

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 17, 2008

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

Re: Executive Director's Response to Hearing Requests for Val Verde Development Co.;
Permit No. WQ0014777001; Docket No. 2008-0943-MWD

Dear Ms. Castañuela:

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

Sincerely,

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

Celia Castro
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing List

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 NOV 17 PM 3:58
CHIEF CLERKS OFFICE

DOCKET NUMBER 2008-0943-MWD

APPLICATION BY	§	BEFORE THE
VAL VERDE DEVELOPMENT CO.	§	TEXAS COMMISSION ON
PERMIT NO. WQ0014777001	§	ENVIRONMENTAL QUALITY

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 NOV 17 PM 3:58
CHIEF CLERK'S 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 (Response) on the application by Val Verde Development Co. (Applicant) for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014777001. TCEQ received timely hearing requests from the following individuals: Ronald C. Burton and the Department of the Air Force and Laughlin Air Force Base (U.S. Air Force). The U.S. Air Force filed a withdrawal of its hearing request with the Office of the Chief Clerk on August 25, 2008.

Attached for Commission consideration are the following:

- | | |
|--------------|---|
| Attachment A | Statement of Basis/Technical Summary (Fact Sheet) and Executive Director's Preliminary Decision |
| Attachment B | Draft Permit |
| Attachment C | Compliance History |
| Attachment D | Executive Director's Response to Public Comments (RTC) |
| Attachment E | Satellite Map |
| Attachment F | Office of the Chief Clerk's Mailing List |

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

II. Facility Description

The Applicant has applied to the TCEQ for a new permit, proposed TPDES Permit No. WQ0014777001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 330,000 gallons per day (gpd) in the interim I phase, 660,000 gpd in the interim II phase, and 990,000 gpd in the final phase. The proposed wastewater treatment facility would serve the SE Ranch development. The plant site would be located between the City of Del Rio and Laughlin Air Force Base, approximately 1,000 feet northwest of U.S. Highway 277 and approximately 500 feet west of Spur 317 in Val Verde County, Texas.

The treated effluent would be discharged to an unnamed tributary of Zorro Creek, then to Zorro Creek, then to the Rio Grande Below Amistad Reservoir in Segment No. 2304 of the Rio Grande Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary of Zorro Creek and Zorro Creek. The designated uses for Segment No. 2304 are high aquatic life use, public water supply and contact recreation. Segment No. 2304 is currently listed on the State's inventory of impaired and threatened waters (the Clean Water Act Section 303(d) list) for elevated bacteria levels and chronic toxicity in water to aquatic organisms. The effluent will be disinfected by means of chlorination and is therefore not expected to contribute to the segment impairment.

III. Procedural Background

TCEQ received the application for a new permit on January 25, 2007 and declared it administratively complete on February 20, 2007. The Notice of Receipt and Intent to Obtain a Water Quality Permit was published in English and Spanish, on March 8, 2007 in the *Del Rio News - Herald*. The Notice of Application and Preliminary Decision for a Water Quality Permit was published, in English and Spanish, on May 27, 2007 in the *Del Rio News - Herald*. The Notice of a Public Meeting was published on February 5, 2008 in the *Del Rio News - Herald* and a public meeting was held in the City of Del Rio on March 6, 2008. The public comment period closed at the end of the public meeting on March 6, 2008. The ED filed the RTC on May 1, 2008 and the period for requesting reconsideration or a contested case hearing ended on June 9, 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. TCEQ declared the

application administratively complete on February 20, 2007 and therefore, it is subject to the HB 801 requirements. The commission implemented HB 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The regulations governing requests for contested case hearings are found at 30 TAC, Chapter 55.

A. Responses to Requests

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

Responses to hearing requests must specifically address:

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

30 TAC § 55.209(e).

B. Hearing Request Requirements

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

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

30 TAC §55.201(c).

A hearing request must substantially comply with the following:

- (1) give the time, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;

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

30 TAC § 55.201(d).

C. Requirement that Requestor be an "Affected Person"

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

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

30 TAC § 55.203.

D. 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 Requestor Complied With 30 TAC §§ 55.201(c) and (d)

Ronald C. Burton submitted a timely written hearing request that included relevant contact information and raised disputed issues.

The ED recommends the Commission find that the hearing request of Ronald C. Burton substantially complies with the requirements of 30 TAC § 55.201(c) & (d).

2. Whether the Requestor Met the Requirements of an Affected Person

The ED’s satellite map (Attachment E) shows that Mr. Burton’s property is located in the City of Del Rio and is approximately 5.4 miles northwest of the proposed facility. His property is not on the discharge route. Furthermore, Zorro Creek flows in a southerly direction away from Mr. Burton’s property. Mr. Burton is primarily concerned about the impact on Laughlin Air Force Base. The U.S. Air Force withdrew its hearing request on August 25, 2008. He fails to state how his personal interests would be affected. Mr. Burton does not meet the requirements of 30 TAC § 55.203(c) because he fails to state an impact on his health and safety, on the use of his property, or on the use of any impacted natural resource. There is no reasonable relationship between the interest claimed and the regulated activity. Therefore, the requestor has not raised personal justiciable interests not common to that of the general public. The ED concludes that Ronald C. Burton is not an affected person.

The ED recommends the Commission find that Ronald C. Burton is not an affected

person under the requirements of 30 TAC § 55.203.

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

The ED has analyzed issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the RTC. None of the issues were withdrawn. All identified issues in the response are considered disputed, unless otherwise noted. The issues raised for this application and the ED's analysis and recommendations follow.

1. *Whether there was lack of public information on the proposed development plans for Val Verde Development Co. or SE Ranch Holdings, LTD? (RTC #1, 2)*

Mr. Burton raised this issue. TCEQ rules require the Office of the Chief Clerk (OCC) to mail notice to those people and agencies listed in 30 TAC Section 39.143. This includes adjacent landowners and all other persons contained on the OCC's mailing list for the application. Current rules do not require mailed notice to entities such as the Joint Land Use Study (JLUS) program unless they are on the mailing list. The JLUS is not on the mailing list for this application. (Attachment F). The Office of the Chief Clerk mailed notice to City of Del Rio officials using the addresses that they provided. The NORI, NAPD, notice of the public meeting, and notice of the ED's Response to Comments complied with publication and mailing requirements. Although this issue regarding development plans involves a question of fact, was raised during the public comment period, and was not withdrawn, it is not within TCEQ's jurisdiction. This issue is not relevant and material to a decision on the permit application.

The ED does not recommend referral of this issue to SOAH.

2. *Whether the proposed development would adversely impact Laughlin Air Force Base and in turn, the residents of the City of Del Rio, Val Verde County, and Kinney County? (RTC #3)*

Mr. Burton raised this issue. His complaints center around development issues, economic issues, and unrelated lawsuits. Although this issue involves a question of fact, was raised during the public comment period, and was not withdrawn, it is not within TCEQ's jurisdiction. This issue is not relevant and material to a decision on the permit application.

The ED does not recommend referral of this issue to SOAH.

VI. Duration of the Contested Case Hearing

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

VII. Executive Director's Recommendation

The ED recommends the Commission deny the hearing request of Ronald C. Burton and refer no issues.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

By *Celia Castro*

Celia Castro, Staff Attorney
Environmental Law Division
State Bar No. 03997350
P.O. Box 13087, MC-173
Austin, Texas 78711-3087
(512) 239-5692
(512) 239-0606 (Fax)

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on November 17, 2008, the original and seven copies of the "Executive Director's Response to Hearing Requests" for Val Verde Development Co., TPDES Permit No. WQ0014777001, were filed with the TCEQ's Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, or by deposit in the U.S. Mail.



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

MAILING LIST
VAL VERDE DEVELOPMENT CO.
DOCKET NO. 2008-0943-MWD; PERMIT NO. WQ0014777001

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FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Bridget Bohac, Director
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**FOR ALTERNATIVE DISPUTE
RESOLUTION:**

Mr. Kyle Lucas
Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
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Austin, Texas 78711-3087
Tel: (512) 239-4010
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FOR THE CHIEF CLERK:

LaDonna Castañuela
Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Phone: (512) 239-3300
Fax: (512) 239-3311

REQUESTER:

Ronald C. Burton
110 Arbor Ave.
Del Rio, Texas 78840-7640

EXECUTIVE DIRECTOR'S

ATTACHMENT A

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

DESCRIPTION OF APPLICATION

Applicant: Val Verde Development Co.;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0014777001, (TX0129399)

Regulated Activity: Domestic Wastewater Permit

Type of Application: New Permit

Request: New Permit

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

EXECUTIVE DIRECTOR RECOMMENDATION

The executive director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The proposed permit includes an expiration date of September 1, 2011 according to 30 TAC Section 305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.33 million gallons per day in the interim I phase, a daily average flow not to exceed 0.66 million gallons per day in the interim II phase and a daily average flow not to exceed 0.99 million gallons per day in the final phase. The proposed wastewater treatment facility will serve the SE Ranch development.

PROJECT DESCRIPTION AND LOCATION

The SE Ranch Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units will include bar screens, aeration basins, clarifiers, sludge digesters 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 permitted landfill, City of Del Rio Landfill, Permit No. 207A, in Val Verde County. 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 between the City of Del Rio and Laughlin Air Force Base, approximately 1,000 feet northwest of U.S. Highway 277 and approximately 500 feet west of Spur 317 in Val Verde County, Texas.

The treated effluent will be discharged to an unnamed tributary of Zorro Creek; thence to Zorro Creek; thence to the Rio Grande Below Amistad Reservoir in Segment No. 2304 of the Rio Grande Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary of Zorro Creek and Zorro Creek. The designated uses for Segment No. 2304 are high aquatic life use, public water supply and contact recreation. The

Val Verde Development Co.

TPDES Permit No. WQ0014777001

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

effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

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

A priority watershed of critical concern has been identified in Segment 2304 in Kinney and Val Verde Counties. The devil's river minnow, *Dionda diaboli*, a threatened aquatic species, has been determined to occur in the watershed of Segment 2304. To make this determination for Texas Pollutant Discharge Elimination System (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 United States Fish and Wildlife Service's (USFWS) biological opinion. Species distribution information for the Segment 2304 watershed is provided by USFWS and documents the minnow's presence in Sycamore Creek, Pinto Creek, Pinto Spring, Las Moras Creek and Las Moras Spring in Kinney and Val Verde Counties. Based upon the information, it is determined that the facility's discharge is not expected to impact the devil's river minnow. The permit does not require EPA review with respect to the presence of endangered or threatened species. This determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion.

Segment No. 2304 is currently listed on the State's inventory of impaired and threatened waters (the Clean Water Act Section 303(d) list). The listing is specifically for elevated bacteria levels and chronic toxicity in water to aquatic organisms. The impairments for bacteria are restricted to the following areas: three miles downstream of U.S. Highway 277 in Eagle Pass, 4.5 miles downstream of Highway 277, downstream of International Bridge 2 to pipeline crossing, El Cenizo to San Isidro pump station, pipeline crossing to downstream of El Cenizo and San Isidro pump station to segment boundary. The impairment for chronic toxicity in water is restricted to the area 4.5 miles downstream of Highway 277. The effluent will be disinfected by means of chlorination and is therefore not expected to contribute to the segment impairment. The draft permit includes effluent limits and monitoring requirements to ensure that disinfection is adequate.

SUMMARY OF EFFLUENT DATA

N/A - New permit.

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at an interim I volume not to exceed a daily average flow of 0.33 million gallons per day (MGD), an interim II volume not to exceed a daily average flow of 0.66 MGD and a final volume not to exceed a daily average flow of 0.99 MGD.

The effluent limitations in all phases of the draft permit, based on a 30-day average, are 10 mg/l CBOD₅, 15 mg/l TSS, 3 mg/l NH₃-N, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The draft permit includes a requirement for the permittee to obtain legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the permittee according to 30 TAC Section 309.13(e)(3).

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ permitted landfill, City of Del Rio Landfill, Permit No. 207A, in Val Verde County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

SUMMARY OF CHANGES FROM APPLICATION

None.

SUMMARY OF CHANGES FROM EXISTING PERMIT

N/A - New permit.

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application received January 25, 2007 and additional information received January 25, 2007.
2. The effluent limitations and/or conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.10.
3. The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Domestic Wastewater Effluent Limitations.
4. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division.
5. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.
6. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.
7. Texas 2004 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, May 13, 2005; approved by USEPA on May 8, 2006.

8. "TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," Document No. 98-001.000-OWR-WQ, May 1998.

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.

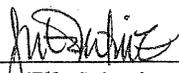
Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding.

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.

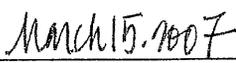
The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will 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 June Ella Martinez at (512) 239-3235.



June Ella Martinez
Municipal Permits Team
Wastewater Permitting Section (MC 148)



Date

EXECUTIVE DIRECTOR'S

ATTACHMENT B



TPDES PERMIT NO. WQ0014777001
[For TCEQ Office Use Only:
EPA ID No. TX0129399]

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

Val Verde Development Co.

whose mailing address is

111 Soledad Street, Suite 1111
San Antonio, Texas 78205

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

located between the City of Del Rio and Laughlin Air Force Base, approximately 1,000 feet northwest of U.S. Highway 277 and approximately 500 feet west of Spur 317 in Val Verde County, Texas

to an unnamed tributary of Zorro Creek; thence to Zorro Creek; thence to the Rio Grande Below Amistad Reservoir in Segment No. 2304 of the Rio Grande Basin

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

This permit shall expire at midnight, **September 1, 2011**.

ISSUED DATE:

For the Commission

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of the expansion of the 0.66 million gallons per day (MGD) facilities, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.33 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 688 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u>	
	Daily Avg mg/l(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Report Daily Avg. & Max. Measurement Frequency	Single Grab Sample Type
Flow, MGD	Report	N/A	Report	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (28)	15	25	One/week	Grab
Total Suspended Solids	15 (41)	25	40	One/week	Grab
Ammonia Nitrogen	3 (8.3)	6	10	One/week	Grab

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

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

- During the period beginning upon the completion of the expansion of the 0.66 million gallons per day (MGD) facilities and lasting through the completion of the expansion of the 0.99 MGD facilities, the permittee is authorized to discharge subject to the following effluent limitations:
 The daily average flow of effluent shall not exceed 0.66 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,375 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u> Report Daily Avg. & Daily Max. Measurement Frequency Sample Type		
	Daily Avg mg/l(lbs/day)	7-day Avg mg/l	Daily Max mg/l		Single Grab mg/l	
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (55)	15	25	35	One/week	Composite
Total Suspended Solids	15 (83)	25	40	60	One/week	Composite
Ammonia Nitrogen	3 (17)	6	10	15	One/week	Composite

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

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of the expansion of the 0.99 million gallons per day (MGD) facilities and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.99 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 2,063 gallons per minute (gpm).

Effluent Characteristic	Discharge Limitations			Minimum Self-Monitoring Requirements	
	Daily Avg mg/(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Report Daily Avg. & Daily Max. Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	Continuous	Totalizing meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (83)	15	25	One/week	Composite
Total Suspended Solids	15 (124)	25	40	One/week	Composite
Ammonia Nitrogen	3 (25)	6	10	One/week	Composite

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

DEFINITIONS AND STANDARD PERMIT CONDITIONS

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

1. Flow Measurements

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

2. Concentration Measurements

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

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

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

3. Sample Type

- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).
 - b. Grab sample - an individual sample collected in less than 15 minutes.
4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
 5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids which have not been classified as hazardous waste separated from wastewater by unit processes .
 6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

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

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

2. Test Procedures

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

3. Records of Results

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

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

4. Additional Monitoring by Permittee

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

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

7. Noncompliance Notification

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

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

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

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

10. Signatories to Reports

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

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

PERMIT CONDITIONS

1. General

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

2. Compliance

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

3. Inspections and Entry

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

4. Permit Amendment and/or Renewal

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

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

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy.

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

OPERATIONAL REQUIREMENTS

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

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

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

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

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

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

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

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 Permitting and Remediation Support Division and the Regional Director (MC Region 16) within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Remediation Support Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 16) 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 16) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 1 of each year the following information:

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

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

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

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

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

Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division and the Regional Director (MC Region 16) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Remediation Support Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 16) 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 16) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year the following information:

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

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

OTHER REQUIREMENTS

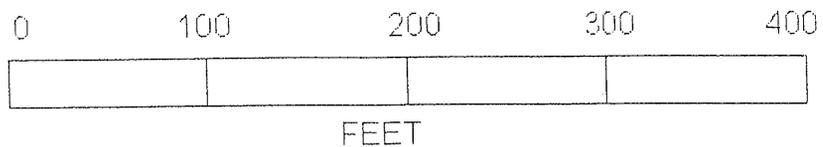
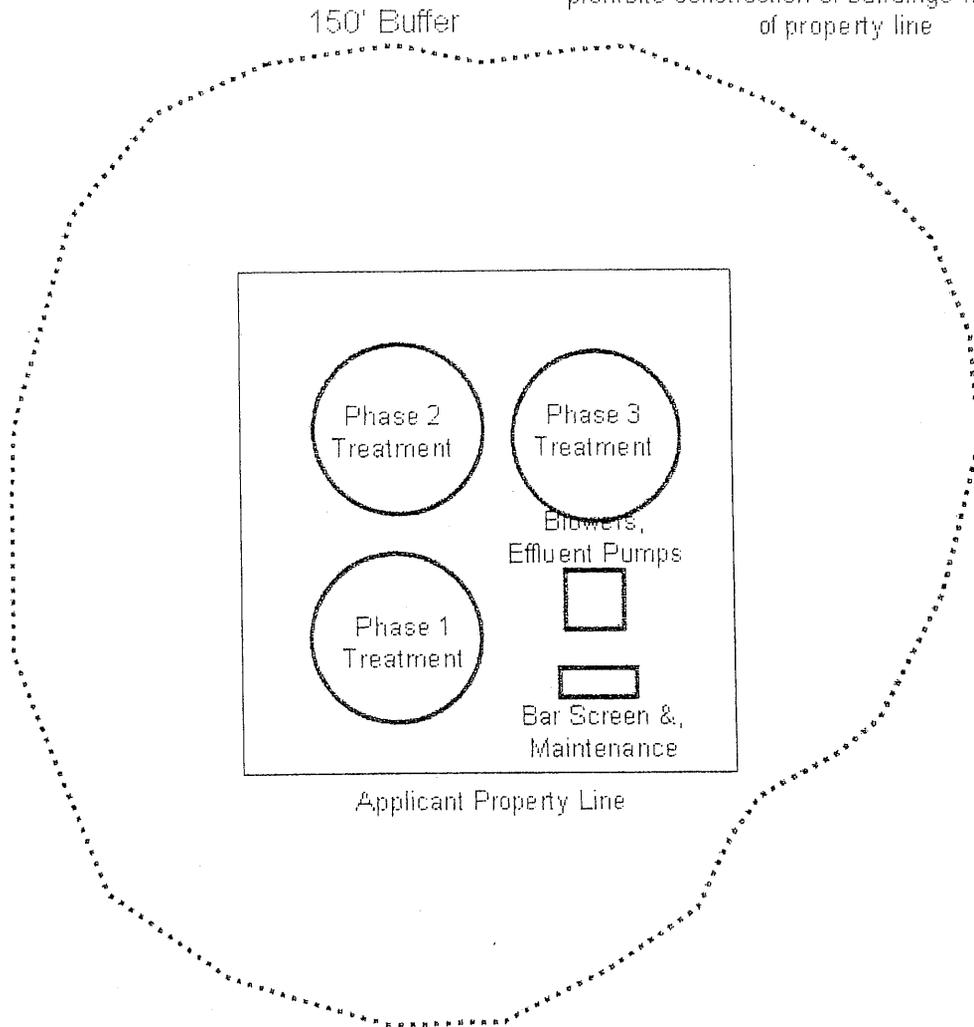
1. The permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations and in particular 30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

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

2. The facility is not located in the Coastal Management Program boundary.
3. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
4. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 2304 of the Rio Grande Basin and any subsequent updating of the water quality model for Segment No. 2304, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC Section 305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.
5. Prior to construction of the interim I, interim II and final phase, the permittee shall submit sufficient evidence of legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the permittee according to 30 TAC Section 309.13(e)(3). The evidence of legal restrictions shall be submitted to the executive director in care of the TCEQ Wastewater Permitting Section (MC 148). The permittee shall comply with the requirements of 30 TAC Section 309.13(a) through (d). (See Attachment A.)
6. 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 16) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first and prior to completion of each additional phase.
7. Prior to construction of the treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary submittal letter in accordance with the requirements in 30 TAC Section 317.1. If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and a final engineering design report which comply with 30 TAC Chapter 317, Design Criteria for Sewerage Systems. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2, 2a and 2b of the permit.

Buffer Zone Map Phase 3

Note:
Only property owner surrounding the applicant
property is SE Ranch, Ltd. Special Warranty
Deed between Applicant and SE Ranch, Ltd.
prohibits construction of buildings within 150 feet
of property line



EXECUTIVE DIRECTOR'S

ATTACHMENT C

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603148198 Val Verde Development Co.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105155915 SE RANCH WWTP	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	WASTEWATER PERMIT WASTEWATER EPA ID		WQ0014777001 TX0129399
Location:	APPROX 1000 FT NW OF US 277 & APPROX 500 FT W OF SUPR 317	Rating Date: 9/1/2008	Repeat Violator: NO
TCEQ Region:	REGION 16 - LAREDO		
Date Compliance History Prepared:	November 03, 2008		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	January 25, 2002 to November 03, 2008		

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

Name: June Ella Martinez Phone: 239 - 3235

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

EXECUTIVE DIRECTOR'S

ATTACHMENT D

TCEQ PERMIT NO. WQ0014777001

798 MAY -1 AM 10:31

APPLICATION BY	§	BEFORE	
VAL VERDE	§	THE	CHIEF CLERKS OFFICE
DEVELOPMENT CO.,	§	TEXAS COMMISSION	
for	§	ON	
TPDES Permit No. WQ0014777001	§	ENVIRONMENTAL QUALITY	

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the Val Verde Development Co. application and Executive Director's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk (OCC) timely received comment letters and comments at a public meeting from the following persons: **Ronald C. Burton, Colonel Dan Laro Clark, Lt. Colonel Thomas A. Curtis, Robert Gill, Jan London**, on behalf of **W.L. Moody, IV, The Honorable Efrain Valdez (Mayor, City of Del Rio), and Greg Youngs**. 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

Val Verde Development Co. (Applicant) has applied to the TCEQ for a new permit that would authorize the Applicant to discharge treated domestic wastewater at a daily average flow not to exceed 0.33 million gallons per day in the interim I phase, a daily average flow not to exceed 0.66 million gallons per day in the interim II phase and a daily average flow not to exceed 0.99 million gallons per day in the final phase. The proposed wastewater treatment facility would serve the SE Ranch development.

The treated effluent would be discharged to an unnamed tributary of Zorro Creek, then to Zorro Creek, then to the Rio Grande Below Amistad Reservoir in Segment No. 2304 of the Rio Grande Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary of Zorro Creek and Zorro Creek. The designated uses for Segment No. 2304 are high aquatic life use, public water supply and contact recreation. The plant site would be located between the City of Del Rio and Laughlin Air Force Base, approximately 1,000 feet northwest of U.S. Highway 277 and approximately 500 feet west of Spur 317 in Val Verde County, Texas.

Procedural Background

The permit application for a new permit was received on January 25, 2007 and declared administratively complete on February 20, 2007. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published, in English and Spanish, on March 8, 2007 in the *Del Rio News - Herald*. The TCEQ Executive Director completed the technical review of the application on March 15, 2007, and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published, in English and Spanish, on May 27, 2007, in the *Del Rio News - Herald*. The Notice of a Public Meeting was published on February 5, 2008, in the *Del Rio News - Herald* and a public meeting was held in the City of Del Rio on March 6, 2008. The public comment period closed at the end of the public meeting on March 6, 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:

Ronald C. Burton expresses concern upon the lack of public information on the proposed development plans for SE Ranch Holdings, LTD and the proposed TPDES permit.

RESPONSE 1:

All notice requirements for this application have been met. The NORI, NAPD, and notice of the public meeting comply with the publication and mailing requirements.

According to the Applicant, the Applicant made a copy of its application available for review and copying at a public place in the county in which the facility is located or proposed to be located. An administratively complete copy of the application was available for review and copying on the first day the NORI is published, and remained available throughout the comment period. A copy of the complete application (including any subsequent revisions), the ED's preliminary decision, and the draft permit were available for review and copying on the first day the NAPD was published, and will remain available until the Commission either takes action on the application or refers it to the State Office of Administrative Hearings (SOAH). The Applicant indicated that the permit application, ED's preliminary decision, and draft permit is available for viewing and copying at the Val Verde County Library, 300 Spring Street, Del Rio, Texas. Information as to the availability of these documents was also contained in the published newspaper notifications.

COMMENT 2:

Ronald C. Burton states that the proposed permit information was not provided to the Joint Land Use Study (JLUS) program. **Jan London**, on behalf of **W.L. Moody, IV**, expresses concern that Mr. Moody did not receive notice of the application, even though the application would clearly affect him. She feels that the statement, in which the Applicant claims to be the only owner of land within one mile downstream of the point of discharge, is untrue. She states that Mr. Moody's property, Rancho Rio Grande is less than a quarter mile downstream from the point of discharge and would be significantly impacted. She also states that the Applicant may not have notified all the interested parties. **Mayor Valdez** states that the City of Del Rio did not receive a mailed NORI or NAPD as required by TCEQ rules. He also feels that all parties were not given notice, such as the Texas Department of Transportation, claiming that the unnamed tributary of Zorro Creek is immediately adjacent to the Texas Department of Transportation right-of-way for State Highway 317 and is less than one-mile downstream from the point of discharge. He expresses that all parties should be given adequate time to review and provide comments.

RESPONSE 2:

The OCC is required to mail notice of the application and draft permit to appropriate persons in order to provide information and an opportunity to submit public comments, request a public meeting, or request a public hearing. The OCC is required to mail notice to those people and agencies listed in 30 TAC §39.413.

For new permit applications, the Applicant must provide a list of adjacent landowners and a map showing their locations. Adjacent landowners are landowners located adjacent to the wastewater treatment plant site and landowners with property on either side of the receiving stream for approximately one mile downstream from the point of discharge. The TCEQ mails notice of the application to the adjacent landowners and all other persons contained on the OCC's mailing list for the application.

Based on information in the permit file, the City of Del Rio officials were included in the mailing list compiled by the OCC. The notice was mailed to the following address: 109 Broadway, Del Rio, Texas 78840.

The Texas Department of Transportation was not included on the mailing list. At this time, based on available information, it does not appear that the Texas Department of Transportation is an adjacent landowner.

The JLUS Program was not included on the mailing list. Current rules do not require mailed notice to such a program. However, the JLUS Program always has the right to request to be included on the OCC mailing list, in which case it will receive mailed notice of all actions on this application. Information on how to request inclusion on a OCC mailing list is included in the published newspaper notifications and on the TCEQ website at: www.tceq.state.tx.us.

The permit application and maps submitted by the Applicant, show that the treated effluent is proposed to be pumped 1.2 miles upstream of the wastewater treatment facility. The land adjacent to all sides of the proposed facility and the land located on both sides of the discharge route for one mile downstream of the discharge point are represented to be owned by SE Ranch Holdings, LTD. SE Ranch Holdings, LTD was provided mailed notice in accordance with TCEQ rules.

The ED accepted public comments on this application from March 8, 2007 to the end of the public meeting on March 6, 2008.

COMMENT 3:

Ronald C. Burton indicates that the citizens of Del Rio have expressed great concern that the proposed development will encroach on the Laughlin Air Force Base and interfere with current and future missions at Laughlin Air Force Base. He further states that the JLUS, consisting of the SE Ranch Holdings, the City of Del Rio and Laughlin Air Force Base, have sought to create the program in an effort to reduce potential conflicts between the military installation and its host community. **Mayor Valdez** expresses concern that the proposed wastewater treatment facility will have an impact on Laughlin Air Force Base and the city. He states that the base is critical to the economy of Del Rio and any move that would encroach upon the base is opposed by the city. **Robert Gill** states that "adherence to the JLUS is vital to promotion of harmonious growth around the base," and **Colonel Dan Laro Clark** states that "studying the potential development in conjunction with the JLUS will help promote harmonious development."

RESPONSE 3:

The permitting process is limited to controlling the discharge of pollutants into water in the state and to protecting the water quality of the state's rivers, lakes, and coastal waters. Agreements or contracts designed to control land use are not considered during the review of an application for a wastewater discharge permit. The draft permit, if approved, does not authorize the invasion of any personal rights or any violation of federal, state, or local laws and regulations.

COMMENT 4:

Colonel Clark indicates that Laughlin Air Force Base is approximately two miles from the proposed wastewater treatment facility and approximately one mile from the proposed discharge point. **Colonel Clark** and **Robert Gill** both express concern that the discharge into Zorro Creek will increase the wildlife and bird populations within the area, resulting in an increased flight safety hazard from bird strikes. They question whether the Applicant would implement a program to help mitigate the bird strike hazard. **Colonel Clark** states that "the proposed site lies directly beneath the heavily used approach tracks and landing traffic patterns for one of the Base's runways." **Mr. Gill** further states that the issuance of the permit would adversely impact and endanger the undergraduate flight training missions conducted at the base. **Lt. Colonel Curtis**

provided color diagrams denoting the flight patterns in the airspace above Laughlin Air Force Base in relation to the location of the proposed facility.

RESPONSE 4:

Wastewater permitting rules do not consider the possibility of bird strikes during the review of an application for a wastewater discharge permit. This permit, if issued, would authorize a discharge of treated domestic wastewater to an unnamed tributary of Zorro Creek. Lagoons or ponds, which would be more attractive to birds and wildlife, are not proposed to be utilized as part of the treatment process.

The draft permit does not contain a provision that requires the Applicant to implement a program to mitigate any possible bird attraction caused by the facility, but outside agreements between the Base, the City, and the Applicant are not prohibited by the draft permit.

The draft permit, if approved, does not authorize the invasion of any personal rights or any violation of federal, state, or local laws and regulations.

COMMENT 5:

Jan London, on behalf of **Mr. W.L. Moody, IV**, expresses concern that the proposed discharge will lower the value of his property known as Rancho River Grande.

RESPONSE 5:

TCEQ is tasked by the Legislature with protecting the quality of water in the state. In the wastewater permitting process, property value, or the possibility of a loss in property value, is not a factor in determining whether an Applicant has met all of the statutory and regulatory criteria applicable to a wastewater discharge permit.

COMMENT 6:

Ronald C. Burton states that the permit application that he reviewed requested a permitted volume of 990,000 gallons per day as opposed to the 330,000 gallons per day that is stated in the memo.

RESPONSE 6:

The 330,000 gallons per day is the interim I phase flow amount for the proposed discharge. The Applicant has applied for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.33 million gallons per day in the interim I phase, a daily average flow not to exceed 0.66 million gallons per day in the interim II phase and a daily average flow not to exceed 0.99 million gallons per day in the final phase. The Applicant has proposed that the facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units will

include bar screens, aeration basins, clarifiers, sludge digesters and a chlorine contact chamber sized to meet the design criteria for each phase of operation.

COMMENT 7:

Jan London, on behalf of **W.L. Moody, IV**, expresses concern that the proposed facility will have an effect on his property and impact the use of his property.

RESPONSE 7:

The permitting process is limited to controlling the discharge of pollutants into water in the state and to protecting the water quality of the state's rivers, lakes, and coastal waters. If a permit is issued, the issuance does not affect or limit the ability of a landowner to use common law remedies for trespass, nuisance, or other causes of action in response to activities that result in damage to private property or that interfere with the private use and enjoyment of property.

COMMENT 8:

Jan London, on behalf of **W.L. Moody, IV**, expresses concern that the discharge of wastewater will be of a low water quality and cause harm to the environment.

RESPONSE 8:

The proposed draft permit was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards. The provisions in the proposed draft permit were established to be protective of human health and the environment as long as the Applicant operates and maintains the facility according to TCEQ rules and requirements. As part of the permit application process, TCEQ must determine the uses of the receiving water and set effluent limits that are protective of those uses. The effluent limits in the proposed draft permit are set to maintain and protect the existing instream uses. In this case, the unclassified receiving water uses are no significant aquatic life use for the unnamed tributary of Zorro Creek and Zorro Creek and high aquatic life use, public water supply and contact recreation for Segment 2304.

COMMENT 9:

Mayor Valdez expresses concern for the impact on groundwater that could result from the discharge of treated wastewater. He states that the area into which the wastewater will be discharged contains sinkholes, which may recharge into the Edwards-Trinity Aquifer. He feels the wastewater could flow through the sinkholes and end up in the aquifer, therefore, threatening the city's water supply.

RESPONSE 9:

The treated wastewater discharge point is mapped as overlying Buda Limestone, which overlies Del Rio Clay. The Del Rio Clay can be considered to be a confining layer to the underlying Edwards-Trinity Aquifer, preventing downward migration of potential contaminants to the water bearing units of the aquifer. A site visit was performed by a Water Quality Assessment Geologist on March 6, 2008. No sinkholes were observed in the creek where the treated wastewater is proposed to be discharged. According to maps prepared by the Texas Water Development Board, the proposed discharge point does not overlie the Edwards-Trinity Aquifer. Considering the absence of any sinkholes, and the presence of the Del Rio Clay, it is not anticipated that wastewater effluent released from the discharge point will recharge the Edwards-Trinity Aquifer or threaten the city's water supply.

COMMENT 10:

Mayor Valdez feels that the waterway, stated in the permit application to be dry even after significant rainfall events, is misleading and possibly false. The observation presented in the application was based on the waterway at the start of October 2006. He indicates that the city's rainfall records for the week prior did not show more than a trace of rain. He feels that the appearance of the waterway presented in the application, can not be determined by looking at the waterway at a time when there had been very little rainfall.

RESPONSE 10:

The waterway in question is classified as an intermittent stream. In 30 TAC §307.3(29), the Texas Surface Water Quality Standards define an intermittent stream as "[a] stream which has a period of zero flow for at least one week during most years." While the waterway certainly carries water during rainfall events, in order to be classified as intermittent, it only needs to be dry during one week of an average year. The ED's staff appropriately evaluated the waterway as an intermittent stream during the application review process and when drafting the proposed permit.

COMMENT 11:

Mayor Valdez states that the permit application implies that sludge from the proposed facility will be disposed of at the City of Del Rio Landfill. He expresses that the City of Del Rio does not accept that type of waste and has no plans to change the policy. Therefore, the proposed facility does not have a sludge disposal plan and he feels that the permit should be denied for that cause alone.

RESPONSE 11:

The draft permit does not require that sludge from the proposed facility be disposed of at the City of Del Rio Landfill. The draft permit does not specify a specific disposal site. It only requires that sludge from the proposed facility be disposed of at a TCEQ authorized

land application site or co-disposal landfill. The draft permit, if issued, is the document that describes the legally enforceable provisions that the permittee must follow.

However, the permit application submitted by the Applicant indicated that sludge would be disposed of at the City of Del Rio Landfill. That information was included in the *Statement of Basis/Technical Summary and Executive Director's Preliminary Decision* during technical review. This document is merely a summary of the technical review, giving background information as to the ED's preliminary decision. Based on the comment and discussion at the public meeting, and in order to avoid confusion, the statement concerning disposal at the City of Del Rio's Landfill has been deleted from the *Statement of Basis/Technical Summary and Executive Director's Preliminary Decision*.

COMMENT 12:

Greg Youngs, with SE Ranch Development, states that the development will rely on the proposed facility to provide service and is in support of the permit.

RESPONSE 12:

The ED acknowledges this comment.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

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

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

Robert Martinez, Director
Environmental Law Division



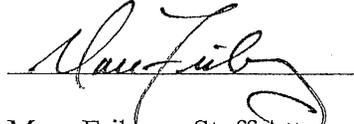
Marc Friberg, Staff Attorney
Environmental Law Division
State Bar No. 24048472
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-0611

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2008 the original of the "Executive Director's Response to Public Comment" on Val Verde Development Co.'s application for proposed TPDES Permit No. WQ WQ0014777001 was filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.



Marc Friberg, Staff Attorney
Environmental Law Division
State Bar No. 24048472

CHIEF CLERKS OFFICE

2008 MAY - 1 AM 10: 31

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

EXECUTIVE DIRECTOR'S

ATTACHMENT E

**Val Verde Development Co.
WQ0014777001
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

October 22, 2008



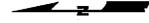
Projection: Texas Statewide Mapping System
(TSMS)
Scale 1:50,000

Legend

Requestor:
Ronald Burton
110 Arbor Ave.
Del Rio, TX 78840

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 rx465_1-1. This map depicts the following:

- (1) The approximate location of the requestor. This is labeled with requestor's name.
- (2) The approximate location of the proposed facility. This is labeled "Proposed Wastewater Facility Site".
- (3) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
- (4) Discharge Point. This is labeled "Outfall".



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) 239-9800.



Val Verde County

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

EXECUTIVE DIRECTOR'S

ATTACHMENT F

WQ STANDARD MAIL LIST

APPLICANT:
MR THOMAS KOCH
C THOMAS KOCH INC
187 MADRONE TRL
BLANCO, TX 78606-5130

Other Applicant Representatives:
MR GRANT GAINES
EARL & ASSOCIATES PC
111 SOLEDAD ST STE 1111
SAN ANTONIO, TX 78205-2292

PERMIT #: WQ0014777001

BASIN:
REGION: 16
COUNTY: VAL VERDE

PERMITTEE: VAL VERDE DEVELOPMENT CO
TO BE PUBLISHED BY: MR THOMAS KOCH

DATE NOTICE MAILED: 3-5-07

CCO #: 57197 NOTICE TECH INITIALS: ISalazar

LONG NEWS SERVICE
P O Box 12368
AUSTIN TX 78711

TEXAS LEGISLATIVE SERVICE
P O BOX 100
AUSTIN TX 78767

ENVIRONMENTAL PROTECTION AGENCY
ATTN: JACK FERGUSON
CHIEF, PERMIT SECTION
1445 ROSS AVE
DALLAS TX 75202-2733

US ENVIRONMENTAL PROTECTION AGENCY
REGION 6 (only notices with TPDES language)
ATTENTION: EVELYN ROSBOROUGH (6WQ-CA)
1445 ROSS AVENUE
DALLAS TX 75202

ALAN ALLEN EXECUTIVE DIRECTOR
SPORTSMEN'S CLUBS OF TEXAS INC
311 VAUGHN BUILDING
AUSTIN TX 78701

TEXAS CENTER FOR POLICY STUDIES
ATTN: CYRUS REED & MARY E KELLY
1002 WEST AVE STE 300
AUSTIN TX 78701-2051

CITIZENS TO SAVE LAKE WACO
ATTN WANDA GLAZE PRESIDENT
178 LEUTWYLER LANE
WACO TX 76712

NATIONAL WILDLIFE FEDERATION
ATTN: MYRON J HESS
44 EAST AVE, STE 200
AUSTIN TX 78701

CHRISTOPHER BROWN
WATER PROJECTS ATTORNEY
NATIONAL WILDLIFE FEDERATION
44 EAST AVE STE 200
AUSTIN TX 78701-4385

TEXAS PARKS AND WILDLIFE DEPT
ATTN: PATRICIA L. RADLOFF
COASTAL FISHERIES DIVISION - FPP
4200 SMITH SCHOOL RD
AUSTIN TX 78744
INTERAGENCY MAIL

RAILROAD COMMISSION OF TEXAS
ENVIRONMENTAL SERVICES
ATTN LELSEY L. SAVAGE DIRECTOR
INTERAGENCY MAIL

OFFICE OF THE ATTORNEY GENERAL
NATURAL RESOURCES DIVISION
ATTN KAREN CORNELL
INTERAGENCY MAIL

TEXAS HISTORICAL COMMISSION
ATTN STATE HISTORICAL PRESERVATION
OFFICER AND STATE ARCHEOLOGIST
INTERAGENCY MAIL

WATER DEVELOPMENT BOARD
ATTN JAN BEFFORD
INTERAGENCY MAIL

TEXAS DEPARTMENT OF AGRICULTURE
ATTN RICHARD EYSTER
OFFICE OF RISK ASSESSMENT & TOXICOLOGY
INTERAGENCY MAIL

TEXAS DEPARTMENT OF HEALTH
ATTN DR. JOHN VILLANACCI
INTERAGENCY MAIL (WQ, MSW, IHW)

LYNETTE MARTINEZ, COUNCIL SECRETARY
COASTAL COORDINATION COUNCIL
GENERAL LAND OFFICE
1700 N CONGRESS AVE ROOM 617
AUSTIN TX 78701-1495
INTERAGENCY MAIL
(ONLY NOTICES WITH CMP LANGUAGE)



SE RANCH HOLDINGS LTD
111 SOLEDAD
SUITE 1111
SAN ANTONIO, TX 78205

~~SE RANCH HOLDINGS LTD
111 SOLEDAD
SUITE 1111
SAN ANTONIO, TX 78205~~

NEW APPLICATION
DOMESTIC
VAL VERDE DEVELOPMENT
COMPANY
VAL VERDE COUNTY

SE RANCH HOLDINGS LTD
111 SOLEDAD
SUITE 1111
SAN ANTONIO, TX 78205

~~SE RANCH HOLDINGS LTD
111 SOLEDAD
SUITE 1111
SAN ANTONIO, TX 78205~~

1 landowner

MR BUCHANAN EASLEY
4020 SUMMIT CT
FAIRVIEW TX 75069-1183

LEONARD G GARCIA
10105 GRAND OAK DR
AUSTIN TX 78750-3806

RANDY RENEAU
9302 MYSTIC OAKS TRL
AUSTIN TX 78750-3814

14777-001 Val Verde District of C. Val Verde Co + IP

MR STUART M WYATT
106 WINDING WAY
DEL RIO TX 78840

☐
THE HONORABLE PETE GALLEGO
TEXAS HOUSE OF REPRESENTATIVES
DISTRICT 74 ROOM 4N.08
TEXAS STATE CAPITOL

☐
THE HONORABLE CARLOS L URESTI JR
TEXAS SENATE
DISTRICT 19 ROOM E1.810
TEXAS STATE CAPITOL

DEL RIO-VAL VERDE COUNTY HEALTH
DEPT
PO BOX 4250
DEL RIO TX 78840

MIDDLE RIO GRANDE DEVELOPMENT
COUNCIL
PO BOX 1199
CARRIZO SPRINGS TX 78834-7199

US ARMY CORPS OF ENGINEERS
REGULATORY BRANCH
PO BOX 17300 CESWS-PER-R
FORT WORTH TX 76102-0300

VAL VERDE COUNTY HEALTH OFFICER
1120 S MAIN ST
DEL RIO TX 78840-5949

VAL VERDE COUNTY HEALTH OFFICIAL
PO BOX 4250
DEL RIO TX 78841

VAL VERDE COUNTY JUDGE
PO BOX 4250
DEL RIO TX 78841

DIVISION ENGINEER
INTERNATIONAL BOUNDARY WATER
COMMISSION
4171 N MESA ST STE C-310
EL PASO TX 79902-1422

FIELD SUPERVISOR
US FISH & WILDLIFE SERVICE
10711 BURNET RD STE 200
AUSTIN TX 78758-4460

PUBLIC HEALTH REGION 8
TEXAS DEPARTMENT OF STATE HEALTH
SERVICES
7430 LOUIS PASTEUR DR
SAN ANTONIO TX 78229-4507

 CITY OF DEL RIO
HEALTH OFFICIAL
109 BROADWAY
DEL RIO TX 78840

 CITY OF DEL RIO
MAYOR
109 BROADWAY
DEL RIO TX 78840

Applicant Information

Permit No. WQ0014777001

LEGAL NAME OF FACILITY OWNER: Val Verde Development Co.

OPERATOR (if required to be co-permittee)

PERMIT MAILING ADDRESS

111 Soledad Street, Suite 1111
San Antonio, Texas 78205

Customer No. CN603148198 Regulated Entity No. RN105155915

CID # 57197

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2007 FEB 26 AM 8:15
CHIEF CLERKS OFFICE

CONTACT INFORMATION

APPLICANT'S REPRESENTATIVE(S) OR CONTACT PERSON DURING APPLICATION PROCESS

Grant Gaines
Earl & Associates, PC
111 Soledad Street, Suite 1111
San Antonio, Texas 78205
Tel: 210-222-1500 Fax: 210-222-9100

Tom Koch
C. Thomas Koch, Inc.
187 Madrone Trail
Blanco, Texas 78606
Tel: 830-833-4133 Fax: 978-477-5863

NOTICE TO BE PUBLISHED BY

Tom Koch
C. Thomas Koch, Inc.
187 Madrone Trail
Blanco, Texas 78606
Tel: 830-833-4133 Fax: 978-477-5863

MAILING LISTS

FIXED STATE MAILING LIST (by Chief Clerk)

COUNTY MAILING LIST Val Verde

CITY TO BE NOTIFIED Del Rio

NOTICE TO GLO () YES (X) NO

ADJACENT/DOWNSTREAM LANDOWNERS LIST PLUS INTERESTED PERSONS (N/A for renewals or minor amendments)

LANDOWNER MAILING LIST ATTACHED (X) YES () NO

BILINGUAL NOTICE REQUIRED (X) YES () NO

NOTIFY FOLLOWING COUNTY JUDGES ONLY IF THEY OFFICIALLY REQUESTED TO BE NOTIFIED OF ALL PERMIT ACTIONS
(only applies to facilities with a flow of 5 MGD or greater)