system. Ms. Thames is currently working with the TCEQ enforcement staff to remedy the problem. The system that Ms. Thames has proposed will be far superior to her current system. If this permit is granted, the facility will have to meet all of the requirements of the proposed draft permit. The draft permit requires the permittee to 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, Subchapter J, Wastewater Operators and Operations Companies. According to 30 TAC Section 30.5(e), the proposed category D facility requires a chief operator or an operator holding a Category D license or higher. Based on compliance issues observed in the current system, comments received, and in order to avoid similar occurrences in the proposed permit, a requirement to contract with a third party wastewater operator has been added in the draft permit. The requirements for the third party operator can be found on page 23 and 24 of the draft permit in the Other Requirements Section 2 through 7.

COMMENT 12:

Concern was expressed that Rock Creek does not flow, and polluting it with sewage will leave a stinking stagnant mess. In addition, Commenters note that Rock Creek has intermittent flow and low spots that makes it vulnerable to pollution in the form of toxic overloads of metals.

RESPONSE 12:

The proposed treated effluent will have to meet the limits and criteria set forth in the permit, which have been set at a level to ensure both environmental and public health are maintained. The unnamed tributary was determined to be an intermittent stream (times of no flow) and Rock Creek was determined to be a perennial stream when these limits and criteria were developed.

This application is for a private domestic wastewater treatment facility. The facility does not receive industrial wastewater contributions; therefore the effluent from this facility should not contribute heavy metals to Rock Creek.

COMMENT 13:

Commenters comment that package wastewater treatment plants for trailer parks often are not properly operated or monitored, resulting in the periodic discharge of inadequately treated wastewater. Additionally, Commenters note that of all treatment facilities in Texas, the failure rate is greatest among small, private plants such as the one proposed for this permit.

RESPONSE 13:

TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in Chapter 26 of the Texas Water Code. To implement this statutory mandate, TCEQ issues permits that must be consistent with applicable law. The ED must consider the quality of the discharge and its effect on the quality of the receiving waters. TCEQ's regulations require that domestic wastewater treatment plants be operated and maintained by operators holding a valid certificate of competency at the required level as defined in 30 TAC 30.350(e). This facility must be operated by a chief operator holding a Category D license or higher. In addition, a requirement to contract with a third party wastewater operator has been added in the draft permit. The requirements for the third party operator can be found on page 23 and 24 of the draft permit in the Other Requirements Section 2 through 7.

The Applicant is also required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater. For example, the draft permit states that the Applicant must at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Under the draft permit, the Applicant would be responsible for installing adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

If an unauthorized discharge occurs, the Applicant is required to report it to TCEQ within 24 hours. The Applicant would be subject to potential enforcement action for failure to comply with TCEQ rules or the permit, including unauthorized discharges. Anyone may contact TCEQ at 1-888-777-3186 or by e-mail at cmplaint@TCEQ.state.tx.us to report a potential violation of the Applicant's permit or regulations.

COMMENT 14:

Commenters are concerned about decreases in property value, that the discharge of treated sewage is likely to alter the value of the downstream land at Fort Worth Prairie Park and added that that the value of the land as a park depends upon the health of its ecological communities and the degree to which this ecosystem represents conditions that reflect natural processes. Commenters are also concerned about the increased costs of treating drinking water, about proposed roadways whose construction could impact the discharge route, and about the Applicant installing additional mobile homes on her property. Commenters add that if the area can be protected from development, it could serve as a reference site for healthy riparian and aquatic communities. Additionally Commenters state that Rock Creek has a very high volume of fossils located on the dry creek bed, and it is a favorite pastime of families that live along the creek to have family outings to collect fossils and this will not occur if Ms. Thames is allowed to pump up to 10,000 gallons of wastewater into the creek daily.

RESPONSE 14:

Although the legislature has given the TCEQ the responsibility to protect water quality, TCEQ does not address these issues in the wastewater permitting process. The water quality permitting

process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The ED cannot consider economic impacts, property values, quality of life, tourism, traffic, construction activities, fossil harvest and non-point source issues when reviewing wastewater applications and preparing draft permits.

However, the issuance of a permit does not grant to the Applicant the right to use private or public property for conveyance of wastewater along the discharge route. This includes property belonging to any individual, partnership, corporation or other entity. The permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is the Applicant's responsibility to acquire the necessary property rights to use the discharge route.

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

COMMENT 15:

Commenters wanted the TCEQ to provide them with relevant information regarding the details of this application, public comment regarding it, and its approval or denial.

RESPONSE 15:

Individuals or entities may request to be placed on a mailing list to receive notices of future activities associated with this particular application or any applications filed in their area. For information and instructions on how to be added to a particular mailing list, please call the TCEQ Office of the Chief Clerk at (512) 239-3300. All Commenters or interested persons are currently on the mailing list. You may contact TCEQ's Office of Public Assistance at 1-800-687-4040 for more information.

COMMENT 16:

Commenters raise the issue that there are several inaccuracies in Ms. Thames' application with particular reference to the location of neighboring property.

RESPONSE 16:

TCEQ acknowledges that the location description indicated in the draft permit, the first and second public notices, and the public meeting notice had an error. Based on the comments received the applicant has provided a new location description, which reads as "The facility will be located approximately 7 miles west of the City of Burleson, approximately 2 miles south of FM 1187 and approximately 3/8 mile west of FM 1902, Johnson County, Texas." Staff has verified in person that the new location description provided is descriptive of the actual site

location. The Applicant published the combined NORI and NAPD on December 21, 2007 in the *Cleburne Times Review*, with the new location description. Notice was also mailed to those on the landowner and mailing list. The comment period was extended by one month because of the combined NORI and NAPD. Other than the location description the TCEQ is unaware of any other discrepancies in the draft permit.

COMMENT 17:

Commenters state that the public meeting notice is defective because there is no evidence that the unnamed tributary described in the permit is water in the state at the point of discharge or at any point from the point of discharge to either Rock Creek or Lake Benbrook. Neighbors are concerned that the discharge of Ms. Thames is not to a true unnamed tributary and worried the discharge will sheet flow across their property. The Commenters state that the Applicant has not made arrangements to transport effluent over private property and it would appear that the proposed discharge route is not feasible.

RESPONSE 17:

The term "water in the state" refers to the groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state. Based on this definition, the unnamed tributary that flows to Rock Creek is regarded as water in the state.

The TCEQ Region 4 office has personally visited the site of the proposed discharge. According to staff who have visited the site, the unnamed tributary has well defined beds and banks. No sheet flow should occur along this discharge route.

The issuance of a permit does not grant to the Applicant the right to use private or public property for conveyance of wastewater along the discharge route. This includes property belonging to any individual, partnership, corporation or other entity. The permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is the Applicant's responsibility to acquire the necessary property rights to use the discharge route.

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

COMMENT 18:

Commenters are concerned that the Applicant is putting trash such as cans, plastic, water bottles and other litter into the creek.

RESPONSE 18:

The ED cannot consider litter when reviewing wastewater applications and preparing draft permits. The ED evaluates the proposed discharge to determine whether the discharge will meet the Texas Surface Water Quality Standards. The ED does not address litter in the modeling context.

COMMENT 19:

Commenters raised concerns about TCEQ's QUAL-TX modeling predictions regarding nutrient loading to the stream. Commenters state the model gives a background concentration of 0.05 mg/l total nitrogen for Rock Creek above the discharge and then shows total nitrogen to be 1.6 mg/l at the end of the simulated reach which is about 1 mile above the reservoir. Commenters state this is a substantial increase as a result of the wastewater discharge.

RESPONSE 19:

The TCEQ's QUAL-TX model was set up solely to evaluate the effect of the proposed discharge on dissolved oxygen levels in the unnamed tributary and Rock Creek. The model as it was set up and run was not intended to be used to predict total nitrogen concentrations in Rock Creek or at the confluence of Rock Creek with Benbrook Lake. The background concentration of 0.05 mg/l total nitrogen mentioned in the comment is erroneous; it is the assumed background concentration of ammonia-nitrogen in Rock Creek. No information on total nitrogen concentrations in Rock Creek or in the effluent was included or predicted by the model. In addition, the TCEQ has no numerical criteria for total nitrogen, and the need for an effluent limit on total nitrogen in any particular permit is evaluated on a case-by-case basis. The proposed discharge is only 10,000 gallons per day and travels over 4.5 miles before reaching Benbrook Lake. The ED determined that a limit on total nitrogen is not warranted in this case.

COMMENT 20:

Commenters question why the Texas Government deems it necessary for its residents to write letters to stop this travesty.

RESPONSE 20:

The Texas Legislature has provided the public with the opportunity to participate in permitting matters. These statutes are found in TWC Sections 5.551 through 5.558. You may contact TCEQ's Office of Public Assistance at 1-800-687-4040 for more information.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

The following requirements were added on pages 23 and 24 in the Other Requirements section of the draft permit in response to comments:

2. No later than forty-five (45) days after issuance of this permit, the permittee shall provide the TCEQ Wastewater Permitting Section (MC 148) and the TCEQ Regional Office (MC Region 4) a copy of the contract with the third party that will operate the facility on a contract basis for review to ensure compliance with the terms and conditions of this permit. The permittee shall demonstrate that the term of the third party contract exceeds the term of the permit. At a minimum, the contract must specify that for the term of the permit, the facility will be operated and maintained by the third party. The contract must also include provisions stating the third party's responsibilities under the permit. Any provisions in the contract that address compliance with the terms and conditions of this permit or the third party's responsibilities under this permit will be reviewed by the TCEQ Wastewater Permitting Section and the TCEQ Regional Office (MC Region 4).
3. The third party must document its presence at the facility for a minimum of one hour per day, seven days per week, and must be otherwise available by telephone or pager seven days per week. Records of the third party's presence at the facility must be maintained (signed logbook) and available at the facility for inspection by authorized representatives of the commission for at least three years. The third party must submit a copy of the signed logbook each month, to the TCEQ Regional Office (MC Region 4), by the 20th day of the following month.
4. The third party shall inspect the facility seven days per week and maintain at the facility a record of these inspections. These records must be available at the facility for inspection by the authorized representatives of the commission for at least three years. During this daily inspection the proper operation and maintenance of the treatment pond system must be checked by the third party to ensure compliance with the terms and conditions of the permit. These records must also be submitted each month, to the TCEQ Regional Office (MC Region 4), by the 20th day of the following month.
5. If the third party gives notice that it wishes to terminate the contract with the permittee, or if for any reason the third party is no longer servicing the permitted facility, the permittee must notify the TCEQ Regional Office (MC Region 4) as soon as it is aware of the break in service. Included in the notice shall be an action plan to replace the current third party with another qualified third party.
6. The permittee must submit copies of all self-reported effluent monitoring performed by the third party and certified copies of all lab analysis each month, to the TCEQ Regional Office (MC Region 4), by the 20th day of the following month.
7. 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.

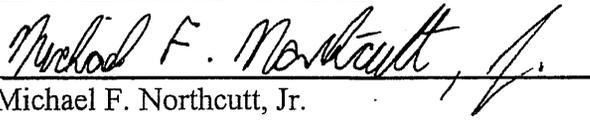
12. According to the requirements of 30 TAC Section 311.63 (a)(2), the permittee shall employ filtration to supplement suspended solids removal.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division



Michael F. Northcutt, Jr.

Attorney

Environmental Law Division

State Bar No. 24037194

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Austin, Texas 78711-3087

Phone (512) 239-6994

Fax: (512) 239-0606

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

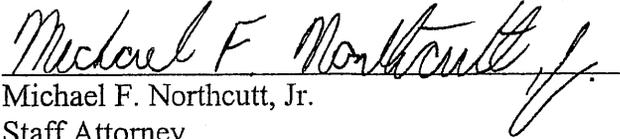
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CHIEF CLERK'S OFFICE

CERTIFICATE OF SERVICE

I certify that on April 3, 2008, the "Executive Director's Response to Public Comment" for Permit No. WQ0014753001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Michael F. Northcutt, Jr.
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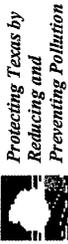
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TEXAS
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QUALITY

**Attachment E – Map of the Proposed Facility Site
& Surrounding Land**

Julie Ann Thames Primrose Mobile Home Park 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 11, 2008



Projection: Texas Statewide Mapping System
(TSMS)
Scale 1:37,525

Legend

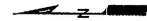
- Wastewater Outfall
- Requestor's Property
- Facility

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 061_1_1.

This map depicts the following:

- (1) The approximate location of the Facility. This is labeled "Treatment Facility Boundary".
- (2) Wastewater Outfall. This is labeled "Point of Discharge".
- (3) Discharge Route. This is labeled "Discharge Route".

Estimate based on Tarrant County Appraisal District Records



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) 239-6800.

M. McLaughlin, CEF-080610053



Johnson County

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