

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*

January 2, 2009

VIA HAND DELIVERY

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

2009 JAN - 2 PM 4: 13  
CHIEF CLERKS OFFICE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

RE: Aransas County Municipal Utility District Number 1  
TPDES Permit No. WQ0011624001  
TCEQ Docket No. 2008-1010-MWD

Dear Ms. Castañuela:

Enclosed for filing in the above styled application and docket numbers find the original and seven copies of "Executive Director's Response to Hearing Requests and to Requests for Reconsideration."

If you have any questions or comments, please call me at 239-0455. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Williams", written over a horizontal line.

John E. Williams, Staff Attorney  
Environmental Law Division MC 173

Enclosures

TCEQ Docket No. 2008-1010-MWD

Application by §  
ARANSAS COUNTY MUNICIPAL §  
UTILITY DISTRICT NUMBER 1 §  
for TPDES Permit No. WQ0011624001 §

Before the 2009 JAN -2 PM 4: 13  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY  
CHIEF CLERKS OFFICE

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

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The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests and to Requests for Reconsideration (Response) on the application by Aransas County Municipal Utility District Number 1 for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0011624001. This request is filed pursuant to Title 30 of the Texas Administrative Code, Section 55.254(e). The Office of Chief Clerk timely received hearing requests from:

Neil J. Adams,  
Richard R. Adams,  
Kenneth Ballard,  
Augustine Barrera, Jr.,  
James B. Blackburn, Jr., individually,  
James B. Blackburn, Jr., representing  
Protect Lamar Peninsula (PLP),  
Jay Brans,  
Emil Broz,  
Barbara Brummitt,  
Richard Caldwell,  
Richard G. Caldwell,  
Stephen M. Carelton,  
Craig E. Clark, P.E., representing the  
Texas Department of  
Transportation (TxDOT),  
Jim & Pam Collins,  
Carole Davis,  
Keren Dotson,  
Mrs. Davis G. Edwards,  
Lynn & Robert M. Edwards,  
George Foulds,  
David Gill,  
Robert G. Gordon,  
Marjorie Greeson,

Mrs. John Grimaudo,  
Donald & Patricia Gyorog,  
Bett Hediger,  
Beth Hester,  
Barbara & Wesley Howe,  
Bob & Sheralyn Humble,  
Zella Hunt,  
Marshal & Victoria Lightman,  
George Longoria,  
Thomas McChesney,  
Graden & Jean McVay,  
Paul Mercier,  
Allan Middleton,  
Robert A. Nelson, Jr.,  
Bertha L. Oliver,  
Patrick W. Pollok,  
S. V. Pruski,  
W. R. Raney,  
Neil Richardson,  
Delores & Eugene Rogowicz,  
William H. Schmidt, individually,  
William H. Schmidt, representing the  
Holiday Beach Property Owners'  
Association (HBPOA),  
Diana Sebastian,

Sandra Sloop,  
Dwight Taylor,  
Linda Taylor,

Jim Turner,  
Anthony Valek, and  
Jane Wicker.

James B. Blackburn, Jr., individually, Craig E. Clark, P.E., on behalf of TxDOT, and Barbara and Wesley Howe subsequently withdrew their hearing requests.

The Office of Chief Clerk timely received requests for reconsideration from Barbara Brummitt, Linda D. Pechacek, and William H. Schmidt on behalf of HBPOA.

Attached for commission consideration are the following:

Attachment A – Draft Permit

Attachment B – Fact Sheet and Executive Director’s Preliminary Decision

Attachment C – Compliance History of the Applicant

Attachment D – Executive Director’s Response to Public Comment (RTC)

Attachment E – Map of the Facility Site

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

## **BACKGROUND**

### Description of Facility

Aransas County Municipal Utility District Number 1 has applied to the TCEQ for a major amendment to its TPDES permit that would authorize a discharge of treated domestic wastewater to a receiving body of water, and an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 88,000 gallons per day via irrigation to a daily average flow not to exceed 131,500 gallons per day in the Interim II phase and to a daily average flow not to exceed 263,000 gallons per day in the Final phase via discharge to a receiving body of water. The proposed amendment requests to construct a new wastewater treatment facility beside and towards the northeast of the existing facility within the MUD property.

The Aransas County MUD No. 1 Wastewater Treatment Facility is an activated sludge process plant operated in the extended aeration mode in the Interim I Phase. The new facility will be operated as a membrane biological reactor in the Interim II and Final Phases. Treatment units in the Interim I Phase include a bar screen, an aeration basin, a final clarifier, a sludge holding tank, and a chlorine contact chamber. Treatment units in the Interim II and Final Phases include a bar screen, a flow equalization basin, an anoxic basin, an aerobic basin, a membrane filtration basin, a membrane sludge holding and thickening basin, an aerobic sludge digester, and a chlorine contact chamber. The facility is operating in the Interim I Phase. The Interim II and Final Phase facilities have not been constructed. Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ permitted landfill and land application sites, Texas Sludge

Disposal, Inc. in San Patricio County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The facility is located approximately 1,100 feet south of 8th Street and approximately 500 feet west of Park Road 13 (Palmetto Drive) in the Lamar Peninsula in Aransas County, Texas. The existing wastewater treatment facility serves the Goose Island Estates Park Subdivision and Goose Island State Park. The proposed wastewater treatment facility will also serve the Lamar Water Supply Corporation service area and the Lamar Pointe Subdivision. The treated effluent will be discharged to a series of two unnamed ponds along State Highway 35, which flow into Aransas Bay in Segment No. 2471 of the Bays and Estuaries. The unclassified receiving water uses are high aquatic life uses for the series of two ponds. The designated uses for Segment No. 2471 are exceptional aquatic life uses, oyster waters and contact recreation. Segment No. 2471 is not currently listed on the State's inventory of impaired and threatened waters (the Clean Water Act Section 303(d) list).

### Procedural Background

The application was received on June 30, 2006, and declared administratively complete on September 15, 2006. Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published September 27, 2006, in the *Rockport Pilot*. The TCEQ Executive Director originally completed the technical review of the application on December 29, 2006, and prepared a draft permit. The draft permit was mailed to the Applicant for review on January 11, 2007. The Applicant responded on February 2, 2007, requesting additional authorization to accept reverse osmosis plant reject water into the collection system and into the waste stream. This required a revised Water Quality Standards review. A new Standards memorandum was completed March 6, 2007. A revised draft permit was mailed to the Applicant for review on April 19, 2007. The Applicant accepted the revised draft permit and it was filed with the Office of Chief Clerk on May 17, 2007. Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater Amendment (NAPD) was published September 15, 2007, in the *Rockport Pilot*. On October 18, 2007, the Applicant requested a change in the location of the facility within its own property, but a change that affected which adjacent properties would be included in the buffer zone. A public meeting was held on October 22, 2007, in Fulton, Texas. A revised NAPD giving notice of the changed location was published November 10, 2007, in the *Rockport Pilot*, and the comment period closed December 10, 2007. The Executive Director's RTC was filed on May 19, 2008, and the period for requesting reconsideration or a contested case hearing ended June 23, 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 (76<sup>th</sup> Legislature, 1999).

### **LEGAL AUTHORITY FOR REVIEW OF HEARING REQUESTS**

A party that requests a contested case hearing declared administratively complete on or after September 1, 1999 must comply with the requirements of 30 TAC §§ 55.201 to 55.205. In

particular, the party must file its request no later than 30 days after the Chief Clerk mails or transmits the Executive Director's response to comments. 30 TAC § 55.201(a). Furthermore, the request must be in writing, and may not be based on an issue that was raised solely in a public comment that was specifically withdrawn by the commenter.

Additionally, the requestor must substantially comply with the following requirements, found at 30 TAC § 55.201(d):

- (1) The request must list the name, address, daytime telephone number, and fax number (where possible) of the person making the request.
- (2) The party must identify its personal justiciable interest that is affected by the application. This should be a brief, specific, written statement that describes the party's proximity to the proposed facility or proposed activity, as well a description of how the party is adversely affected by the facility or activity in a way that is not common to members of the general public.
- (3) The party must request a contested case hearing.
- (4) The request must 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.
- (5) The party must also provide any other information specified in the public notice of application.

See 30 TAC §§ 55.201(d)(1)–(5).

Finally, the party requesting the contested case hearing must be an "affected person." 30 TAC § 55.201(b)(4). To determine whether a party is an affected person, the party must belong to one of the specified categories of persons identified in 30 TAC § 55.203. This section defines an affected person as the following:

- (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) Government entities, including local governments and public agencies, with authority under state law or over issues raised by the application may be considered affected persons.

30 TAC § 22.203(a)–(b).

This section of the Administrative Code also includes several non-exclusive factors to consider in determining whether a party is an affected person. These factors are as follows:

- (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 person;

- (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 resource by the person; and
- (6) for government entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC §§ 55.203(c)(1)–(6).

For a hearing request by a group or association, the group or association must meet all of the following requirements:

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

30 TAC § 55.205(a). The Executive Director, the Public Interest Counsel, or the Applicant may request that a group or association provide an explanation of how the group or association meets these requirements. *See* 30 TAC § 55.205(b).

If the Commission determines that the requestor has met the requirements for requesting a hearing, the Commission may grant the request and “shall issue an order specifying the number and scope of the issues to be referred to” the State Office of Administrative Hearings (SOAH). *See* TEX. WATER CODE § 5.556(e) and 30 TAC § 50.115(b). The Commission may not refer an issue to SOAH unless the issue:

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

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

Pursuant to Section 55.209 of the Commission rules, a response to a hearing request must specifically address:

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or of law;
- (4) whether the issues were raised during the public comment period

- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's RTC;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.

See 30 TAC § 55.209(e).

A request for reconsideration of the Executive Director's decision on a matter may be filed by any person. The request must be in writing and filed with the Chief Clerk within 30 days after the Chief Clerk mails or transmits the Executive Director's response to comments. The request should contain the name, address, daytime telephone number, and, where possible, fax number of the person who files the request, must expressly state that the person is requesting reconsideration of the Executive Director's decision, and give reasons why the decision should be reconsidered. See 30 TAC § 55.201(e).

### ANALYSIS OF THE HEARING REQUESTS

The comment and hearing request periods for this application generated hearing requests from 51 individuals, couples, or associations. James B. Blackburn, Jr., individually, Craig E. Clark, P.E., on behalf of TxDOT, and Barbara and Wesley Howe subsequently withdrew their hearing requests and those requests will not be further analyzed.

#### *1. Whether the Requestors Complied with 30 TAC §§ 55.201(a)–(d)*

The request letters from Jay Brans and S. V. Pruski failed to identify any personal justiciable interest or to explain how the requestors were adversely affected by the facility or activity in a way that is not common to members of the general public, as required by 30 TAC § 55.201(d)(2), or to list any disputed issues of fact that were raised during the public comment period, as required by 30 TAC § 55.201(d)(4).

All other request letters contained the information required by 30 TAC §§ 55.201(a)–(d).

The Executive Director concludes that Jay Brans and S. V. Pruski have not substantially complied with 30 TAC §§ 55.201(a)–(d). The Executive Director further concludes that all other hearing requestors have substantively complied with 30 TAC §§ 55.201(a)–(d).

#### *2. Whether the Requestors Meet the Requirements of an Affected Person*

Two requestors own or occupy property immediately adjacent to the facility's current irrigation area, the golf course. Although under the terms of the draft permit the Applicant would be abandoning this irrigation area, Dwight D. Taylor is listed in the application as an adjacent landowner of property located at 3 South Lake Drive. Linda K. Taylor also lists her residential

address as 3 South Lake Drive, but is not listed in the records of the Aransas Central Appraisal District (Aransas CAD) as an owner of that property. The records of the Aransas CAD list Dwight D. Taylor as the sole owner of that property, his mailing address is listed as 3 South Lake Drive, and Mr. Taylor claims a homestead exemption on that property.

Dwight D. Taylor and Edith J. Taylor are shown on the records of the Aransas CAD as owning a property at 40 Lazy Lane, claim no homestead exemption for that property, and receive mail at a Post Office box number in Fulton, on the other side of the Copano Causeway from this facility. Nevertheless, in his hearing request, Dwight Taylor listed 40 Lazy Lane as his mailing address.

The Executive Director has chosen to show both 3 South Lake Drive (Dot 42) and 40 Lazy Lane (Dot 41) on the map in Attachment E. The Executive Director does not know the family relationship between Dwight D. Taylor, Edith J. Taylor, and Linda K. Taylor, nor is it necessarily relevant to this analysis. Dwight D. Taylor owns property listed as an adjacent property in the application (3 South Lake Drive, Dot 42), Linda K. Taylor lives in a residence on that same property, and both complain of periodic odor problems around the plant.

Thus, both Dwight Taylor and Linda K. Taylor have a property interest in the property at 3 South Lake Drive (Dwight Taylor as owner, Linda Taylor as resident or tenant), there is a reasonable relationship between odors from the facility and their use of the property, and the close proximity of the property to the facility could bring odors to the property, satisfying factors to consider in determining whether a party is an affected person in 30 TAC §§ 55.203(c)(1), (3), and (4).

The Executive Director concludes that Dwight Taylor and Linda K. Taylor are affected persons due to their ownership or residency in proximity to the treatment plant and their concern with odor.

Seven individuals or couples requesting a hearing own bayshore property or property on channels dug from the bay to their property within a reasonable distance of the discharge point. These are Stephen M. Carleton (Dot 10), Marjorie or Marbrie Greeson (Dot 19), Donald and Patricia Gyorog (Dot 21), Bob and Sheralyn Humble (Dot 25), Thomas McChesney (Dot 29), Robert A. Nelson, Jr. (Dot 31), and Jane Wicker (Dot 45). The locations of their waterfront properties have been confirmed through the records of the Aransas CAD. They are located on the Map in Attachment E southwest of Goose Island State Park, sandwiched between the park and the bay.

Three other individuals own property within a few hundred feet of the bayshore between the seven listed above and the discharge point. These are Emil Broz (Dot 6), Beth Hester (Dot 23), and Patrick Pollok (Dot 33). The locations of their properties have been confirmed through the records of the Aransas CAD. They are located just west of Goose Island State Park.

All ten of these individuals or couples cite their concerns for the quality of water in the bay at the waterfront of their property and their concerns for the health of their own and their families' contact with water in the bay through fishing and swimming. Their requests satisfy several factors to consider in determining whether a party is an affected person in 30 TAC §§ 55.203(c)(1), (3), (4), and (5).

The Executive Director concludes that Emil Broz, Stephen M. Carleton, Marjorie or Marbrie Greeson, Donald and Patricia Gyorog, Beth Hester, Bob and Sheralyn Humble, Thomas McChesney, Robert A. Nelson, Jr., Patrick Pollok, and Jane Wicker are affected persons due to their ownership of property in close proximity to or adjacent to bayfront within a reasonable distance of the discharge point and their concerns for water quality and health through contact with water in the bay.

Seven individuals or couples requesting a hearing own bayshore property or property on channels dug therefrom, but a considerable distance from the discharge point, some more than two miles. These are Neil J. Adams (Dot 0), Ken Ballard (Dot 2), Barbara Brummitt (Dot 7), Jim and Pam Collins (Dot 12), Marshal and Victoria Lightman (Dots 27 & 28, adjacent lots), Dolores and Eugene E. Rogowicz (Dot 37), and William H. Schmidt (Dot 38). The locations of their properties have been confirmed through the records of the Aransas CAD.

Despite their concerns for water quality in Copano Bay and for the health of their own and their families' contact with water in the bay through fishing and swimming, the Executive Director does not believe they own property within a reasonable distance from the discharge point to be affected persons as required by 30 TAC §§ 55.203(c)(2), (3), (4), and (5). Their concerns are no different than those of the general public and fail the requirement for a personal justiciable interest not common to members of the general public in 30 TAC § 55.203(a).

All other requestors, Richard Adams (Dot 1), Augustine Barrera, Jr. (Dot 3), Jay Brans (Dot 5), Richard Caldwell (Dot 8), Richard G. Caldwell (Dot 9), Carole Davis (Dot 13), Keren Dotson (Dot 14), Mrs. Davis Edwards (Dot 15), Lynn and Robert M. Edwards (Dot 16), George Foulds (Dot 48), David Gill (Dot 17), Robert Gordon (Dot 18), Mrs. John Grimaudo (Dot 20), Betty Hediger (Dot 22, not shown across the Copano Causeway in Rockport), Zella Hunt (Dot 26), George Longoria (Dot 49), Graden N. and Jean McVay (Dot 46), Paul Mercier (Dot 47), Alan Middleton (Dot 30), Bertha L. Oliver (Dot 32), S. V. Pruski (Dot 34), W. R. Raney (Dot 35, not shown across the Copano Causeway in Rockport), Neil Richardson (Dot 36), Diana Sebastian (Dot 39), Sandra Sloop (Dot 40), Jim Turner (Dot 43), and Anthony S. Valek (Dot 44) own landbound property not along the bayshore or any waterfront, are not adjacent to the discharge point or the treatment plant, and live outside the buffer zone in which odors may be considered to be problematic. Their requests are thus lacking in any of the factors listed in 30 TAC § 55.203(c) for consideration in determining whether a party is an affected person. Their only access to water in the bay appears to be through public boat ramps far removed from the discharge point or treatment plant. Their concerns about water quality in the bays, the health of themselves and their families through water contact such as fishing or swimming, and odor are therefore no different than those of the general public and fail the requirement for a personal justiciable interest not common to members of the general public in 30 TAC § 55.203(a).

The Executive Director concludes that Neil J. Adams, Richard Adams, Ken Ballard, Augustine Barrera, Jr., Jay Brans, Barbara Brummitt, Richard Caldwell, Richard G. Caldwell, Jim and Pam Collins, Carole Davis, Keren Dotson, Mrs. Davis Edwards, Lynn and Robert M. Edwards, George Foulds, David Gill, Robert Gordon, Mrs. John Grimaudo, Betty Hediger, Zella Hunt, Marshal and Victoria Lightman, George Longoria, Graden N. and Jean McVay, Paul Mercier, Alan Middleton,

Bertha L. Oliver, S. V. Pruski, W. R. Raney, Neil Richardson, Dolores and Eugene E. Rogowicz, William H. Schmidt, Diana Sebastian, Sandra Sloop, Jim Turner, and Anthony S. Valek have not established the required elements to be considered affected persons, and their concerns are no different than those of the general public.

William H. Schmidt requested a contested case hearing on behalf of the Holiday Beach Property Owners' Association (HBPOA) as its President. Mr. Schmidt did not list any other members who might be affected persons in their own right, so the Executive Director can only evaluate the request based on Mr. Schmidt's property ownership and personal justiciable interests. In addition, Mr. Schmidt did not elaborate on the HBPOA's purpose. Consequently, it is unclear to the Executive Director whether the interests HBPOA seeks to protect are germane to the association's purpose as required by 30 TAC § 55.205(a)(2). Mr. Schmidt does own waterfront property (Dot 38) and is concerned about periodic odor problems around the plant and with water quality and his and his family's health coming in contact with the water through fishing and swimming, but Mr. Schmidt's property is located more than two miles straight-line distance from the discharge point, considerably farther than that along the bayshore, and more than two and a half miles from the buffer zone around the treatment plant. Despite owning waterfront property, Mr. Schmidt's property is too far from the discharge point for there to be a reasonable relationship between the interest claimed and the activity regulated. His concerns fail any of the factors for consideration in 30 TAC § 55.203(c) and he has no personal justiciable interest any different from those of the general public, as required by 30 TAC § 55.203(a). Therefore HBPOA's standing as an affected party is no different than his own and HBPOA's request fails to satisfy the requirement that a member of the group must otherwise have standing to request a hearing in their own right in 30 TAC § 55.205(a)(1).

James B. Blackburn, Jr., requested a contested case hearing on behalf of Protect Lamar Peninsula (PLP). It appears from Mr. Blackburn's letter that the interests PLP seeks to protect are germane to the association's purpose and satisfies the requirement of 30 TAC § 55.205(a)(2). Mr. Blackburn cites Neil J. Adams, Kenneth Ballard, and Marshal Lightman as members who would be affected persons in their own right. All three of these individuals are neighbors or near neighbors of William H. Schmidt, and their properties are similarly situated and their concerns are no more justiciable than Mr. Schmidt's, therefore PLP's standing as an affected party is no different than theirs. Each of the three individuals' requests fail any of the factors for consideration in 30 TAC § 55.203(c) and they have no personal justiciable interest any different from those of the general public, as required by 30 TAC § 55.203(a). PLP's standing fails to satisfy the requirements that a member of the group must otherwise have standing to request a hearing in their own right in 30 TAC § 55.205(a)(1).

The Executive Director concludes that the Holiday Beach Property Owners' Association and Protect Lamar Peninsula have not established the required elements to be considered to be affected parties.

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

The Executive Director has identified 11 issues raised in hearing request letters that were not withdrawn. All of the issues were also raised during the comment period.

1. Do the proposed effluent limits in the draft permit meet the Texas Surface Water Quality Standard in 30 TAC Chapter 307?
2. Does the proposed discharge meet antidegradation requirements in 30 TAC § 307.5 and TCEQ's antidegradation policy and implementation procedures?
3. Does the facility meet buffer zone requirements in 30 TAC § 309.13(e) for the abatement and control of nuisance odors?
4. Is there a need for the expanded capacity based on design requirements in 30 TAC § 217.32?
5. Are there adequate contingency plans for plant failure, including emergency holding or retention facilities, as required by 30 TAC § 217.16(b)?
6. Does the Applicant's compliance history require special conditions in the draft permit as required by Texas Water Code § 26.0281?
7. Will the proposed discharge violate rules of the Texas Coastal Zone Management Program as required by 30 TAC Chapter 505?
8. Are there alternative methods of disposal or alternative disposal sites available to the Applicant?
9. Does the Applicant have the financial, managerial, or technical resources to insure safe operation of the facility?
10. Must the application consider rainwater runoff or foreign contaminants?
11. Will property values be affected?

Issues 1 through 7 involve disputed questions of fact that are relevant and material to the Commission's decision on this application. Issues 8 through 11 involve matters that are not relevant or material to the Commission's decision on this application.

The Executive Director recommends referring Issues 1 through 7 to the State Office of Administrative Hearings.

### **DURATION FOR THE CONTESTED CASE HEARING**

The Executive Director recommends that the duration for the hearing on this matter, between preliminary hearing and the presentation of a proposal for decision before the Commission be 9 months.

## REQUESTS FOR RECONSIDERATION

The Office of Chief Clerk received three requests for reconsideration of the Executive Directions decision on this appeal, from Barbara Brummitt, Linda D. Pechacek, and William H. Schmidt on behalf of HBPOA. The requests did not raise any issues not already addressed by the Executive Director in the review of this application and in the RTC, and did not provide any new facts about those issues.

Nevertheless, the Executive Director is here recommending referral of this matter to the State Office of Administrative Hearings for a contested case hearing, and the matters raised in the requests for reconsideration are being recommended for referral. There will be an evidentiary hearing on all issues raised by the requests for reconsideration, therefore there is no need to grant those requests.

The Executive Director recommends denial of the three requests for reconsideration.

## EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the Commission find that Emil Broz, Stephen M. Carleton, Marjorie or Marbrie Greeson, Donald and Patricia Gyorog, Beth Hester, Bob and Sheralyn Humble, Thomas McChesney, Robert A. Nelson, Jr., Patrick Pollok, Dwight Taylor, Linda K. Taylor and Jane Wicker are affected persons and grant their requests for a contested case hearing.

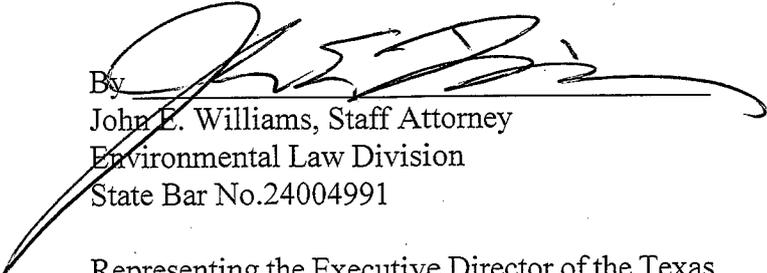
The Executive Director recommends referring Issues numbered 1 through 7 listed above to SOAH for a duration of the hearing on this matter be 9 months.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.  
Executive Director

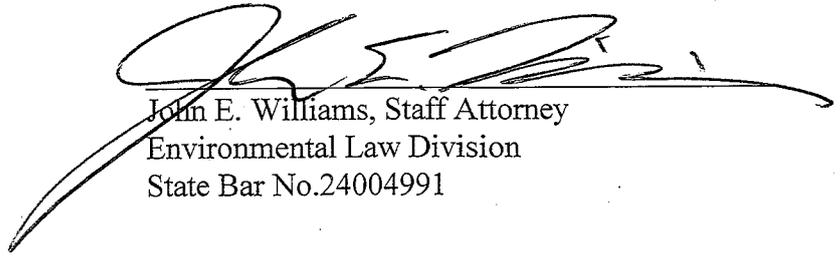
Robert Martinez, Director  
Environmental Law Division

By   
John E. Williams, Staff Attorney  
Environmental Law Division  
State Bar No. 24004991

Representing the Executive Director of the Texas  
Commission on Environmental Quality

**CERTIFICATE OF SERVICE**

I certify that on January 2, 2009, the original and seven copies of the "Executive Director's Response to Hearing Requests" for TPDES Permit No. WQ0011624001 were filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk; and a complete copy was mailed to all persons on the attached mailing list.



John E. Williams, Staff Attorney  
Environmental Law Division  
State Bar No.24004991

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2009 JAN - 2 PM 4: 13  
CHIEF CLERKS OFFICE

Mailing List  
Aransas County Municipal Utility District Number 1  
TPDES Permit No. WQ0011624001  
TCEQ Docket No. 2008-1010-MWD

FOR THE APPLICANT:

Lauren Kalisek  
816 Congress Ave., Ste. 1900  
Austin, TX 78701-2748  
FAX 512/472-0532

Robert Callegari, P.E.  
14101 W. Hwy 290  
Austin, TX 78737-9330  
FAX 512/894-3225

S. Kelly  
1338 8th St.  
Rockport, TX 78382-7975

FOR REQUESTERS

Neil J. Adams  
9855 Briarwild  
Houston TX 77080

Richard Adams  
7 Redbird Trl  
Rockport TX 78382-7912

Ken Ballard  
24 Belaire  
Rockport TX 78382

Augustine Barrera Jr  
12206 Ridge Summit St  
San Antonio TX 78247-3408

James B Blackburn Jr  
4709 Austin  
Houston TX 77004  
FAX 713/524-5165

Jay Brans  
28 Bois D'Arc  
Rockport TX 78382

Emil Broz  
2 Cedar St  
Rockport TX 78382-7981

Barbara Brummitt  
42 Belaire  
Rockport TX 78382

Richard Caldwell  
31 Redbird Trl  
Rockport TX 78382-7912

Richard G. Caldwell  
20 S Lake Dr  
Rockport TX 78382-7939

Stephen M Carelton  
112 Front St  
Rockport TX 78382-7800

Craig Clark P.E.  
Texas Department of Transportation  
PO Box 9907  
Corpus Christi TX 78469-9907  
FAX 361/808-2375

Jim & Pam Collins  
P.O. Box 10  
Fulton TX 78358

Carole Davis  
117 Live Oak Dr  
Rockport TX 78382-7810

Keren Dotson  
17 Bois D'Arc St  
Rockport TX 78382-7943

Mrs. Davis Edwards  
117 Live Oak Dr  
Rockport TX 78382-7810

Lynn & Robert M Edwards  
P.O. Box 776  
Fulton TX 78358

George Foulds  
41 Lazy Lane  
Rockport TX 78382

David Gill  
445 Desota Dr  
Rockport TX 78382-9256

Robert Gordon  
30 Redbird Trl  
Rockport TX 78382-7913

Marjorie Greeson  
128 Front St  
Rockport TX 78382-7800

John Grimaudo  
PO Box 1335  
Fulton TX 78358-1335

Donald & Patricia Gyorog  
39 Front St  
Rockport TX 78382-7802

Bett Hediger  
1328 S Kossuth St  
Rockport TX 78382-4416

Beth Hester  
10 Tomahawk Trl  
Rockport TX 78382-7906

Barbara & Wesley Howe  
85 S Lake Dr  
Rockport TX 78382-7938

Bob & Sheralyn Humble  
33 Front St  
Rockport TX 78382-7802

Zella Hunt  
1 Heron Way  
Rockport TX 78382-7821

Marshal & Victoria Lightman  
P.O. Box 131286  
Houston TX 77219-1286

George Longoria  
119 Gladstone  
San Antonio TX 78214-1103

Thomas D McChesney  
63 Magnolia St  
Rockport TX 78382-7803

Graden N & Jean McVay  
43 Lazy Ln  
Rockport TX 78382-7926

Paul Mercier  
15014 Tinker St  
Houston TX 77084-2050

Allan Middleton  
59 Mockingbird Ln  
Rockport TX 78382-7805

Robert A Nelson Jr  
118 Front St  
Rockport TX 78382-7800

Bertha L Oliver  
PO Box 177  
Shell Knob MO 65747-0177

Linda D. Pechacek  
2115 Chantilly Lane  
Houston TX 77018

Patrick Pollok  
7014 Tierra Bonita  
San Antonio TX 78263

S V Pruski  
24 Estates Dr  
Lamar TX 78382

W R Raney  
1328 S Kossuth St  
Rockport TX 78382-4416

Neil Richardson  
1019 Grand Junction Dr  
Katy TX 77450-3806

Dolores & Eugene E Rogowicz  
105A Channelview Rd  
Rockport TX 78382-9354

William H Schmidt  
104 Saint Charles Loop W  
Rockport TX 78382-9262  
FAX 361/729-8929

Diana Sebastian  
2 S Lake Dr  
Rockport TX 78382-7939

Sandra Sloop  
54 Lazy Ln  
Rockport TX 78382-7923

Dwight Taylor  
40 Lazy Ln  
Rockport TX 78382

Linda K Taylor  
3 S Lake  
Rockport TX 78382-7829

Jim Turner  
27 12th St  
Rockport TX 78382-7816

Anthony S Valek  
6226 Warhawk St  
San Antonio TX 78238-3940

Jane Wicker  
P.O. Box 880  
Beeville TX 78104

FOR THE EXECUTIVE DIRECTOR

John E. Williams, Staff Attorney  
TCEQ Environmental Law Division  
MC 173

P.O. Box 13087  
Austin, TX 78711-3087  
512/239-0455 FAX 512/239-0606

Julian Centeno  
TCEQ Water Quality Division MC 148  
P.O. Box 13087  
Austin, TX 78711-3087  
512/239-4608 FAX 512/239-4430

FOR OFFICE OF PUBLIC ASSISTANCE

Bridget C. Bohac, Director  
TCEQ Office of Public Assistance MC 108  
P.O. Box 13087  
Austin, TX 78711-3087  
512/239-1056 FAX 512/239-4007

FOR PUBLIC INTEREST COUNSEL

Blas Coy, Public Interest Counsel  
TCEQ Public Interest Counsel MC 103  
P.O. Box 13087  
Austin, TX 78711-3087  
512/239-6363 FAX 512/239-6377

FOR THE GENERAL COUNSEL

Les Trobman, General Counsel  
TCEQ Office of General Counsel MC 101  
P.O. Box 13087  
Austin, TX 78711-3087  
512/239-5525 FAX 512/239-5533

FOR THE CHIEF CLERK

LaDonna Castañuela  
TCEQ Office of Chief Clerk MC 105  
P.O. Box 13087  
Austin, TX 78711-3087  
512/239-3300 FAX 512/239-3311

FOR ALTERNATIVE DISPUTE  
RESOLUTION:

Kyle Lucas  
TCEQ Alternative Dispute Resolution  
MC-222  
P.O. Box 13087  
Austin, TX 78711-3087  
512/239-4010 FAX 512/239-4015

**LIST OF ATTACHMENTS**

Application by Aransas County Municipal Utility District Number 1 for TPDES Permit No.  
WQ0011624001  
TCEQ Docket No. 2008-1010-MWD

- Attachment A — Draft Permit No. WQ0011624001, Aransas County Municipal Utility District No. 1
- Attachment B — Technical Summary and Executive Director's Preliminary Decision, Draft Permit No. WQ0011624001, Aransas County Municipal Utility District No. 1
- Attachment C — Compliance Summary, Draft Permit No. WQ0011624001, Aransas County Municipal Utility District No. 1
- Attachment D — Executive Director's Response to Public Comment, Application by Aransas County Municipal Utility District No. 1, Draft Permit No. WQ0011624001
- Attachment E — Map of the Proposed Facility Site, Aransas County Municipal Utility District No. 1, Draft Permit No. WQ0011624001, and surroundings

**Attachment A**

Draft Permit No. WQ0011624001  
Aransas County Municipal Utility District No. 1



TPDES PERMIT NO. WQ0011624001  
[For TCEQ Office Use Only:  
EPA ID No. TX0128970]

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

This amendment supersedes and  
replaces TCEQ Permit No. 11624-001  
issued August 26, 2002.

PERMIT TO DISCHARGE WASTES

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

Aransas County Municipal Utility District No. 1

whose mailing address is

1338 Eighth Street  
Rockport, Texas 78382

is authorized to treat and discharge wastes from the Aransas County MUD No. 1 Wastewater Treatment Facility, SIC Code 4952

located approximately 1,100 feet south of 8th Street and approximately 500 feet west of Park Road 13 (Palmetto Drive) in the Lamar Peninsula in Aransas County, Texas

Interim I Phase: The permittee is authorized to dispose of treated domestic wastewater effluent at a daily average flow not to exceed 0.088 million gallons per day (MGD) via surface irrigation of 44.4 acres of golf course. Storage requirement is 1.57 acre-feet. Cover crop is Bermuda grass. Application rates shall not exceed 2.2 acre-feet per year per acre irrigated. The disposal site is located in the drainage basin of St. Charles Bay in Segment No. 2473 of the Bays and Estuaries. (See Attachment A for the location of the wastewater treatment facility and disposal site.) No discharge of pollutants into water in the State is authorized by the Interim I Phase of this permit.

Interim II and Final Phases: to a series of two unnamed ponds along State Highway 35; thence to Aransas Bay in Segment No. 2471 of the Bays and Estuaries

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

This permit shall expire at midnight, March 1, 2011.

ISSUED DATE:

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For the Commission

INTERIM I EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

**Conditions of this Permit Phase: No discharge of pollutants into water in the State is authorized.**

During the period beginning upon the date of issuance and lasting through the completion of expansion of facilities to 0.1315 million gallons per day (MGD), the permittee is authorized to discharge subject to the following effluent limitations:

A. Effluent Limitations

Character: Treated Domestic Sewage Effluent

Volume: 30-day Average - 0.088 MGD from the treatment system

Quality: The following effluent limitations shall be required:

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

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

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

B. Monitoring Requirements:

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

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

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion of facilities to 0.1315 million gallons per day (MGD) and lasting through the completion of expansion of facilities to 0.263 MGD, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.1315 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 183 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. & Max. Measurement Frequency	Single Grab Sample Type
Flow, MGD	Report	N/A	Report	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (5.5)	10	20	One/week	Grab
Total Suspended Solids	5 (5.5)	10	20	One/week	Grab
Ammonia Nitrogen	2 (2.2)	5	10	One/week	Grab
Total Phosphorus	0.5 (0.55)	1	2	One/week	Grab
Total Nitrogen	8 (8.8)	N/A	N/A	One/week	Grab

- 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.
- 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.
- 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 5.0 mg/l and shall be monitored once per week by grab sample.

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion of facilities to 0.263 million gallons per day (MGD) 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 0.263 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 365 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. & Max. Measurement Frequency	Single Grab mg/l	Sample Type
Flow, MGD	Report	N/A	Report	Five/week	N/A	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (11)	10	20	One/week	30	Grab
Total Suspended Solids	5 (11)	10	20	One/week	30	Grab
Ammonia Nitrogen	2 (4.4)	5	10	One/week	15	Grab
Total Phosphorus	0.5 (1.1)	1	2	One/week	3	Grab
Total Nitrogen	8 (18)	N/A	N/A	One/week	N/A	Grab

- 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.
- 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.
- 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 5.0 mg/l and shall be monitored once per week by grab sample.

**DEFINITIONS AND STANDARD PERMIT CONDITIONS**

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

**1. Flow Measurements**

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

**2. Concentration Measurements**

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

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

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

### 3. Sample Type

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

## MONITORING AND REPORTING REQUIREMENTS

### 1. Self-Reporting

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

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

### 2. Test Procedures

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

### 3. Records of Results

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

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

### 4. Additional Monitoring by Permittee

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

### 5. Calibration of Instruments

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

### 6. Compliance Schedule Reports

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

### 7. Noncompliance Notification

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

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

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

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

#### 10. Signatories to Reports

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

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

**PERMIT CONDITIONS**

## 1. General

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

## 2. Compliance

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

### 3. Inspections and Entry

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

### 4. Permit Amendment and/or Renewal

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

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

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy.

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

**OPERATIONAL REQUIREMENTS**

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

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

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

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

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

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

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

## SLUDGE PROVISIONS

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

### SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION

#### A. General Requirements

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

#### B. Testing Requirements

1. Sewage sludge shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method, which receives the prior approval of the TCEQ for the contaminants listed in Table 1 of 40 CFR Section 261.24. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division and the Regional Director (MC Region 14) within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 14) 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 14) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 1 of each year the following information:

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

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

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

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

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

Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division and the Regional Director (MC Region 14) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 14) 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 14) 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.

**SPECIAL PROVISIONS FOR INTERIM I PHASE:**

1. This permit is granted subject to the policy of the Commission to encourage the development of areawide waste collection, treatment and disposal systems. The Commission reserves the right to amend this permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an areawide 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 areawide 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.
2. The permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.  
  
This Category D facility must be operated by a chief operator or an operator holding a Category D license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift which does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.
3. The permittee shall maintain and operate the treatment facility in order to achieve optimum efficiency of treatment capability. This shall include required monitoring of effluent flow and quality as well as appropriate grounds and building maintenance.
4. Irrigation practices shall be designed and managed so as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Tailwater control facilities shall be provided as necessary to prevent the discharge of any wastewater from the irrigated land.
5. Wastewater shall not be applied for irrigation during rainfall events or when the ground is frozen or saturated.
6. Application rates to the irrigated land shall not exceed 2.2 acre-feet per year per acre irrigated. The permittee is responsible for providing equipment to determine application rates and maintaining accurate records of the volume of effluent applied. These records shall be made available for review by the Texas Commission on Environmental Quality and shall be maintained for at least three years.
7. Holding ponds shall conform to the Texas Commission on Environmental Quality "Design Criteria for Sewerage Systems" requirements for stabilization ponds with regard to construction and levee design, and a minimum of 2 feet of freeboard shall be maintained.

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

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

The permittee shall submit the results of the soil sample analyses to the TCEQ Regional Office (MC Region 14) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division during September of each year.

9. The permittee shall maintain a long term contract with the owner(s) of the land application site which is authorized for use in this permit, or own the land authorized for land application of treated effluent.
10. If the effluent is to be transferred to a holding pond or tank, re-chlorination prior to the effluent being delivered into the irrigation system will be required. A trace chlorine residual shall be maintained in the effluent at the point of irrigation application.
11. Adequate signs shall be erected stating that the irrigation water is from a non-potable water supply. Said signs shall consist of a red slash superimposed over the international symbol for drinking water accompanied by the message "DO NOT DRINK THE WATER" in both English and Spanish. All piping transporting the effluent shall be clearly marked with these same signs.
12. Spray fixtures for the irrigation system shall be of such design that they cannot be operated by unauthorized personnel.
13. Irrigation with effluent shall be accomplished only when the area specified is not in use.
14. Permanent transmission lines shall be installed from the holding pond to each tract of land to be irrigated utilizing effluent from that pond.
15. Facilities for the retention of treated or untreated wastewater shall be adequately lined to control seepage. The following methods of pond lining are acceptable.
- a. In-situ clay soils or placed and compacted clay soils meeting the following requirements:
- 1) More than 30% passing a No. 200 mesh sieve
  - 2) Liquid limit greater than 30%
  - 3) Plasticity index greater than 15
  - 4) A minimum thickness of 2 feet
  - 5) Permeability equal to or less than  $1 \times 10^{-7}$  cm/sec (\*)
  - 6) Soil compaction will be 95% standard proctor at optimum moisture content (\*)

(\*) For new and/or modified ponds only.

- b. Membrane lining with a minimum thickness of 20 mils, and an underdrain leak detection

system.

- c. An alternate method of pond lining may be utilized with prior approval from the Executive Director.

The permittee shall furnish certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria above prior to utilization of the facilities. The certification shall be sent to the TCEQ Regional Office (MC Region 14) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division.

16. Within one year from permit issuance, the permittee shall either complete expansion of the facility to 0.1315 million gallons per day allowing for discharge in compliance with the effluent limits and monitoring and other permit requirements for Interim II Phase of the permit as stated herein, or complete construction of a storage pond with a capacity of 1.57 acre-feet for the Interim I Phase of the permit.
17. The permittee is authorized to accept reject streams, that will be discharged into the collection system from two reverse osmosis process water treatment plants, at a combined daily average flow not to exceed 51,500 gallons per day (gpd). The permittee shall keep daily records of these discharges and these records shall include the following information:
  - a. The flow rates in gpd of the discharges;
  - b. The total dissolved solids concentrations (TDS) of the discharges.

These records shall be maintained on a monthly basis and shall be reported to the TCEQ Regional Office (MC Region 14) and the TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

**OTHER REQUIREMENTS FOR INTERIM II AND FINAL PHASE**

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 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. 2471 of the Bays and Estuaries and any subsequent updating of the water quality model for Segment No. 2471, 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.
3. The Executive Director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) in accordance with the regulations of the Coastal Coordination Council (CCC) and has determined that the action is consistent with the applicable CMP goals and policies.
4. The permittee shall notify the TCEQ Regional Office (MC Region 14) and the Applications Review and Processing Team (MC 148) of the Water Quality Division, in writing at least forty-five (45) days prior to the completion of the new facilities.
5. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
6. Prior to construction of the Interim II and Final Phase treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary transmittal letter in accordance with the requirements in 30 TAC Section 317.1. 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 permitted effluent limitations required on Pages 2a and 2b of the permit.
7. Prior to construction of the Interim II 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 B.)

8. The permittee is authorized to accept reject streams, that will be discharged into the collection system from two reverse osmosis process water treatment plants, at a combined daily average flow not to exceed 51,500 gallons per day (gpd). The permittee shall keep daily records of these discharges and these records shall include the following information:
  - a. The flow rates in gpd of the discharges;
  - b. The total dissolved solids concentrations (TDS) of the discharges.

These records shall be maintained on a monthly basis and shall be reported to the TCEQ Regional Office (MC Region 9) and the TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

**CONTRIBUTING INDUSTRIES AND PRETREATMENT REQUIREMENTS FOR INTERIM II AND FINAL PHASE**

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

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

**Attachment B**

Fact Sheet and Executive Director's Preliminary Decision  
Draft Permit No. WQ0011624001  
Aransas County Municipal Utility District No. 1

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

DESCRIPTION OF APPLICATION

Applicant: Aransas County Municipal Utility District No. 1;  
Texas Pollutant Discharge Elimination System (TPDES) Permit No.  
WQ0011624001, (TX0128970)

Regulated Activity: Domestic Wastewater Permit

Type of Application: Major Amendment

Request: Major Amendment to change from land application of effluent to effluent discharge, increase in flow.

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 March 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 an amendment of the existing permit to authorize a discharge to a receiving body of water, and an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 88,000 gallons per day via irrigation to a daily average flow not to exceed 0.1315 million gallons per day (MGD) in the Interim II Phase and to a daily average flow not to exceed 0.263 MGD in the Final Phase via discharge to a receiving body of water. The proposed amendment requests to construct a new wastewater treatment facility beside and towards the northeast of the existing facility. The existing wastewater treatment facility serves the Goose Island Estates Park Subdivision. The Texas Parks and Wildlife owns 25,000 gallons per day of the capacity of District's wastewater treatment facility. The proposed wastewater treatment facility will also serve the Lamar WSC and the Lamar Pointe Subdivision.

PROJECT DESCRIPTION AND LOCATION

The Aransas County MUD No. 1 Wastewater Treatment Facility is an activated sludge process plant operated in the extended aeration mode in the Interim I Phase and as a membrane biological reactor in the Interim II and Final Phases. Treatment units in the Interim I Phase include bar screen, aeration basins, final clarifier, sludge holding tank and a chlorine contact chamber. Treatment units in the Interim II and Final Phases include bar screen, flow equalization basin, anoxic basin, aerobic basin, membrane filtration basin, membrane sludge holding and thickening basin, aerobic sludge digester, and a chlorine contact chamber. The facility is operating in the Interim I Phase. The Interim II and Final Phase facilities have not been constructed.

Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ permitted landfill and land application sites, Texas Sludge Disposal, Inc. in San Patricio County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The plant site is located approximately 1,100 feet south of 8th Street and approximately 500 feet west of Park Road 13 (Palmetto Drive) in the Lamar Peninsula in Aransas County, Texas.

The treated effluent is discharged to a series of two unnamed ponds along State Highway 35; thence to Aransas Bay in Segment No. 2471 of the Bays and Estuaries. The unclassified receiving water uses are high aquatic life uses for the series of two ponds. The designated uses for Segment No. 2471 are exceptional aquatic life uses, oyster waters and contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses. Applying the antidegradation policy and implementation procedures to the applicant's proposed discharge point to the tidal ponds in accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, a Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. With a 5 mg/l BOD<sub>5</sub>/5 mg/l TSS/2 mg/l NH<sub>3</sub>-N/0.5 mg/l Total Phosphorus effluent set as proposed in the application and adding the previously agreed requirement of a total nitrogen limit of 8 mg/l, a Tier 2 antidegradation review has preliminarily determined that no significant degradation of water quality in Aransas Bay, having exceptional aquatic life use, and the ponds, having high aquatic life use, is expected. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

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

A priority watershed of critical concern has been identified in Segment No. 2471 in Aransas County. Therefore, the whooping crane, *Grus americana* (Linnaeus) an endangered aquatic dependent species, has been determined to occur in the watershed of Segment No. 2471. A watershed of high priority has also been identified for the piping plover, *Charadrius melodus* (Ord), a threatened aquatic dependent species; however, the facility is not a petroleum facility and its discharge is not expected to have an effect on the piping plover. To make this determination for TPDES permits, TCEQ and EPA only considered species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The presence of the endangered Whooping Crane requires EPA review and, if appropriate, consultation with USFWS.

Segment No. 2471 is not currently listed on the State's inventory of impaired and threatened waters (the Clean Water Act Section 303(d) list).

#### SUMMARY OF EFFLUENT DATA

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

<u>Parameter</u>	<u>Average of Daily Avg.</u>
Flow, gpd	17,926

BOD <sub>5</sub> , mg/l	6*
TSS, mg/l	7

\* measurement reported as <number is taken as equal to the number for averaging purposes.

### 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 88,000 gallons per day via irrigation, at an Interim II volume not to exceed a daily average flow of 0.1315 million gallons per day and a Final volume not to exceed a daily average flow of 0.263 million gallons per day via discharge to a receiving body of water.

In the Interim I Phase, the draft permit authorizes the disposal of treated domestic wastewater effluent at a daily average flow not to exceed 0.088 MGD via surface irrigation of 44.4 acres of public access land. The effluent limitations in the draft permit, based on a daily average, are 20 mg/l BOD<sub>5</sub>, and 20 mg/l TSS. Cover crop is bermuda grass. Storage requirement is 1.57 acre-feet. Application rates to the irrigated land shall not exceed 2.2 acre-feet per year per acre irrigated. The effluent shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The effluent limitations in the interim and final phases of the draft permit, based on a 30-day average, are 5 mg/l CBOD<sub>5</sub>, 5 mg/l TSS, 2 mg/l NH<sub>3</sub>-N, 0.5 Total Phosphorus, 8.0 mg/l Total Nitrogen, and 5.0 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 pretreatment requirements that are appropriate for a facility of this size and complexity. The facility does not appear to receive significant industrial wastewater contributions.

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at TCEQ permitted landfill and land application sites, Texas Sludge Disposal, Inc., in San Patricio County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

Authorization to accept reverse osmosis water treatment plant reject water into the sewer line is granted.

### SUMMARY OF CHANGES FROM APPLICATION

The applicant requested an effluent set of 5 mg/l CBOD<sub>5</sub>, 5 mg/l TSS, 2 mg/l NH<sub>3</sub>-N, 0.5 mg/l Total Phosphorus and 5.0 mg/l minimum dissolved oxygen (DO) in the Interim II and Final Phases. However, the effluent limits in the interim II and final phases of the draft permit, based on a 30-day average, are 5 mg/l CBOD<sub>5</sub>, 5 mg/l TSS, 2 mg/l NH<sub>3</sub>-N, 0.5 mg/l Total Phosphorus, 8.0 mg/l Total Nitrogen, and 5.0 mg/l minimum dissolved oxygen (DO).

### SUMMARY OF CHANGES FROM EXISTING PERMIT

More stringent effluent limitations are required in the proposed draft permit than exist in the current permit in the Interim II and Final phases. A flow monitoring requirement is added in the Interim I Phase. The draft permit

authorizes a discharge of treated domestic wastewater at an Interim I volume not to exceed a daily average flow of 88,000 gallons per day via irrigation, an Interim II volume not to exceed a daily average flow of 0.1315 million gallons per day, and a Final volume not to exceed a daily average flow of 0.263 million gallons per day via discharge to a receiving body of water.

A one-year compliance period is being established for the construction of the required effluent storage pond for the Interim I Phase of the permit.

The Standard Permit Conditions, Sludge Provisions, and Special Provisions sections of the draft permit have been updated. Other Requirements section has been incorporated in the draft permit for the Interim II and Final Phases. Pretreatment requirements have been added to the draft permit for the Interim II and Final Phases. Authorization to accept reverse osmosis water treatment plant reject water into the sewer line is granted.

The existing permit authorizes the disposal of treated domestic wastewater effluent at a daily average flow not to exceed 0.088 MGD via surface irrigation of 44.4 acres of public access land. The effluent limitations in the existing permit, based on a daily average, are 20 mg/l BOD<sub>5</sub>, and 20 mg/l TSS. The effluent shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The expiration date of the draft permit is March 1, 2011 according to the Basin Permitting Rule.

#### BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application received June 30, 2006 and additional information received August 10, 2006, September 9, 2006, November 20, 2006, December 27, 2006, March 21, 2007 and October 18, 2007.
2. TCEQ Permit No. 11624-001 issued August 26, 2002.
3. The effluent limitations and/or conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.10.
4. The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Domestic Wastewater Effluent Limitations.
5. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division. Interoffice memorandum from the Storm Water & Pretreatment Team of the TCEQ Water Quality Division.
6. Consistency with the Coastal Management Plan: The Executive Director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) in accordance with the regulations of the Coastal Coordination Council (CCC) and has determined that the action is consistent with the applicable CMP goals and policies.
7. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.
8. Texas 2004 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, May 13, 2005; approved by USEPA on May 8, 2006.

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

### PROCEDURES FOR FINAL DECISION

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

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

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

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

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

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

For additional information about this application contact Julian D. Centeno, Jr. at (512) 239-4608.

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Julian D. Centeno, Jr.  
Municipal Permits Team  
Wastewater Permitting Section (MC 148)

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Date

**Attachment C**

Compliance Summary

Draft Permit No. WQ0011624001

Aransas County Municipal Utility District No. 1

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600737878 Aransas County Municipal Utility District No. 1 Classification: AVERAGE Rating: 0.75  
 Regulated Entity: RN102080330 ARANSAS COUNTY MUD 1 WWTP Classification: AVERAGE Site Rating: 0.75

ID Number(s): WASTEWATER PERMIT WQ0011624001  
 WASTEWATER PERMIT TX0128970  
 WASTEWATER EPA ID TX0128970  
 WASTEWATER LICENSING LICENSE WQ0011624001

Location: APPROXIMATELY 700 FEET SOUTH OF 8TH STREET  
 WEST OF PARK ROAD 13 ON LAMAR PENINSULA, (1338  
 8TH STREET (LAMAR))

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: December 11, 2008

Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

Compliance Period: June 30, 2001 to December 11, 2008

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

Name: J. D. Centeno, Jr. Phone: 239 - 4608

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO.

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 03/13/2003 (23576)  
 N/A 2 06/13/2005 (395824)  
 3 01/26/2006 (452900)  
 4 05/24/2007 (561573)

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

Date: 10/01/2004 (336004)  
 N/A Self Report? NO

CN600737878

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 PERMIT NO. 11624-001 PERMIT

Description: Failure to design and manage irrigation practices so as to prevent the ponding of

effluent.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

**Attachment D**

Executive Director's Response to Public Comment  
Aransas County Municipal Utility District No. 1  
Draft Permit No. WQ0011624001

TCEQ INTRA-AGENCY TRANSMITTAL MEMO

DATE: May 19, 2008

TO: FINAL DOCUMENTS TEAM LEADER  
OFFICE OF THE CHIEF CLERK  
BUILDING F, MC-105

FROM: John E. Williams  
ENVIRONMENTAL LAW DIVISION  
BUILDING A, MC-173

Attached: Executive Director's Response to Comments

Application Information

Program Area (Air, Water or Waste): **Water**

Permit No. **WQ0011624001** Name: **Aransas Co. MUD #1**

CID Item #: **55340**

CHIEF CLERKS OFFICE

2008 MAY 19 PM 4: 21

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**OCC Action Required** (check applicable boxes)

Date stamp and return copy to above-noted ELD Staff Attorney and:

FOR ALL PROGRAM AREAS: (required only when changes needed to official agency mailing list)

- Update** the mailing list in your file with the attached contact names and addresses  
*Include corrected or additional names and addresses for mailing list*

FOR WASTE & WATER:

- Send Response to Comments Letter which solicits hearing requests and requests for reconsideration to the mailing list in your files

*For Waste and Water this would occur in all circumstances when comments have been received for 801 applications*

Or

- Send Response to Comments Letter and Motion to Overturn Letter which solicits motions to overturn to the mailing list in your files

*For Waste and Water this may occur when all comments have been withdrawn for 801 applications or when comments are received for applications that will not be set for agenda.*

FOR AIR (NSR only):

- Send RTC with response to comments letter which solicits contested case hearing requests and requests for reconsideration to the mailing list in your files

*For Air NSR applications this would occur only when there are pending contested case hearing requests (except no-increase renewals)*

- Set for commission agenda and send RTC with agenda setting letter

*This would occur when there are pending contested case hearing requests on a no-increase renewal and technical review is complete.*

- Hold until a commission agenda date is requested and then send RTC with the Agenda Setting Letter

*For Air applications this would occur when there are pending hearing requests on a no-increase renewal; but technical review is NOT complete. If this box is checked, ED staff must call the OCC Agenda Team Leader to arrange a specific agenda date.*

- Place RTC in File - no further action required by OCC

*For Air NSR applications this would occur when the matter is uncontested but comments were received, APD will send a copy with MTO letter*

- Other Instructions: \_\_\_\_\_

Proposed Amended TPDES Permit No. WQ0011624001

Application by  
**ARANSAS COUNTY MUNICIPAL  
UTILITY DISTRICT NUMBER 1**  
for TPDES Permit No. WQ0011624001

§  
§  
§  
§

Before the  
**TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

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**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**

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TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
MAY 19 PM 4:21  
CHIEF CLERKS OFFICE

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by Aransas County Municipal Utility District Number 1 (Aransas MUD No. 1) for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0011624001 and on the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code, 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 timely received comment letters and comments at the public meeting from:

Neil J. Adams,  
Richard R. Adams,  
Larry T. Alexander,  
Robert L. Andrews,  
Kenneth Ballard,  
Augustine Barrera, Jr.,  
James B. Blackburn, Jr.,  
Jay Brans,  
Ann Bright, representing Texas Parks  
and Wildlife Department (TPWD),  
Emil Broz,  
Judy Burge,  
Richard G. Caldwell,  
Richard W. Caldwell,  
Stephen M. Carleton,  
Steven W. Clamon,  
Craig Clark, for the Texas Department  
of Transportation,  
Jim Collins,  
Pam Collins,  
Carole Davis,  
Corina Domaschk,  
Keren Dotson,  
Clarence and Gladys Dziuk,

Mrs. Davis C. Edwards,  
Lynn Edwards,  
Robert M. Edwards,  
George Foulds,  
David Gill,  
Robert Gordon,  
Marjorie Greeson,  
Mrs. John Grimaudo,  
Donald and Patricia Gyorog,  
Michael D. Gyorog,  
Thomas J. Gyorog,  
David B. Hatcher,  
Greg Haynes,  
Betty Hediger,  
Beth Hester,  
H. Dickson Hoese,  
Barbara and Wesley Howe,  
Bob and Sheralyn Humble,  
Zella Hunt,  
Clay Jarvis,  
Dohn Larson,  
Rose Marie Leland,  
Marshal and Victoria Lightman,  
George Longoria,

Thomas D. McChesney, of the Neptune Harbor Canal Owners Association (NHCOA),  
Graden and Jeane McVay,  
Graden N. McVay,  
Mrs. Jean McVay,  
Robin A. Melvin, on behalf of the Texas Chapter of the Coastal Conservation Association,  
Paul Mercier,  
Allan Middleton,  
Robert A. Nelson, Jr.,  
Donald O'Connor,  
Bertha L. Oliver,  
James Otto, on behalf of the Holiday Beach Property Owners' Association, Inc. (HBPOA),  
Linda D. Pechacek,  
Patrick W. Pollok,  
S. V. Pruski,  
W. R. Raney,

Bill Reitmann, for the Texas Department of Transportation,  
Neil Richardson,  
Delores Rogowicz,  
Eugene Rogowicz,  
William H. Schmidt, on behalf of HBPOA,  
Diana Sebastian,  
Sandra Sloop,  
Jim Smarr, for the Texas Recreational Fishing Alliance,  
Michael Solis,  
Donna C. and Kenneth H. Stewart,  
Dinah and Harold Sullivan,  
Joseph Sympson,  
Dwight Taylor,  
Linda K. Taylor,  
Jim Turner,  
Anthony S. Valek,  
Edward and Jane Wicker, and  
Jane Wicker.

This Response addresses all 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](http://www.tceq.state.tx.us).

## BACKGROUND

### Description of Facility

Aransas County Municipal Utility District Number 1 has applied to the TCEQ for a major amendment to its TPDES permit that would authorize a discharge of treated domestic wastewater to a receiving body of water, and an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 88,000 gallons per day via irrigation to a daily average flow not to exceed 131,500 gallons per day in the Interim II phase and to a daily average flow not to exceed 263,000 gallons per day in the Final phase via discharge to a receiving body of water. The proposed amendment requests to construct a new wastewater treatment facility beside and towards the northeast of the existing facility within the MUD property.

The Aransas County MUD No. 1 Wastewater Treatment Facility is an activated sludge process plant operated in the extended aeration mode in the Interim I Phase. The new facility will be operated as a membrane biological reactor in the Interim II and Final Phases. Treatment units in the Interim I Phase include a bar screen, an aeration basins, a final clarifier, a sludge holding tank,

and a chlorine contact chamber. Treatment units in the Interim II and Final Phases include a bar screen, a flow equalization basin, an anoxic basin, an aerobic basin, a membrane filtration basin, a membrane sludge holding and thickening basin, an aerobic sludge digester, and a chlorine contact chamber. The facility is operating in the Interim I Phase. The Interim II and Final Phase facilities have not been constructed. Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ permitted landfill and land application sites, Texas Sludge Disposal, Inc. in San Patricio County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The facility is located approximately 1,100 feet south of 8th Street and approximately 500 feet west of Park Road 13 (Palmetto Drive) in the Lamar Peninsula in Aransas County, Texas. The existing wastewater treatment facility serves the Goose Island Estates Park Subdivision and Goose Island State Park. The proposed wastewater treatment facility will also serve the Lamar Water Supply Corporation service area and the Lamar Pointe Subdivision. The treated effluent will be discharged to a series of two unnamed ponds along State Highway 35, which flow into Aransas Bay in Segment No. 2471 of the Bays and Estuaries. The unclassified receiving water uses are high aquatic life uses for the series of two ponds. The designated uses for Segment No. 2471 are exceptional aquatic life uses, oyster waters and contact recreation. Segment No. 2471 is not currently listed on the State's inventory of impaired and threatened waters (the Clean Water Act Section 303(d) list).

#### Procedural Background

The application was received on June 30, 2006, and declared administratively complete on September 15, 2006. Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published September 27, 2006, in the *Rockport Pilot*. The TCEQ Executive Director completed the technical review of the application on December 29, 2006, and prepared a draft permit. A public meeting was held on October 22, 2007, in Fulton, Texas. Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater Amendment (NAPD) was published November 10, 2007, in the *Rockport Pilot* and the comment period closed December 10, 2007. 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 (76<sup>th</sup> Legislature, 1999).

#### Access to Rules, Laws and Records

Secretary of State website for all administrative rules: [www.sos.state.tx.us](http://www.sos.state.tx.us)

TCEQ rules in Title 30 of the Texas Administrative Code: [www.sos.state.tx.us/tac/](http://www.sos.state.tx.us/tac/)  
(select "TAC Viewer" on the right, then "Title 30 Environmental Quality")

Texas statutes: [www.capitol.state.tx.us/statutes/statutes.html](http://www.capitol.state.tx.us/statutes/statutes.html)

TCEQ website: [www.tceq.state.tx.us](http://www.tceq.state.tx.us) (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Rules and Rulemaking," then "Download TCEQ Rules")

Federal rules in Title 40 of the Code of Federal Regulations: [www.epa.gov/epahome/cfr40.htm](http://www.epa.gov/epahome/cfr40.htm)

Federal environmental laws: [www.epa.gov/epahome/laws.htm](http://www.epa.gov/epahome/laws.htm)

Commission records for this facility are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building E, Room 103 (Central Records, for existing or past permits), or Building F, 1<sup>st</sup> Floor (Office of Chief Clerk, for the current application until final action is taken), and at TCEQ's Region 14 Office in Corpus Christi at NRC Bldg., Ste. 1200, 6300 Ocean Dr., Unit 5839. The application for this facility has been available for viewing and copying at the Aransas County Navigation District No. 1 Office, 911 Navigation Circle, Rockport, Texas since publication of the NORI and the application, draft permit, statement of basis/technical summary, and Executive Director's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the Agency at 1-888-777-3186 or you may contact the TCEQ Region 14 Office at 361-825-3100. Citizen complaints may also be filed on-line at the TCEQ website (select "Reporting," then "Reporting Environmental Problems," then "Reporting an Environmental Complaint"). If the facility is found to be out of compliance it may be subject to enforcement action.

## COMMENTS and RESPONSES

### COMMENT 1

Dinah & Harold Sullivan suggested moving the plant and the buffer zone to the north and building a new plant.

### RESPONSE 1

Aransas MUD No. 1 agreed to construct a new wastewater treatment facility beside and towards the northeast of the existing facility, which changed the buffer zone from what was originally proposed and noticed. The revised Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater Amendment was published on November 10, 2007.

### COMMENT 2

Marshal & Victoria Lightman stated that the district had a history of bankruptcy and could not handle the treatment plant.

## RESPONSE 2

Financial ability to operate the proposed wastewater treatment facility is not a factor the Executive Director considers when processing a wastewater permit application. After permit issuance, the permittee is responsible for adequately maintaining the facility and remaining in compliance with the permit conditions and regulations. Failure to do so exposes the permittee to enforcement action.

## COMMENT 3

Judy Burge was concerned that water quality in the bays was going down. Marshal & Victoria Lightman noted that the proposed discharge was only 100 yards away from Copano Bay and would put the quality of both Aransas Bay and Copano Bay at risk. They also mentioned that Copano bay is a federally protected estuary.

## RESPONSE 3

All permits under the TPDES program are written to contain effluent limitations that protect existing uses and preclude degradation of existing water quality. The effluent limits recommended in the draft permit are designed to be protective of water quality in both Aransas Bay and Copano Bay. Aransas Bay and Copano Bay have generally the same criteria. Effluent limits assigned to be protective of Aransas Bay, the nearer of the two bays, are also considered to be protective of Copano Bay.

## COMMENT 4

Marshal & Victoria Lightman believed that Aransas MUD No. 1 would leave the taxpayers with one big problem.

## RESPONSE 4

TCEQ's jurisdiction in a water quality permit application is limited to the issues set out by statute. The Texas Water Code does not list the effect on taxpayers as a factor the TCEQ can consider in the issuance of a water quality permit.

## COMMENT 5

Texas Parks & Wildlife acknowledged that the draft permit addressed its concerns, primarily on nutrient limitations and direct discharge into the bay.

## RESPONSE 5

The Executive Director acknowledges this comment.

## COMMENT 6

Larry Alexander supported the draft permit.

## RESPONSE 6

The Executive Director acknowledges this comment.

## COMMENT 7

Jay Brans opposed the discharge of treated effluent to a holding pond adjacent to Aransas Bay. Clarence & Gladys Dziuk and S. V. Pruski objected to putting the treated wastewater into the pond located at the old Sea Gun Resort.

## RESPONSE 7

The two unnamed ponds along State Highway 35 are part of the discharge route and they fall within the definition of water in the state. The TCEQ Water Quality Standards Team has determined that existing water quality uses will not be impaired by this permit action. With effluent limits in the final phase of 5 milligrams per liter (mg/l) of 5-day carbonaceous biochemical oxygen demand, 5 mg/l total suspended solids, 2 mg/l ammonia nitrogen, 0.5 mg/l total phosphorus and adding a total nitrogen limit of 8 mg/l, a Tier 2 antidegradation review has determined that no significant degradation of water quality in Aransas Bay, having exceptional aquatic life use, and the ponds, having high aquatic life use, is expected. Existing uses will be maintained and protected.

## COMMENT 8

Neil Adams, Richard Adams, Robert Andrews, Kenneth Ballard, Emil Broz, Richard Caldwell, Stephen Carleton, Jim Collins, Pam Collins, Keren Dotson, Mrs. Davis Edwards, Lynn Edwards, Robert Edwards, George Foulds, David Gill, Robert Gordon, Marjorie Greeson, Mrs. John Grimaudo, Michael & Thomas Gyorog, David Hatcher, Greg Haynes, Beth Hediger, Beth Hester, C. F. Hooker, Zella Hunt, Rose Marie Leland, Marshal & Victoria Lightman, Thomas McChesney, Graden McVay, Jean McVay, Allan Middleton, Robert Nelson, Donald O'Connor, Patrick Pollok, W. R. Raney, Delores Rogowicz, Eugene Rogowicz, Diana Sebastian, Sandra Sloop, Michael Solis, Donna & Kenneth Stewart, Dwight Taylor, Linda Taylor, Jim Turner, and Edward & Jane Wicker

expressed concern that the effluent into the bay, primarily improperly processed sewage, would present a direct hazard to human health and safety and to public waters.

### **RESPONSE 8**

In compliance with the Texas Surface Water Quality Standards, all permits under the TPDES program are written to contain effluent limitations that protect existing uses and preclude degradation of existing water quality. Compliance with the effluent limits in the draft permit is required for the proper operation of a facility. If the facility is found to be out of compliance it will be subject to enforcement action.

### **COMMENT 9**

Neil Adams, Richard Adams, Robert Andrews, Kenneth Ballard, Emil Broz, Richard Caldwell, Stephen Carleton, Jim Collins, Pam Collins, Keren Dotson, Mrs. Davis Edwards, Lynn Edwards, Robert Edwards, George Foulds, David Gill, Robert Gordon, Marjorie Greeson, Mrs. John Grimaudo, Michael & Thomas Gyorog, David Hatcher, Greg Haynes, Beth Hediger, Beth Hester, C. F. Hooker, Zella Hunt, Rose Marie Leland, Marshal & Victoria Lightman, Thomas McChesney, Graden McVay, Jean McVay, Allan Middleton, Robert Nelson, Donald O'Connor, Patrick Pollok, W. R. Raney, Delores Rogowicz, Eugene Rogowicz, Diana Sebastian, Sandra Sloop, Michael Solis, Donna & Kenneth Stewart, Dwight Taylor, Linda Taylor, Jim Turner, and Edward & Jane Wicker expressed concern that the District is bankrupt and has not demonstrated the financial, managerial, or technical resources to operate the expanded system. William Schmidt pointed to the poor financial, management, operational skills, and service record of the applicant.

### **RESPONSE 9**

The Executive Director requires that the facility be designed by a professional engineer and the permit holder must use a licensed operator to operate the facility. By applying and signing the application for a draft permit, the applicant becomes responsible upon issuance for abiding by the permit limitations and certifying that the appropriately authorized individuals have designed and are operating the facility. Failure to abide by the permit requirements constitutes an enforceable violation. If the facility is found to be out of compliance it will be subject to enforcement action.

The compliance history of this facility since June 30, 2001 (starting five years prior to submitting the application), indicates one notice of violation issued to Aransas MUD No. 1 on October 1, 2004. The violation referred to a failure to design and manage irrigation practices so as to prevent the ponding of effluent. The TCEQ Investigation Report indicates that the violation was resolved when Aransas MUD No. 1 submitted a letter indicating that 80 loads of dirt was added to the 12.681-acre tract of land. The information was verified by a TCEQ Region 14 Comprehensive Compliance Investigation conducted on April 14, 2005.

The compliance history ranking and classification for this facility and operator are 0.6 Average. (Point ranges for TCEQ compliance history rankings and classifications are: less than 0.1 points means a High Performer; 0.1 to 45 points means an Average Performer, and more than 45 points means a Poor Performer.)

#### COMMENT 10

Neil Adams, Richard Adams, Robert Andrews, Kenneth Ballard, Emil Broz, Richard Caldwell, Stephen Carleton, Jim Collins, Pam Collins, Keren Dotson, Mrs. Davis Edwards, Lynn Edwards, Robert Edwards, George Foulds, David Gill, Robert Gordon, Marjorie Greeson, Mrs. John Grimaudo, Michael & Thomas Gyorog, David Hatcher, Greg Haynes, Beth Hediger, Beth Hester, C. F. Hooker, Zella Hunt, Rose Marie Leland, Marshal & Victoria Lightman, Thomas McChesney, Graden McVay, Jean McVay, Allan Middleton, Robert Nelson, Donald O'Connor, Patrick Pollök, W. R. Raney, Delores Rogowicz, Eugene Rogowicz, Diana Sebastian, Sandra Sloop, Michael Solis, Donna & Kenneth Stewart, Dwight Taylor, Linda Taylor, Jim Turner, and Edward & Jane Wicker questioned whether the proposed water quality treatment standards of the draft permit will protect human health and safety and state waters. Donald & Patricia Gyorog would like an assurance that the draft permit will be protective of public health and safety and state waters for any hazard.

#### RESPONSE 10

The draft permit meets the Texas Surface Water Quality Standards, which are protective of human health, safety, and the environment, and protective of the existing uses of the receiving bodies of water. The Texas Surface Water Quality Standards are periodically updated, with input from the public, and must be approved by the United States Environmental Protection Agency before they become effective. The Texas Surface Water Quality Standards may be found in Title 30 of the Texas Administrative Code, Chapter 307, on the web at [www.sos.state.tx.us/tac/](http://www.sos.state.tx.us/tac/) or [www.tceq.state.tx.us](http://www.tceq.state.tx.us). If the facility is operated and maintained according to the permit, no adverse environmental effects are expected to occur.

#### COMMENT 11

Jay Brans expressed concern that the more than quadrupling the current rate of effluent discharge will degrade Aransas and Copano bays even more. Lynn Edwards voiced opposition to any growth in the area. Donald & Patricia Gyorog expressed concern that a second major development at Lamar Pointe would add more pollution to the bay. David Hatcher stated that once the permit is issued, one million gallons of discharge will be a minimum. Clay Jarvis and Joseph Simpson wanted a peninsula-wide solution to sewer and water problems. Graden & Jeane McVay expressed concern that two more subdivisions are developing in the area and would increase the discharge from 263,000 gallons to approximately one million gallons a day.

## **RESPONSE 11**

The scope of the permit application is limited to the treatment and disposal of wastewater generated from the service area of the Aransas County Municipal Utility District No. 1. The draft permit that is prepared is not for the development or for other development projects, but is an authorization to discharge effluent according to the terms and conditions of the draft permit. The facility is currently permitted to discharge no more than 131,500 gallons per day and this limit applies to the Interim II phase until Final phase construction is complete. Once the Final phase construction is complete, the discharge may not exceed 263,000 gallons per day. That increase will not happen over night, but slowly over time as new connections are made to the collection system piping.

## **COMMENT 12**

David Hatcher expressed concern about severe economic and environmental decline if severe pollution of the marine area is allowed.

## **RESPONSE 12**

The Water Quality Standards Team has determined that existing water quality uses will not be impaired by this permit action. With an effluent set of 5 mg/l of 5-day carbonaceous biochemical oxygen demand, 5 mg/l total suspended solids, 2 mg/l ammonia nitrogen, 0.5 mg/l total phosphorus and adding a total nitrogen limit of 8 mg/l, a Tier 2 antidegradation review has determined that no significant degradation of water quality in Aransas Bay, having exceptional aquatic life use, and the ponds, having high aquatic life use, is expected. Existing uses will be maintained and protected. Therefore, the Executive Director does not expect significant pollution of Aransas Bay to occur if this draft permit is issued.

The facility is required to operate in accordance with the laws, which are protective of human health and the environment. The public may report possible violations of the permit at the statewide toll-free number 1-888-777-3186. Citizens complaints may also be filed online at [www.tceq.state.tx.us/goto/report\\_problem](http://www.tceq.state.tx.us/goto/report_problem).

## **COMMENT 13**

Graden & Jeane McVay expressed concern about Goose Island State Park, the endangered whooping crane, and the contamination of crabs and oysters, which are part of the food chain for the cranes. Robin Melvin expressed concern over the impact of the discharge on natural marine breeding habitat.

### **RESPONSE 13**

All permits meet the Texas Surface Water Quality Standards. Permits protect all existing uses, and provide protection of terrestrial and aquatic life, which would include the crabs, oysters, and cranes. Texas Parks & Wildlife has acknowledged that the draft permit addresses its concerns, primarily on nutrient limitations and direct discharge into the bay.

### **COMMENT 14**

Graden & Jeane McVay suggested alternative discharge locations.

### **RESPONSE 14**

The applicant proposes the discharge location. The Executive Director evaluates the effects on the uses of the receiving stream starting at the point of discharge. The Executive Director determines whether there will be an adverse impact on water quality in the receiving body of water. If the Executive Director's review shows that the proposed discharge would not meet the Texas Surface Water Quality Standards, then the Executive Director will recommend denial of an application.

### **COMMENT 15**

Augustin Barrera, George Longoria, Paul Mercier, Bertha Oliver, Neil Richardson, Eugene Rogowicz, William Schmidt, and Anthony Valek expressed concern that the damage to Copano Bay would cause their properties to lose value. James Otto (HBPOA) expressed opposition to the draft permit and stated that the potential damage to Aransas Bay would result in damage to property values. William Schmidt (HBPOA) expressed concern that property values in Holiday beach would decline.

### **RESPONSE 15**

Texas Water Code requires that agency to protect water quality in issuing permits for discharges into water in the state. Chapter 26 of the Water Code and applicable wastewater regulations do not authorize the agency to consider property values when reviewing a permit application.

The TCEQ Water Quality Standards Team has determined that existing water quality uses will not be impaired by this permit action. With an effluent set of 5 mg/l of 5-day carbonaceous biochemical oxygen demand, 5 mg/l total suspended solids, 2 mg/l ammonia nitrogen, 0.5 mg/l total phosphorus and adding a total nitrogen limit of 8 mg/l, a Tier 2 antidegradation review has determined that no significant degradation of water quality in Aransas Bay, having exceptional

aquatic life use, and the ponds, having high aquatic life use, is expected. Existing uses will be maintained and protected.

#### **COMMENT 16**

Donald & Patricia Gyrog and Bob & Sheralyn Humble expressed concern over possible pollution of the access channel to Aransas Bay, of the area off-shore of the Copano fishing bridge, and of the small beach between the pond and the bay at the Goose Island restoration project.

#### **RESPONSE 16**

All permits under the TPDES program are written to contain effluent limitations that protect existing uses and preclude degradation of existing water quality. The effluent limits recommended in the draft permit are designed to be protective of water quality in both Aransas Bay and Copano Bay, including the specific areas mentioned in the comment.

#### **COMMENT 17**

Donald & Patricia Gyrog would like the applicant to continue land applying the effluent. Joseph Sympson wanted the irrigation easements continued for future use.

#### **RESPONSE 17**

An applicant proposes the manner of discharging the effluent. The Executive Director evaluates the effects on the uses of the receiving stream starting at the point of discharge, and will provide the appropriate effluent limitations to protect these uses. If the Executive Director's review shows that the proposed discharge would not meet the Texas Surface Water Quality Standards, then the Executive Director will recommend denial of an application.

#### **COMMENT 18**

James Blackburn expressed concern over the impact of the proposed discharge on dissolved oxygen levels in the shallow waters adjacent to his property (approximately 0.6 mile from the outfall), and the impact of lowered dissolved oxygen levels on fish life. Neil Adams, whose property fronts Copano Bay, had the same concerns.

## **RESPONSE 18**

A dissolved oxygen modeling analysis of the proposed discharge predicts that dissolved oxygen impacts in Aransas Bay and Copano Bay from this proposed discharge will be minimal. The effluent limits proposed in the draft permit are among the most stringent in the entire state. The proposed effluent limits are predicted to be adequate to ensure that dissolved oxygen levels will be maintained above their assigned criteria in the wetland ponds, Aransas Bay, and Copano Bay.

## **COMMENT 19**

James Blackburn expressed concern about the bacterial and viral levels from the proposed discharge in the waters of Aransas Bay adjacent to his property from a recreational standpoint.

## **RESPONSE 19**

The Texas Surface Water Quality Standards set out a contact recreational use for an area by using indicator types of bacteria. There are no numerical criteria in the Standards for viral concentrations. However, using indicator bacteria, the intention is that this measure would be indicative of potential contamination by feces, and thus indicate possible pathogen contamination including viral contaminations. The effluent is chlorinated and contains effluent limits for chlorine residual that ensure continued bacterial disinfection of the effluent. This provides effective control of bacteria and viruses.

## **COMMENT 20**

James Blackburn expressed concern that "the wetland treatment ponds" would turn anaerobic and generate odors, and were too small.

## **RESPONSE 20**

There are no wetland ponds included in the treatment of the wastewater prior to discharge. However, the two tidally influenced ponds and associated wetlands along State Highway 35 are part of the discharge route after the wastewater is released by Aransas MUD No. 1. The ponds meet the definition of water in the state and should not be confused with treatment wetlands, or polishing ponds. Treatment wetlands and polishing ponds are areas that are specifically created to be carefully isolated from other waters with the intention that standards should not apply until the point of their discharge into water in the state. The wetland areas and ponds along SH35 are protected as water in the state. Staff gave the ponds a presumed aquatic life use of high. A dissolved oxygen modeling analysis was performed on the ponds to ensure that dissolved oxygen levels would be maintained above the criterion assigned to them (4.0 mg/l) to protect the presumed high aquatic life use. The

level of treatment proposed is predicted to be adequate to ensure that this dissolved oxygen criterion will be maintained, thus precluding anaerobic conditions that could generate odors.

### COMMENT 21

James Blackburn expressed concern that the submerged seagrass in the shallow bay waters adjacent to his property would be negatively impacted by the nutrients in the effluent. TPWD suggested to direct the effluent first to an emergent intertidal wetland.

### RESPONSE 21

Water Quality Standards staff agrees that this was a concern with this discharge, and the antidegradation review of this permit was complex. While a Tier 1 antidegradation review preliminarily determined that existing water quality uses will not be impaired by this permit action, the more stringent Tier 2 review focused on seagrass propagation as an existing recognized use in the Texas Surface Water Quality Standards. The main degradation issue was, as Mr. Blackburn points out, seagrasses are sensitive to water column nutrient additions, especially nitrogen.

Seagrass meadows persist and grow by using nutrient recycling through the detrital food chain within the seagrass meadows, maintaining oligotrophic water column conditions. Discharges of nitrogen into the water column negates the advantage the seagrass maintains over algae. Algae are quite adept at using water column nutrients, and thus the addition of nutrients can result in increased phytoplankton growth, increased growth of epiphytes on grass blades, and increased macroalgal growth, and this can lead to seagrass decline.

Existing technology would allow the practicable removal of much of the total nitrogen from the effluent to levels that give assurance that discharges to bay ecosystems with nearby seagrass meadows would not result in damage. The discharge into existing wetlands in two tidal ponds to the southwest of State Highway 35 has advantages that stem from the idea that wetlands are not as sensitive to water column nitrogen additions, and that constructed and natural wetlands have been shown to biologically mediate the transformation of nitrogen to biomass as well as show significant rates of denitrification. Thus, a 5/5/2/1 effluent set with an 8 mg/l total nitrogen limit was determined to be protective of seagrasses at this location. The application later received and reviewed by staff proposed an interim and final effluent quality of 5/5/2/0.5 into the two ponds. This effluent set was more stringent than the 5/5/2/1 set suggested by staff, and this was considered acceptable with an 8 mg/l total nitrogen limit.

### COMMENT 22

James Blackburn expressed concern that the ecosystem adjacent to his lot will be altered by the proposed discharge. He also expressed concern that the current uses of the waters of Aransas Bay would be degraded, if not destroyed.

## RESPONSE 22

As set out above, a Tier 2 review was performed. Applying the antidegradation policy and implementation procedures to the proposed discharge point into the tidal ponds, a Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. With a 5/5/2/0.5 effluent set and adding a total nitrogen limit of 8 mg/l, a Tier 2 antidegradation review has preliminarily determined that no significant degradation of water quality in Aransas Bay, having exceptional aquatic life use, and the ponds, having high aquatic life use, is expected. Existing uses will be maintained and protected.

## COMMENT 23

William Schmidt expressed concern over any smell that may originate from the proposed holding ponds.

## RESPONSE 23

Aransas MUD No. 1 has not proposed to use any holding ponds. The proposed wastewater treatment will be an aerobic biological process. Aerobic biological processes use oxygen from the air to reduce the organic content of the wastewater through the action of microorganisms. Oxygen also turns sulfide compounds (the most common odor-causing compounds) into odorless sulfates. The reaction is direct, not dependent on microorganisms, and very rapid. Oxygen is forced through the wastewater in the same manner as in a fish aquarium, but on a larger scale. Wastewater without dissolved oxygen can produce offensive odors. The draft permit requires that the effluent contain a minimum of 5.0 mg/l dissolved oxygen. This will prevent the effluent wastewater from producing odors in the receiving bodies of water.

## COMMENT 24

Neil Adams claimed that there is no impact data on how the tidal flows will affect marine wildlife. Graden McVay was concerned about the effects of winds and tides on circulation in the bays. William Schmidt expressed concern about the pollution of Copano Bay and Aransas Bay due to the prevalent winds and tides. He also added that there is very little circulation in Copano Bay.

## RESPONSE 24

A dissolved oxygen modeling analysis of the proposed discharge indicated that dissolved oxygen impacts in Aransas Bay and Copano Bay from this discharge are predicted to be minimal. The effluent limits proposed in the draft permit are among the most stringent in the entire state. The proposed effluent limits are predicted to be adequate to ensure that dissolved oxygen levels will be

maintained above their designated criteria in both bays. Because of the size of the discharge and the very stringent effluent limits proposed in the draft permit, dissolved oxygen impacts beyond the wetland ponds are predicted to be minimal. Therefore, local bay circulation is not predicted to have a significant effect on dissolved oxygen impacts resulting from this proposed discharge.

#### **COMMENT 25**

Jane Wicker stated that the amendment application referred to the disposal of fluid wastes from the Lamar Water Treatment Plant.

#### **RESPONSE 25**

The existing wastewater treatment facility serves the Goose Island Estates Park Subdivision and Goose Island State Park. The proposed wastewater treatment facility will also serve the Lamar Water Supply Corporation service area and the Lamar Pointe Subdivision. The proposed facility is not the Lamar Water Treatment Plant. Aransas MUD No. 1 requested and obtained authorization to accept reverse osmosis water treatment plant reject water into the sewer line. Reverse osmosis is the typical method of treating water in private home use, i.e., the type of filter unit fitted on the kitchen faucet. This wastewater from the water treatment plant will not have a negative effect on the operation of the wastewater treatment plant or the quality of the effluent.

#### **COMMENT 26**

David Gill stated that the original discharge permit lapsed or expired in September 1999. Jane Wicker stated that the district has been allowed to operate without a permit for years and to discharge raw sewage into Aransas Bay.

#### **RESPONSE 26**

Aransas County Municipal Utility District No. 1 was first issued a permit to dispose treated wastewater via irrigation on October 22, 1974. The permit was renewed or amended continuously since then without interruption. The permit was last amended on August 26, 2002, with an expiration date of March 1, 2005. A timely renewal application was filed on August 9, 2004. This renewal application was subsequently replaced by an application for a major amendment to increase flow and request authorization to discharge to a receiving body of water. TCEQ rules state that, when a renewal or amendment application is timely received, the existing permit will remain in full force and effect and will not expire until commission action on the application is final. Aransas MUD No. 1 has been continuously operating with a valid permit to dispose treated wastewater via irrigation. Aransas MUD No. 1 has never been authorized to discharge any wastewater to any water

in the state. Aransas MUD No. 1's compliance history does not indicate any discharge from its facility to water in the state.

#### **COMMENT 27**

Jane Wicker asked why the applicant wanted to use the two ponds to discharge effluent into and how would it be accomplished.

#### **RESPONSE 27**

Aransas MUD No. 1 intends to pump the treated wastewater from the proposed wastewater treatment facility through an 8-inch pipe to discharge to the first pond. Aransas MUD No. 1 worked in coordination with the Texas Parks and Wildlife Department (TPWD). TPWD explains that "the use of wetlands [as a discharge route] would allow emergent wetland plants and the epiphytes living on them to utilize nutrients from the effluent, improving the quality of the discharge." Furthermore, the additional detention time in the two ponds will provide polishing of the effluent, allowing more time for the oxygen-demanding substances in the wastewater to be broken down and assimilated by natural processes, prior to the discharge entering the bays.

However, despite the fact that the two ponds will improve the quality of water entering Aransas Bay, the effluent limits in the draft permit were designed to be protective as if the wastewater were discharged directly to the bay. If the ponds had been considered to be treatment ponds, they would have no protection under the Texas Surface Water Quality Standards. By requiring complete treatment before discharge to the ponds, they are protected as water in the state.

#### **COMMENT 28**

Barbara & Wesley Howe stated that the applicant had told them about relocating the plant. Jane Wicker stated that there is no mention about how the treatment plant will be acquired, where will it be installed and the timeline for installation.

#### **RESPONSE 28**

In its permit amendment application received in 2006, Aransas MUD No. 1 estimated that the proposed Interim II phase for a daily average flow 0.1315 million gallons per day (MGD) would be constructed in July 2008 and disposal of effluent would commence in December 2008. The Final phase for a daily average flow of 0.263 MGD was estimated to be constructed on January 2013 and disposal of effluent was estimated to commence in July 2013. However, TCEQ rules prohibit construction of the new Interim II phase unless the current draft permit is approved and issued.

The revised application submitted in late 2007 proposed to construct a new wastewater treatment facility beside and towards the northeast of the existing facility, which changes the buffer

zone from what was originally proposed and publicly noticed. The new location of the proposed wastewater treatment facility can be viewed in the application located at the Aransas County Navigation District No. 1 Office, 911 Navigation Circle, Rockport, Texas or the TCEQ Office of the Chief Clerk, first floor, Building F, 12100 Park 35 Circle, Austin, Texas 78753.

The manner of acquisition of the wastewater treatment plant or its components is not required to be addressed in a permit application.

#### **COMMENT 29**

Barbara & Wesley Howe complained about the easement that the applicant is requesting from their property on South Lake Drive.

#### **RESPONSE 29**

By moving the proposed wastewater treatment facility towards the northeast of the existing facility, the buffer zone will no longer encompass the properties along the South Lake Drive, as it previously did.

#### **COMMENT 30**

Barbara & Wesley Howe asked when the rule requiring a buffer zone easement from all owners of property that lies within 150 feet of the treatment facilities was adopted.

#### **RESPONSE 30**

The buffer zone requirements have been in effect since March 19, 1990. However, existing facilities that renewed their permits without change or amended their permits in a way that new construction was not necessary were exempted from complying with the rule. Now that Aransas MUD No. 1 intends to construct new facilities, it is required to comply with the buffer zone requirements.

#### **COMMENT 31**

Neil Adams, Richard Adams, Kenneth Ballard, Emil Broz, Richard Caldwell, Stephen Carleton, Jim Collins, Pam Collins, Keren Dotson, Mrs. Davis C. Edwards, Lynn Edwards, Robert Edwards, George Foulds, David Gill, Robert Gordon, Marjorie Greeson, Mrs. John Grimaudo, Bett Hediger, Beth Hester, C. F. Hooker, Zella Hunt, Marshal & Victoria Lightman, Thomas McChesney, Graden McVay, Jean McVay, Allan Middleton, Robert Nelson, Patrick Pollok, W. R. Raney, Delores

Rogowicz, Eugene Rogowicz, Diana Sebastian, Sandra Sloop, Dwight Taylor, Linda Taylor, and Jim Turner claimed that the applicant's poor operation resulted in periodic odor problems.

### **RESPONSE 31**

The compliance history of this facility since June 30, 2001 (starting five years prior to submitting the application), indicates one notice of violation issued to Aransas MUD No. 1 on October 1, 2004. The violation referred to a failure to design and manage irrigation practices so as to prevent the ponding of effluent. The TCEQ Investigation Report indicates that the violation was resolved when Aransas MUD No. 1 submitted a letter indicating that 80 loads of dirt was added to the 12.681-acre tract of land. The information was verified by a TCEQ Region 14 Comprehensive Compliance Investigation conducted on April 14, 2005. For the stated compliance history period, no odor problem has been reported to the TCEQ.

The public may report possible permit violations by calling the TCEQ Region 14 office in Corpus Christi at 361-825-3100, or the statewide toll-free number at 1-888-777-3186. Citizens complaints may also be filed online at [www.tceq.state.tx.us/goto/report\\_problem](http://www.tceq.state.tx.us/goto/report_problem).

### **COMMENT 32**

Neil Adams, Richard Adams, Kenneth Ballard, Emil Broz, Richard Caldwell, Stephen Carleton, Jim Collins, Pam Collins, Keren Dotson, Mrs. Davis C. Edwards, Lynn Edwards, Robert Edwards, George Foulds, David Gill, Robert Gordon, Marjorie Greeson, Mrs. John Grimaudo, Bett Hediger, Beth Hester, C. F. Hooker, Zella Hunt, Marshal & Victoria Lightman, Thomas McChesney, Graden McVay, Jean McVay, Allan Middleton, Robert Nelson, Patrick Pollok, W. R. Raney, Delores Rogowicz, Eugene Rogowicz, Diana Sebastian, Sandra Sloop, Dwight Taylor, Linda Taylor, and Jim Turner claimed that the permit application was for non-existent developments.

### **RESPONSE 32**

Aransas MUD No. 1 stated in its application that "since 1994 more than 25 new homes have been built in the District, and more than 40 new recreational lots have been added by seasonal customers." Aransas MUD No. 1 further mentioned that it had been approached by the developer of Lamar Pointe Preserve for utility service to a new community adjacent to Goose Island Lake Estates. Aransas MUD No. 1 also indicated that it had contracted with the developer within Lamar WSC's service area for immediate and future wastewater service.

### **COMMENT 33**

Neil Adams, Richard Adams, Kenneth Ballard, Emil Broz, Richard Caldwell, Stephen Carleton, Jim Collins, Pam Collins, Keren Dotson, Mrs. Davis C. Edwards, Lynn Edwards, Robert

Edwards, George Foulds, David Gill, Robert Gordon, Marjorie Greeson, Mrs. John Grimaudo, Bett Hediger, Beth Hester, C. F. Hooker, Zella Hunt, Marshal & Victoria Lightman, Thomas McChesney, Graden McVay, Jean McVay, Allan Middleton, Robert Nelson, Patrick Pollok, W. R. Raney, Delores Rogowicz, Eugene Rogowicz, Diana Sebastian, Sandra Sloop, Dwight Taylor, Linda Taylor, and Jim Turner asked the TCEQ to require an alternate disposal method. Augustin Barrera, George Longoria, Paul Mercier, Bertha Oliver, Neil Richardson, Eugene Rogowicz, William Schmidt, and Anthony Valek suggested land application of the effluent. H. Dickson Hoese suggested the Copano Bay wetlands south of Holiday Beach would be a preferable part of the discharge route. Clay Jarvis and Corina Domaschk asked how many alternatives had been considered. Thomas McChesney would prefer another discharge point. William Schmidt (HBPOA) suggested that land application of effluent is a better method of disposal of the effluent. TPWD suggested that the applicant consider surface application and other disposal alternatives rather than direct discharge to Aransas Bay.

### **RESPONSE 33**

TCEQ does not require an applicant to propose alternative discharge locations, alternative technology, or alternative disposal methods. TCEQ evaluates the discharge location proposed by an applicant and fashions a draft permit protective of human health, safety, the environment, and existing uses of the receiving body of water. TCEQ then evaluates the treatment type and disposal method proposed in the application to determine whether the proposed facility can meet the criteria and limitations in the draft permit. Sometimes that may lead an applicant to consider alternative technology or disposal methods, but most times any engineering problems have already been considered and addressed in the initial application.

### **COMMENT 34**

Neil Adams, Richard Adams, Kenneth Ballard, Emil Broz, Richard Caldwell, Stephen Carleton, Jim Collins, Pam Collins, Keren Dotson, Mrs. Davis C. Edwards, Lynn Edwards, Robert Edwards, George Foulds, David Gill, Robert Gordon, Marjorie Greeson, Mrs. John Grimaudo, Bett Hediger, Beth Hester, C. F. Hooker, Zella Hunt, Marshal & Victoria Lightman, Thomas McChesney, Graden McVay, Jean McVay, Allan Middleton, Robert Nelson, Patrick Pollok, W. R. Raney, Delores Rogowicz, Eugene Rogowicz, Diana Sebastian, Sandra Sloop, Dwight Taylor, Linda Taylor, and Jim Turner asked the TCEQ to incorporate the most restrictive parameters in an issued permit.

### **RESPONSE 34**

The draft permit contains some of the most restrictive and stringent effluent limitations of any wastewater permit issued by TCEQ.

By way of comparison, the Edwards Aquifer stretches from Waco to Del Rio. It is the sole source of drinking water for many communities, including the City of San Antonio. The Texas Surface Water Quality Standards impose one of the most stringent effluent limitations on wastewater

discharges to surface water within five miles upstream of the Edwards Aquifer Recharge Zone. The effluent limits for wastewater discharges affected by the Edwards Aquifer limitations are shown below compared with the draft permit for Aransas MUD No. 1:

<u>Parameter</u>	<u>Edwards Aquifer limits</u>	<u>Aransas MUD No. 1 draft permit</u>
5-day carbonaceous biochemical oxygen demand	5 mg/l	5 mg/l
total suspended solids	5 mg/l	5 mg/l
ammonia-nitrogen	2 mg/l	2 mg/l
total phosphorus	1 mg/l	0.5 mg/l
total nitrogen	none	8 mg/l
minimum dissolved oxygen	none	5 mg/l

The draft permit is more stringent than a permit issued within five miles upstream from the Edwards Aquifer Recharge Zone in its limits on total phosphorus, total nitrogen, and minimum dissolved oxygen.

**COMMENT 35**

David Gill suggested that the plant be required to operate at least one year in full compliance with TCEQ and other agencies at the current permit conditions.

**RESPONSE 35**

The compliance history of this facility since June 30, 2001 (starting five years prior to submitting the application), indicates one notice of violation issued to Aransas MUD No. 1 on October 1, 2004. The violation referred to a failure to design and manage irrigation practices so as to prevent the ponding of effluent. The TCEQ Investigation Report indicates that the violation was resolved when Aransas MUD No. 1 submitted a letter indicating that 80 loads of dirt was added to the 12.681-acre tract of land. The information was verified by a TCEQ Region 14 Comprehensive Compliance Investigation conducted on April 14, 2005.

### COMMENT 36

Robin Melvin recommended that if permits authorizing the discharge of treated wastewater in the vicinity of Texas bays and estuaries are ever issued, they should be required to be discharged to a natural or constructed emergent wetland as the draft permit does, and have similar effluent limits. TPWD recommended an effluent set of 5 mg/l carbonaceous biochemical oxygen demand (5-day), 5 mg/l total suspended solids, 2 mg/l ammonia-nitrogen, and 0.5 mg/l total phosphorus.

### RESPONSE 36

The effluent limits in the draft permit are identical to the effluent limits recommended by TPWD. The effluent limitations in the interim and final phases of the draft permit, based on a 30-day average, are 5 mg/l 5-day carbonaceous biochemical oxygen demand, 5 mg/l total suspended solids, 2 mg/l ammonia-nitrogen, 0.5 total phosphorus, 8.0 mg/l total nitrogen, and 5.0 mg/l minimum dissolved oxygen. 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 recommendation by Mr. Melvin is noted. It should be added that permit applications are evaluated on a case-by-case basis.

### COMMENT 37

TPWD recommended tertiary treatment.

### RESPONSE 37

The proposed treatment includes chemical precipitation for phosphorus removal, a biological process providing an anoxic zone for nitrogen removal, and a membrane bio-reactor for stabilization of organic matter and solids removal. All of these treatments are beyond that provided by the conventional secondary treatment process.

### COMMENT 38

TPWD recommended twice per week monitoring to include fecal coliform if the effluent is ultimately discharged directly to Aransas Bay, Copano Bay, or St. Charles Bay.

### RESPONSE 38

The effluent is not discharged directly to Aransas Bay, Copano Bay, or St. Charles Bay. The monitoring frequency is once per week for 5-day carbonaceous biochemical oxygen demand, total suspended solids, ammonia-nitrogen, total phosphorus, total nitrogen, and dissolved oxygen, and five times per week for flow.

### COMMENT 39

TPWD noted that the draft permit contains nutrient limitations and includes discharge into wetland ponds, and concluded that these provisions will help protect aquatic resources in the area.

### RESPONSE 39

The Executive Director acknowledges this comment.

### COMMENT 40

Augustin Barrera, George Longoria, Paul Mercier, Bertha Oliver, Neil Richardson, Eugene Rogowicz, William Schmidt, and Anthony Valek expressed concern that the discharge could cause damage to the recreational use of Copano Bay, particularly with respect to bacteria, citing the influence of southeast winds and currents. David Gill stated that Copano Bay was only 100 yards from the proposed discharge and inquired how would contaminants be kept out of Copano Bay. William Schmidt (HBPOA) expressed concern about the absence of study on the impact of the effluent on Copano Bay.

### RESPONSE 40

The discharge ultimately flows into Aransas Bay, in Segment No. 2471, not nearby Copano Bay, and formal review was limited to Aransas Bay following the Procedures to Implement the Texas Surface Water Quality Standards (January 2003). Applying the antidegradation policy and implementation procedures to Aransas MUD No. 1's proposed discharge point into the tidal ponds in Section 307.5 of the rules and the TCEQ implementation procedures, a Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. A Tier 2 review was performed for the proposed discharge location. With a 5/5/2/0.5 effluent set and adding a total nitrogen limit of 8 mg/l, a Tier 2 antidegradation review has preliminarily determined that no significant degradation of water quality in Aransas Bay, having exceptional aquatic life use, and the ponds, having high aquatic life use, is expected. Existing uses will be maintained and protected. Due to the protection of Aransas Bay, the discharge would also

result in no significant degradation of water quality in other nearby water bodies, and existing uses will be maintained and protected in those water bodies as well, including Copano Bay.

The effluent limits recommended in the draft permit are designed to be protective of water quality in both Aransas Bay and Copano Bay. Aransas Bay and Copano Bay have generally the same criteria. Effluent limits assigned to be protective of Aransas Bay, the nearer of the two bays, are also protective of Copano Bay. Because of the size of the discharge and the very stringent effluent limits proposed in the draft permit, dissolved oxygen impacts beyond the wetland ponds are predicted to be minimal.

#### **COMMENT 41**

Augustin Barrera, George Longoria, Paul Mercier, Bertha Oliver, Neil Richardson, Eugene Rogowicz, William Schmidt, and Anthony Valek expressed concern that plant failure would cause foul odor to be detected in their properties.

#### **RESPONSE 41**

Aransas MUD No. 1 will provide the required buffer zone to abate and control a nuisance of odor. In addition, Aransas MUD No. 1 proposes to provide emergency alarms for, among others, failure of the blower to start, and power outage.

The draft permit requires that the permittee be 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, or retention of inadequately treated wastewater.

#### **COMMENT 42**

David Gill was concerned because he disagrees with the volume of the "final polishing pond." William Schmidt (HBPOA) cited the lack of information on the size of the discharge ponds.

#### **RESPONSE 42**

From measurements of aerial imagery, the surface area of the north (first) pond is approximately 1.0 acre. The surface area of the south (second) pond is approximately 3.25 acres. Based on information from Aransas MUD No. 1, average depth of each pond was estimated to be approximately 1.5 feet, resulting in volumes of approximately 65,300 cubic feet and 212,300 cubic feet, respectively.

**COMMENT 43**

Steven Clamon asked who will test for microbial and chemical contaminants.

**RESPONSE 43**

There is no test for microbial contaminant, i.e., fecal coliform, because the effluent will be disinfected by means of chlorination. Instead, chlorine residual will be monitored. The draft permit requires that the permittee conducts effluent sampling and report results in accordance with TCEQ rules, which specify, among other things, the sampling and laboratory testing methods and quality assurance requirements of the sampling and reporting.

**COMMENT 44**

Steven Clamon asked how often will the test be performed.

**RESPONSE 44**

The monitoring frequency is once per week for 5-day carbonaceous biochemical oxygen demand, total suspended solids, ammonia-nitrogen, total phosphorus, total nitrogen, and dissolved oxygen, and five per week for flow. The effluent shall contain a chlorine residual, which shall be monitored five times per week. The monitoring frequencies are based on the self-monitoring schedule required by TCEQ rules.

**COMMENT 45**

Steven Clamon asked where will the solids be disposed.

**RESPONSE 45**

Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ permitted landfill and land application sites, Texas Sludge Disposal, Inc. in San Patricio County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

#### COMMENT 46

Steven Clamon asked whether an environmental study on the chemicals being used had been performed. Lynn Edwards was concerned that chemicals used by the wastewater discharge plant would be a significant amount of the discharge.

#### RESPONSE 46

The existing plant uses chlorination for disinfection as allowed by TCEQ rules. The rules also require that the maximum chlorine residual in any discharge shall in no event be greater than four mg/l per grab sample to protect aquatic life in the receiving body of water.

#### COMMENT 47

Steven Clamon asked what are the long-term effects of alum and chlorides.

#### RESPONSE 47

It has been reported that aluminum sulfate, commonly known as alum, is the most important coagulating agent in water treatment. Most public drinking water supply systems add alum to reduce turbidity. Concerns over alum could be related to aluminum in the dissolved form. Literature indicates that long-term exposure of patients to dialysis water high in aluminum may cause a defect of the brain and/or bone mineralization. Aluminum has also been suggested as a cause of Alzheimers disease, though it is stated that it is unclear if the aluminum leads to this disease or if it is that the disease causes brain tissue to retain aluminum secondarily. Thus, Agriculture and Agri-Food Canada concludes that long term risks of aluminum use are as of yet uncertain. It was also reported that aluminum affects fish by accumulating in the gills and clog the gills with a slimy layer, which limits breathing.

The most common chloride naturally occurring at the discharge location is simply sodium chloride, or table salt. Wikipedia explains that chloride is a chemical that the body needs for metabolism.

In the Texas Surface Water Quality Standards, there is no water quality criterion for aluminum for human health protection; but, there is a criterion for the protection of aquatic life. There are no water quality criteria for chloride.

#### COMMENT 48

Steven Clamon asked about the back-up or alarm system on the chemical injection system.

#### **RESPONSE 48**

Aransas MUD No. 1 has proposed alarms for high or low chlorine residual and chlorine gas detector. The alarms will be connected to an auto-dialer.

#### **COMMENT 49**

Steven Clamon asked how good the system is in removing nitrates.

#### **RESPONSE 49**

The proposed process for biological nitrogen removal (BNR) is an aerobic zone followed by an anoxic zone, where oxidation of ammonia to nitrate occurs in the aerobic environment and the reduction of nitrate to nitrogen gas (denitrification) occurs in the anoxic environment. With proper design, this BNR process has been reported to achieve levels of less than 10 mg/l total nitrogen in the effluent.

#### **COMMENT 50**

Neil Adams expressed concern that the application does not have technical data on how public health, safety and state waters will be protected.

#### **RESPONSE 50**

The application provides the information necessary for the Commission staff to evaluate wastewater generation, the ability of the proposed technology to treat and dispose of the wastewater, the resulting effluent, and the receiving body of water and to make a determination or recommendation whether or not the application complies with the Commission rules, policies, and EPA guidelines to protect human health, safety and the environment. After staff performs this extensive technical review, the Executive Director prepares a draft permit that is intended to protect water quality and comply with all state regulations.

#### **COMMENT 51**

Neil Adams claimed that the draft permit authorizes more wastewater than what will be produced. David Gill requested a clarification on the flow authorized in the draft permit, 243,000 gallons per day or 263,000 gallons per day and how was the flow authorized.

### **RESPONSE 51**

The flows authorized in the draft permit are based on estimated growth and wastewater generation projections provided in the permit application with sufficient design consideration. The total estimated flow to be serviced is approximately 250,000 gallons per day (gpd). The daily average flow authorized in the draft permit will be the basis of sizing the wastewater treatment facility. A design flow of 263,000 gpd provides a buffer for flow and load variations. The draft permit requires that 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 or upgrading of the domestic wastewater treatment 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 or collection facilities. The requested flow will provide enough capacity to allow evaluation of flows for planning purposes. By proposing a flow of 263,000 gpd, Aransas MUD No. 1 projects that planning for expansion or upgrading of the wastewater treatment facility will not occur until around 2014, while the construction of additional facilities will not occur until around 2017.

### **COMMENT 52**

Dohn Larson stated that the proposed wastewater system is state of the art in name only.

### **RESPONSE 52**

The proposed wastewater treatment technology, membrane bioreactor (MBR), is a combination of the activated sludge process and membrane separation. It is acknowledged as a recent development in wastewater treatment by Metcalf & Eddy, Inc., Tchobanoglous, Burton and Stensel (2003) and Judd (2006), as well as other wastewater treatment process designers and facility manufacturers.

### **COMMENT 53**

Dohn Larson stated that the project has not been sufficiently studied and its negative impacts underestimated.

### **RESPONSE 53**

The TCEQ Water Quality Standards Team has determined that existing water quality uses will not be impaired by this permit action. With effluent limitations of 5 mg/l 5-day carbonaceous

biological oxygen demand, 5 mg/l total suspended solids, 2 mg/l ammonia-nitrogen, 0.5 mg/l total phosphorus, and adding a total nitrogen limit of 8 mg/l, a Tier 2 antidegradation review has determined that no significant degradation of water quality in Aransas Bay, having exceptional aquatic life use, and the ponds, having high aquatic life use, is expected. Existing uses will be maintained and protected.

The TCEQ Water Quality Assessment Team evaluated Aransas MUD No. 1's proposed effluent limits to ensure that dissolved oxygen levels in the ponds and the bays would be maintained above their designated criteria. Based on model results, the proposed effluent limits are predicted to be adequate for both flow phases to ensure that dissolved oxygen concentrations in the ponds will be maintained above their designated criteria. Beyond the ponds, concentrations of oxygen-demanding constituents entering Aransas Bay (and, potentially, subsequently Copano Bay) following the period of detention in the two ponds are predicted to be at levels low enough that they would not result in any significant impact on dissolved oxygen levels in the bays.

#### **COMMENT 54**

The Texas Department of Transportation (TxDOT) objected to the use of the two ponds that are within TxDOT's right-of-way because (1) it is the District's practice not to allow the discharge of effluent into right-of-way that is owned by the TxDOT District; (2) TxDOT would like to keep its currently unregulated discharge of storm water runoff separated from the MUD's proposed discharge of effluent in that location; and (3) TxDOT has concerns that the MUD's plans may limit the options for the future replacement of the Copano Bay Bridge.

#### **RESPONSE 54**

The water in the ponds meets the statutory definition of water in the state. The TCEQ is authorized to issue permits for the discharge of treated wastewater into water in the state.

#### **COMMENT 55**

H. Dickson Hoesle inquired to what extent has the local bay circulation been taken into account.

#### **RESPONSE 55**

Because of the size of the discharge and the very stringent effluent limits proposed in the draft permit, dissolved oxygen impacts beyond the wetland ponds are predicted to be minimal. Therefore, local bay circulation is not predicted to have a significant effect on dissolved oxygen impacts resulting from this proposed discharge.

#### COMMENT 56

H. Dickson Hoese stated that the effluent ponds appear eutrophic.

#### RESPONSE 56

There are no effluent ponds listed in the discharge route. The discharge route includes a series of two unnamed tidally influenced ponds. The water in the ponds meets the statutory definition of water in the state, and Water Quality Standards were applied. A dissolved oxygen modeling analysis was performed on the ponds to ensure that dissolved oxygen levels would be maintained above the criterion assigned to them (4.0 mg/l) to protect the presumed high aquatic life use. While the Executive Director has no direct sampling data whether the ponds are actually eutrophic, the stringent effluent limitations, including the very low 0.5 mg/l phosphorus limit, is not expected to adversely affect the water quality in the ponds.

#### COMMENT 57

David Gill was concerned because the discharge cannot be monitored at the point where it enters public waters where Mr. Gill and his family enter the water.

#### RESPONSE 57

The treated effluent will be discharged to a series of two unnamed ponds along State Highway 35; and from there to Aransas Bay. The draft permit requires that sampling points must be readily accessible and that effluent monitoring samples shall be taken following the final treatment unit. Consequently, an accessible sampling point can be established before the effluent is discharged into the ponds. It should also be noted that the effluent will be sampled, and must comply with the effluent limitations in the draft permit, without any dilution from the receiving body of water.

#### COMMENT 58

David Gill was concerned because the final discharge point of the effluent cannot be secured from the general public contending that he will be endangered if any vandalism, acts of malicious intent or malfunction of equipment occur.

## RESPONSE 58

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, including providing the results of effluent monitoring for compliance with effluent limits. Consequently, it will be the responsibility of the permittee to secure the treatment plant and the location of the sampling location so that a sample can be consistently taken at that location for compliance monitoring.

## COMMENT 59

David Gill was concerned because no review of rainwater, runoff or foreign contaminants are accounted for in the proposed permit.

## RESPONSE 59

The permitting process falls under the federal NPDES program, as delegated to the State of Texas, requiring facilities that discharge pollutants from any point source into water in the state to obtain a permit. Thus, the application and the corresponding review are based on the proposed wastewater discharge in the permit application and the effect on the quality of the receiving body of water, and do not include any consideration of dilution due to rainwater or runoff.

## COMMENT 60

David Gill was concerned because he claims that the draft permit allows 4015 lbs. biological oxygen demand per year or 20,015 lbs. over five years, 4015 lbs. total suspended solids per year or 20,015 lbs. over five years, 1606 lbs. ammonia-nitrogen per year or 8030 lbs. over five years and 401.5 lbs. total phosphorus or 2007.5 lbs. over five years. Mr. Gill claims that these pollutants will cause serious health problems to him and his family and will eliminate sea grass growth, any oyster, shrimp or crab harvesting, health concerns of the fish taken and consumed.

## RESPONSE 60

The indicated figures are daily average mass-based loadings calculated by multiplying the daily average flow in the Final phase in million gallons per day, 0.263, by the respective concentration in mg/l, and multiplying the result by 8.34 (in order to convert milligrams to pounds and gallons to liters). The results, in lbs/day, are then multiplied by 365 and extrapolated to five years.

It should be noted that biological oxygen demand, ammonia, and phosphorus undergo biochemical transformation in an aquatic environment. Specifically, organic matter, represented by

biological oxygen demand, can be oxidized biologically to simple end products and additional biomass. In an aerobic (i.e., presence of dissolved oxygen) biological oxidation of organic matter, the end products are essentially new cells, carbon dioxide and water. Ammonia and phosphate are nutrients needed for the oxidation of the organic matter to the indicated end products.

Using mass loads to represent the indicated constituents in the receiving stream and discharge is physically inaccurate because biological oxygen demand, total suspended solids, ammonia and phosphorus are not discharged as slugs or batches, but are dispersed in the effluent and the receiving body of water. Consequently, they are measured and monitored in concentration units, i.e., mg/l.

There is no quantitative criterion for total suspended solids in Texas; however, the rule states that "surface water shall be essentially free of floating debris and suspended solids that are conducive to producing adverse responses in aquatic organisms or putrescible sludge deposits or sediment layers which adversely affect benthic biota or any lawful uses." The draft permit requires a total suspended solids effluent limit of 5 mg/l, which is also the allowable total suspended solids limit for discharges that would be permitted upstream of the Edwards Aquifer Recharge Zone.

The Texas Surface Water Quality Standards do set numerical criteria on some constituents that are related to the above compounds. For example, maintenance of dissolved oxygen is set out in the TSWQS for a particular water body, and this is directly related to the biological oxygen demand loading and mixing, but the projection of oxygen levels during discharge is done by numerical modeling, as are projections of ammonia nitrogen levels. Other constituents, such as total suspended solids or nutrients, are in the General Criteria of the TSWQS where it is stated that waste discharges shall not cause substantial or persistent changes from ambient conditions of turbidity or color, or shall not cause excessive growth of aquatic vegetation, but there are no numerical criteria. It is also stated in the Standards that permits shall contain effluent limitations to protect existing uses, which in this case include sea grass propagation, oyster waters, contact recreation, and sustainable fishery.

#### **COMMENT 61**

David Gill requested to know the size of the wetland and the retention time to ensure proper polishing. He questioned whether the discharge would be batch or constant rate per hour. Mr. Gill wanted to know how would overflowing be prevented, if the flow is batch. Mr. Gill wanted to know whether a flow control valve or an orifice would be installed to ensure proper polishing.

#### **RESPONSE 61**

The ponds are not a part of the treatment process, but a part of the discharge route. They are protected like any other water in the state of Texas. Consequently, they were not evaluated to conform to certain process design criteria for wastewater treatment. The polishing that will occur in the ponds is beneficial to the quality of the wastewater, but it is not necessary to ensure that existing uses will be maintained and protected.

## COMMENT 62

David Gill wanted to know whether the forced sewer main to the sewage plant is the same line to discharge into the pond after treatment.

## RESPONSE 62

The sewer line carrying untreated wastewater to the plant is not the same as the discharge line carrying treated wastewater from the plant. It is not physically possible. Treated wastewater may not be contaminated with untreated wastewater. That would be a violation of the effluent limits in the draft permit.

## COMMENT 63

David Gill recommended a study of the new permit to include the impact of freshwater algae growth on marine life, the impact on wildlife, the impact on water fowl, the impact of additional heavy metals, oil, ethylene glycol, etc. from rainwater washing of the additional concrete and surrounding areas, and the impact of nutrients not removed from the treatment.

## RESPONSE 63

Storm drains carrying rainwater runoff should not be directed to a municipal wastewater treatment plant. TCEQ's storm water rules and storm water permits address the prevention of pollution before storm water enters storm water drains.

The TCEQ Water Quality Standards Team has determined that existing water quality uses will not be impaired by this permit action. With an effluent set of 5 mg/l 5-day biological oxygen demand, 5 mg/l total suspended solids, 2 mg/l ammonia-nitrogen, 0.5 mg/l total phosphorus and adding a total nitrogen limit of 8 mg/l, a Tier 2 antidegradation review has determined that no significant degradation of water quality in Aransas Bay, having exceptional aquatic life use, and the ponds, having high aquatic life use, is expected. Existing uses will be maintained and protected.

The TCEQ Water Quality Assessment Team evaluated Aransas MUD No. 1's proposed effluent limits to ensure that dissolved oxygen levels in the ponds and the bays would be maintained above their designated criteria. Based on model results, the proposed effluent limits are predicted to be adequate for both flow phases to ensure that dissolved oxygen concentrations in the ponds will be maintained above their designated criteria. Beyond the ponds, concentrations of oxygen-demanding constituents entering Aransas Bay (and, potentially, subsequently Copano Bay) following the period of detention in the two ponds are predicted to be at levels low enough that they would not result in any significant impact on dissolved oxygen levels in the bays.

The permitting process falls under the federal NPDES program, as delegated to the State of Texas, requiring facilities that discharge pollutants from any point source into waters in the state to obtain a permit. Thus, the application and the corresponding review are based on the proposed

wastewater discharge in the permit application and the effect on the quality of the receiving body of water, and do not include rainwater, runoff or foreign contaminants. The proposed wastewater to be discharged is essentially domestic in nature and is unlikely to include heavy metals, oil, or ethylene glycol, which could be expected from an industrial wastewater. The Executive Director does not consider the impact of non-point source pollution from developments served by the wastewater treatment plant.

#### **COMMENT 64**

David Gill requested a full environmental assessment study.

#### **RESPONSE 64**

The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet this requirement, federal agencies must prepare detailed statements known as an Environmental Impact Statements (EISs). The Executive Director's staff have thoroughly reviewed this application and prepared a draft permit that complies with federal and state regulations developed to protect the environment.

Since the issuance of this permit is a state, not a federal, action an EIS is not required.

#### **COMMENT 65**

David Gill asked what is the limit of fecal coliform allowed.

#### **RESPONSE 65**

There is no fecal coliform limits in the draft permit because the effluent will be disinfected by means of chlorination. Instead, the draft permit requires that 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). This technology is effective in reducing bacteria levels to protect human life.

#### **COMMENT 66**

David Gill stated that the draft permit allows the applicant to increase discharge rates without another public hearing being required. David Gill inquired whether TCEQ believes that all sewage should be put into bays.

## RESPONSE 66

Once a permit is issued, the discharge rate cannot be increased without applying for a major amendment to the permit. Major amendments are subject to full public comment and opportunity for a contested case hearing.

It is the policy of the state "to maintain the quality of water in the state consistent with the public health and enjoyment, . . . ." The goal of TCEQ is clean air, clean water, and the safe management of waste.

## COMMENT 67

David Gill had concerns about the loss of seagrass.

## RESPONSE 67

Water Quality Standards Team agrees that this was a concern with this discharge to bay ecosystems containing seagrasses. Thus, the antidegradation review of this permit centered around this concern. While a Tier 1 antidegradation review could preliminarily determine that existing water quality uses will not be impaired by this permit action, discussions centered on the more stringent Tier 2 review, as seagrass propagation is an existing recognized use in the Texas Surface Water Quality Standards. The vital point is the long term general concern with these types of discharges.

Seagrasses support a diverse aquatic community, and provide nursery, foraging, and refuge habitats for important marine fishery resources. However, the important point for a TPDES permit application review is that seagrasses have been shown to be quite sensitive to nutrient additions, especially nitrogen. Seagrass meadows grow by using nutrient recycling through the detrital food chain within the seagrass meadows, while maintaining oligotrophic water column conditions. This allows the seagrass to maintain a competitive advantage over micro- and macro-algae that cannot use these recycled nutrients as effectively. When additional nutrients, especially nitrogen, are added to the system it negates the advantage the seagrass maintains over the algae. The algae are much better adept at using water column nutrients, and thus the addition of nutrients results in increased phytoplankton growth, increases the growth of epiphytes on grass blades, and macro-algal growth. This then allows the algae to out-compete the seagrasses and invade the seagrass beds. Over time this can result in seagrass losses.

Unfortunately, seagrass beds typically stabilize shallow estuarine sediments in these areas, and thus turbidity usually increases in the area after seagrass loss. The increases in turbidity can likely result in lost beds not being naturally recovered, and may lead to the loss of additional beds due to smothering. Other US coastline states have done extensive research on municipal discharges in similar areas with these sensitive resources and have adopted stringent protective limits to protect those resources.

To address this situation, the draft permit provides for the discharge into existing wetlands in two tidally influenced ponds to the southwest of State Highway 35. This discharge point's

advantages stem from the idea that wetlands are not as sensitive to water column nitrogen additions, and that constructed and natural wetlands have been shown to biologically mediate the transformation of nitrogen to biomass as well as show significant rates of denitrification. To provide further protection for the sea grasses, the draft permit requires the very stringent discharge set of 5/5/2/0.5 and requires the Aransas MUD to treat the effluent to achieve a total nitrogen limit of 8 mg/l.

#### **COMMENT 68**

David Gill inquired about the impact to whooping cranes that feed along the shores of the discharge site.

#### **RESPONSE 68**

The Texas Surface Water Quality Standards state that discharges shall not cause surface waters to be toxic to terrestrial or aquatic life, or the consumption of aquatic organisms.

#### **COMMENT 69**

David Gill inquired whether TCEQ would require continuous monitoring of the effluent and how often would TCEQ check the discharge.

#### **RESPONSE 69**

The draft permit requires a monitoring frequency of once per week for 5-day carbonaceous biochemical oxygen demand, total suspended solids, ammonia nitrogen, total phosphorus, total nitrogen, and dissolved oxygen, and five times per week for flow. The TCEQ regional office conducts compliance investigations of wastewater facilities and conducts investigations based on complaints received from the public. The TCEQ follows a Risk-Based Investigation Strategy whereby facilities are ranked according to risk. That ranking then determines when or how often the facility will be inspected. The TCEQ Region 14 in Corpus Christi may be contacted at (361) 825-3100 regarding these inspections.

#### **COMMENT 70**

David Gill asked whether the applicant had a licensed sewage and water plant operator.

## RESPONSE 70

The wastewater treatment plant has a licensed wastewater treatment plant operator. Since the application is for wastewater discharge permit, there is no information available about a water plant operator.

## COMMENT 71

David Gill asked whether the public would be allowed to collect samples of the discharge and test the samples, and what recourse did the public have in case of a noncompliance.

## RESPONSE 71

The public may collect samples for analyses so long as they have permission to enter property where the sample is collected. Sample collection protocol and analytical procedure should follow 30 TAC Chapter 319. If samples are collected at the applicant's sampling location in its property, sample collection should be coordinated with the applicant in order to enter the facility premises. Sampling may also be coordinated with TCEQ regional office (Region 14).

If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the Agency at 1-888-777-3186 or you may contact the TCEQ Region 14 Office at 361-825-3100. Citizen complaints may also be filed online at the TCEQ website (select "Reporting," then "Reporting Environmental Problems," then "Reporting an Environmental Complaint"). If the facility is found to be out of compliance it will be subject to enforcement action.

## COMMENT 72

David Gill asked whether TCEQ would fine or impose sanctions against the applicant in case of noncompliance.

## RESPONSE 72

Noncompliance with TCEQ rules or the permit may result in an applicant receiving a notice of violation. If violations are discovered, they may be resolved by the TCEQ Field Operations Division or referred to the TCEQ Enforcement Division for formal enforcement proceedings. Under Texas Water Code (TWC), Section 7.052, a maximum administrative penalty of \$10,000 per day per violation may be assessed. TWC, Section 7.053, and TCEQ's Enforcement Policy and Guidelines delineate the factors TCEQ may consider when determining a penalty. A fine for an environmental violation will vary for a variety of reasons, including: the severity of the violation, the compliance history of the permittee, the permittee's degree of responsibility for the violation, and the permittee's

good faith. For more information regarding enforcement, please see TCEQ's web site at [www.tceq.state.tx.us/](http://www.tceq.state.tx.us/) and click on "Compliance, Enforcement and Cleanups."

#### **COMMENT 73**

David Gill inquired whether the directors and officers of Aransas MUD No. 1 would be held personally accountable and financially responsible for damages in case of noncompliance.

#### **RESPONSE 73**

Typically, for an entity like Aransas MUD No. 1, the district is liable for noncompliance. The officers and agents of the district are responsible to the voters of the district.

#### **COMMENT 74**

David Gill inquired about the impact of toxins in the fish from the discharge and asked for the study to determine the impact of the discharge when considering consumption of the "natural resources."

#### **RESPONSE 74**

Permit amendments are reviewed to ensure that permitted effluent limits will maintain instream criteria and uses. Water bodies in the discharge route are presumed to have incidental or sustainable fisheries. The Texas Surface Water Quality Standards state that toxic criteria to protect human health for consumption of aquatic organisms apply to these waters.

#### **COMMENT 75**

David Gill asked for a complete financial statements.

#### **RESPONSE 75**

Texas Water Code Chapter 26 and applicable wastewater regulations do not authorize the agency to require financial statements when reviewing a permit application. Thus, the TCEQ has no regulatory authority to consider financial statements when reviewing wastewater applications and draft permits.

Since the Aransas MUD No. 1 is a governmental body, its financial statements are public information subject to Texas Public Information Act.

#### COMMENT 76

David Gill recommended that Aransas MUD No. 1's board be comprised of individuals not necessarily located in the district.

#### RESPONSE 76

As a municipal utility district, Aransas MUD No. 1 and its board are governed by Chapters 49 and 54 of the Texas Water Code. The Executive Director cannot alter the composition of a municipal utility district's board in the wastewater permitting process.

#### COMMENT 77

Graden McVay was concerned about circulation patterns of the bays. Linda Pechacek noted that the application did not provide a description of the hydrology (including circulating current patterns) of Aransas and Copano Bays. She was concerned that discharging the effluent at the shoreline of Aransas Bay would not allow proper mixing.

#### RESPONSE 77

Due to the very high level of treatment proposed for this facility, combined with the strategy of initially discharging into the two ponds rather than directly into the bay, levels of oxygen-demanding constituents remaining in the wastestream following discharge is not expected to be at levels sufficient to have any significant impact on dissolved oxygen levels in Aransas or Copano Bays at the proposed flows. Thus, for purposes of analyzing potential dissolved oxygen impacts on the bays from the proposed discharge, the specific circulation patterns of the bay system were not a determining factor.

#### COMMENT 78

Linda Pechacek mentioned that a gabion rock/shell structure to promote solids deposition of the re-establishment of Goose Island was located very close to the proposed effluent discharge point and asked the impacts of this structure on Aransas Bay's shallow current patterns near the shoreline and the proposed effluent discharge point location. Linda Pechacek asked whether the gabion rock/shell structure has impacts similar to a baffle structure. Linda Pechacek asked whether the gabion rock/shell structure impacts the mixing zone. Linda Pechacek asked whether the gabion rock/shell structure promotes solids deposition. Linda Pechacek stated that the Tier 1 and Tier 2 antidegradation reviews are incomplete because they do not include an evaluation of the current patterns of Aransas and Copano Bays and the impacts of the rock/oyster shell gabion structure.

### RESPONSE 78

Because of the very high level of treatment proposed for this facility and the polishing effect of the two ponds, concentrations of oxygen-demanding constituents entering the bays themselves are not expected to be at levels sufficient to cause a significant impact on dissolved oxygen levels in the bays. Consequently, for the purposes of analyzing potential dissolved oxygen impacts on the bays, the specific current patterns of the bay system were not analyzed in detail. Thus, any potential effect of the gabion rock/shell structure on current patterns in Aransas Bay was not considered in the evaluation of the proposed permit limits for oxygen-demanding substances.

The proposed effluent limit for total suspended solids is the most stringent in the state.

### COMMENT 79

Linda Pechacek expressed concern about solids accumulation at a nearby discharge outfall, which she indicated had shown very high concentrations of *E. Coli* and *Enterococci*.

### RESPONSE 79

The proposed effluent limit for total suspended solids is already the same as the limit for discharges upstream of the recharge zone of the Edwards Aquifer. In addition, the proposed discharge will be disinfected as required by 30 TAC Section 309.3(g).

### COMMENT 80

Linda Pechacek suggested an effluent outfall to the deepest part of Aransas Bay.

### RESPONSE 80

The proposed discharge is not directly into Aransas Bay. Rather, a very high quality effluent goes first into a series of two unnamed ponds, commingles with the ponds' water before discharge into Aransas Bay. The proposed discharge route is more protective than a direct discharge to Aransas Bay.

### COMMENT 81

Linda Pechacek suggested that *Enterococci* be a permit parameter "since TCEQ has identified it as an appropriate parameter for marine waters."

### RESPONSE 81

An effluent limit for bacteria is not required because the effluent is disinfected by means of chlorination and the segment is not impaired due to elevated bacteria levels of any kind.

### COMMENT 82

Linda Pechacek suggested requiring the implementation of an effective solids management and control plan that prevents the discharge of excess solids during times of heavy rainfall and suggested that a wet weather facility could alleviate excess solids from being discharged.

### RESPONSE 82

The use of a wet weather facility to absorb wastewater flows in excess of the hydraulic capacity of a wastewater treatment plant is currently being reviewed by the U.S. EPA on a nationwide basis. Consequently, there is currently no basis for the design and operation of a wet weather facility.

### COMMENT 83

Linda Pechacek suggested requiring as a permit condition the submittal of data reporting both the volume of treated wastewater and the volume of the solids removed to indicate whether excess solids are being discharged from the plant by performing a solids mass balance.

### RESPONSE 83

If the objective is to prevent the unauthorized discharge of wastewater and its solids content (TSS) or sludge, the draft permit already includes the following provisions:

Permit Condition 2d, page 7 of the draft 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.

Permit Condition 2g, Page 7 of the draft permit:

- 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.

Operational Requirements 1, Page 9:

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.

Sludge Provisions, Page 12:

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.

A mass balance calculation would only verify an unauthorized discharge after it happened.

**COMMENT 84**

Linda Pechacek suggested requiring periodic inspection near the outfall pipe to determine solids accumulation in piles. She further suggested that if piles are present, sampling must be done to determine bacterial contamination. If high concentrations are noted, she recommended that TCEQ should act to prevent additional accumulation.

**RESPONSE 84**

No maintenance should be needed at the outfall because of the high quality of the proposed discharge. Reports of water quality violations will be investigated by the TCEQ regional office.

**COMMENT 85**

Jim Smarr commented that fishing on Aransas Bay was the worse it has ever been, and that passes in the barrier islands needed to be opened.

RESPONSE 85

The Executive Director acknowledges this comment. However, fishing and maintenance of passes is beyond the Executive Director's statutory jurisdiction.

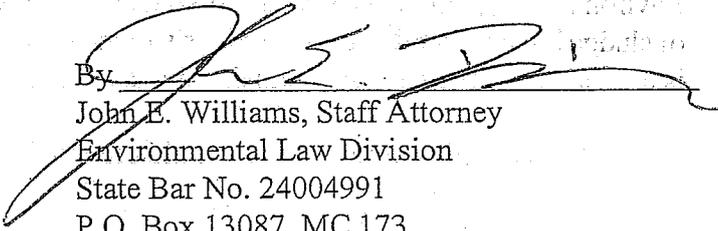
No changes to the draft permit have been made.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle  
Executive Director

Robert Martinez, Director  
Environmental Law Division

By   
John E. Williams, Staff Attorney  
Environmental Law Division  
State Bar No. 24004991  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
512-239-0455

Representing the Executive Director of the Texas  
Commission on Environmental Quality

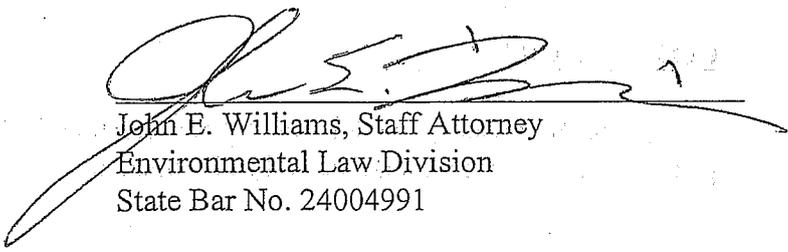
TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

MAY 19 PM 4:21

CHIEF CLERKS OFFICE

CERTIFICATE OF SERVICE

I certify that on May 19, 2008, the "Executive Director's Response to Public Comment" for Permit No. WQ0011624001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

  
John E. Williams, Staff Attorney  
Environmental Law Division  
State Bar No. 24004991

**Attachment E**

Map of the Proposed Facility Site Aransas County Municipal Utility District No. 1,  
Draft Permit No. WQ0011624001, and surroundings



Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087

December 15, 2008



Projection: Texas Statewide Mapping System  
(TSM5)  
Scale: 1:40,000

Legend

- △ Discharge Point
- ⊙ Requestor's Property
- ⬡ Park Boundary

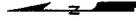
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the requestor information from the applicant. The requestor locations were found using geocoding, Google Maps, and maps of Aransas Central Appraisal District. The 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-Infra-Red (CIR). The image classification number is 8391\_1\_1.

Note:

"Not shown" means an address was located but it is not within the map image area.  
"Not located" means no physical address was given or found.

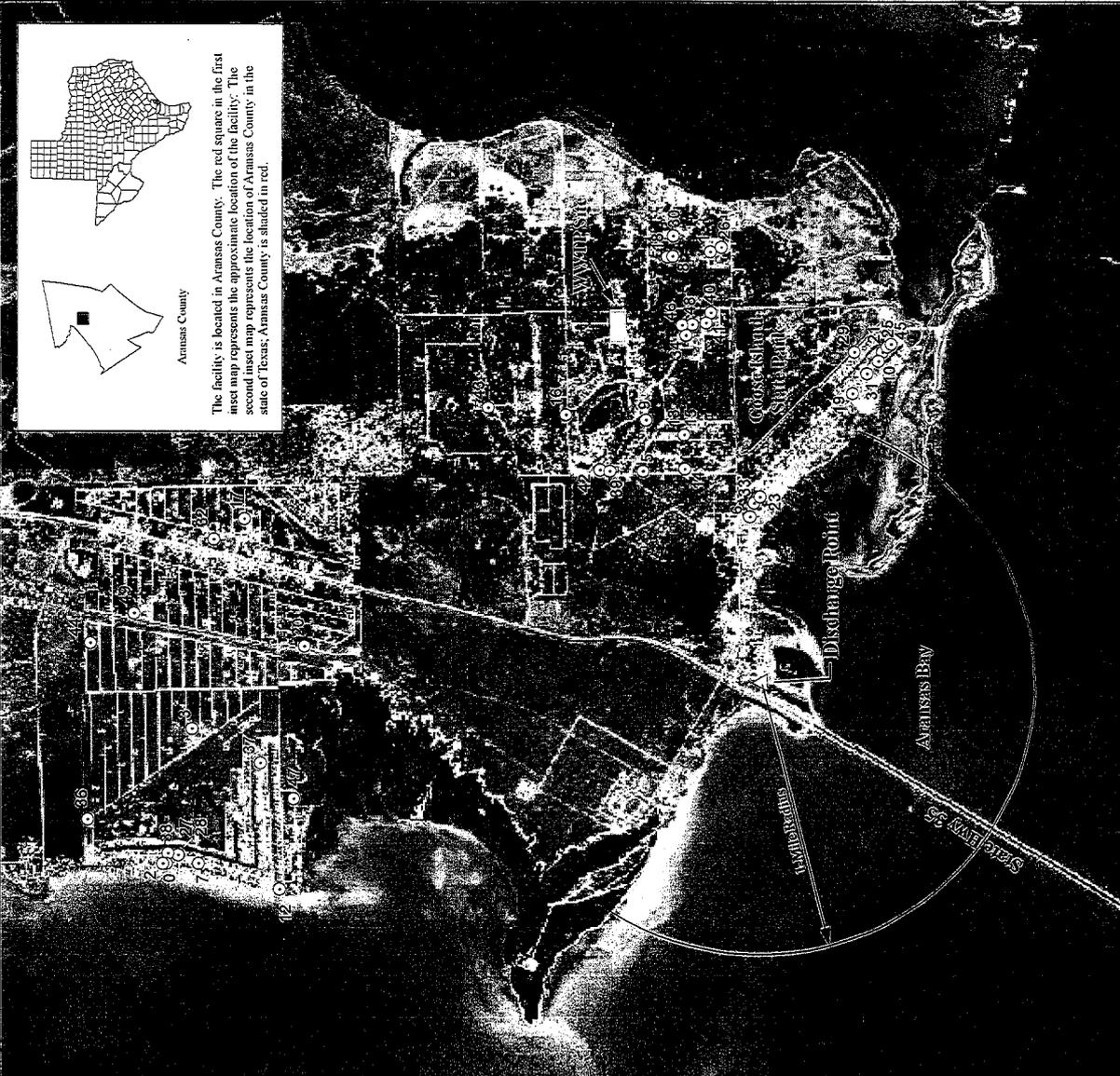
This map depicts the following:

- (1) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
- (2) Discharge Point. This is labeled "Discharge Point".
- (3) Wastewater treatment plant. This is labeled "WWTP Site".



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This map was not generated by a licensed surveyor, and is intended for illustrative purposes only. No claims are made to the accuracy or completeness of the data or to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

# Aransas County MUD #1 TPDES Permit No. WQ0011624001 Map Requested by TCEQ Office of Legal Services for Commissioners Agenda



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

- Requestors**
- 0 - Neil Adams
  - 1 - Richard Adams
  - 2 - Ken Ballard
  - 3 - Augustine Barrera, Jr.
  - 5 - Jay Brans
  - 6 - Emil Broz
  - 7 - Barbara Brummitt
  - 8 - Richard Caldwell
  - 9 - Richard G. Caldwell
  - 10 - Stephen M. Carellon
  - 12 - Jim & Pam Collins
  - 13 - Carole Davis
  - 14 - Keren Dotson
  - 15 - Mrs. Davis Edwards
  - 16 - Lynn & Robert M. Edwards
  - 17 - David Gill
  - 18 - Robert Gordon
  - 19 - Marbrre Greeson
  - 20 - Mrs. John Grimaudo
  - 21 - Donald & Patricia Gyorog
  - 22 - Betty Hediger (Not shown)
  - 23 - Beth Hester
  - 25 - Bob & Sherayln Humble
  - 26 - Zella Hunt
  - 27 - Marshal & Victoria Lightman
  - 28 - Marshal & Victoria Lightman
  - 29 - Thomas McClesney
  - 30 - Alan Middleton
  - 31 - Robert A. Nelson, Jr.
  - 32 - Bertha L. Oliver
  - 33 - Patrick Pollok
  - 34 - S.V. Pruski
  - 35 - W. R. Ramey (Not shown)
  - 36 - Neil Richardson
  - 37 - Dolores & Eugene E. Rogowicz
  - 38 - William H. Schmidt
  - 39 - Diana Sebastian
  - 40 - Sandra Sloop
  - 41 - Dwight Taylor
  - 42 - Linda K. Taylor
  - 43 - Jim Turner
  - 44 - Anthony S. Valek
  - 45 - Jane Wicker
  - 46 - Graden N. & Jean McVay
  - 47 - Paul Mercier
  - 48 - George Foulds
  - 49 - George Longoria