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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

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2009 JAN 16 PM 4: 23

TEXAS
COMMISSION
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January 16, 2009

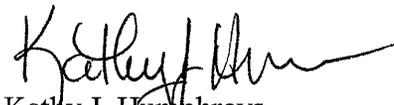
LaDonna Castañuela
Texas Commission on Environmental Quality
Attention: Docket Clerk, MC 105
P.O. Box 13087
Austin, Texas 78711-3087

Re: In the Matter of the Application by Farmersville Investors, LP. for TPDES Permit
No. WQ0014778001;
TCEQ Docket No. 2008-1305-MWD

Dear Ms. Castañuela:

Enclosed please find the original and seven true and correct copies for filing of the Executive Director's Response to Hearing Requests and Motion for Reconsideration in the above-named and numbered cause. If you have any questions, please do not hesitate to contact me.

Sincerely,


Kathy J. Humphreys
Staff Attorney
Environmental Law Division

Enclosure

cc: Service List

DOCKET NUMBER 2008-1305-MWD

2009 JAN 16 PM 4: 23

CHIEF CLERKS OFFICE

APPLICATION BY §
FARMERSVILLE INVESTORS, §
LP. FOR TPDES PERMIT §
NO. WQ0014778001 §

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests (Response) on the application by Farmersville Investors, LP (Farmersville) for a new Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0014778001. **Representative Jodie Laubenberg; Commissioner Joe Jaynes, Collin County Commissioner; Martin Rochelle**, on behalf of the North Texas Municipal Water District (NTMWD), **James A. and Shirley Martin**; and **Wilda Faye VanderVelde** submitted contested case hearing (CCH) requests. **James A. and Shirley Martin** also requested reconsideration of the ED's preliminary decision.

Attached for Commission consideration are the following:

Attachment A - Technical Summary & Draft Permit
Attachment B - ED's Response to Comments (RTC)
Attachment C - Compliance History
Attachment D - GIS Map
Attachment E - Map of Proposed Outfall Location

Copies were provided to all parties.

II. Description Of The Facility

Farmersville applied to the TCEQ for a new permit that would authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.1 million gallons per day (MGD) in the interim I phase, 0.25 MGD in the interim II phase, and 0.5 MGD in the final phase.

The treated effluent would be discharged to an unnamed tributary, then to the Elm Creek Arm of Lavon Lake in Segment No. 0821 of the Trinity River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary. The designated uses for Segment No. 0821 are contact recreation, public water supply and high aquatic life use. The facility will be located approximately 0.5 mile southwest of the intersection of State Highway 78 and County Road 550 in Collin County, Texas.

III. Procedural Background

The permit application for a new permit was received on January 31, 2007 and declared administratively complete on February 23, 2007. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on March 1, 2007 in the *Farmersville Times & Princeton Herald* and on May 11, 2007 in the Collin County edition of the *Dallas Morning News*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on June 22, 2007 in the Collin County edition of the *Dallas Morning News*. In addition, both the NORI and NAPD were remailed to a corrected list of landowners on July 31, 2007 along with a letter explaining that the original mailing list required corrections for some incorrect addresses and the omission of some landowners. The Notice of Public Meeting was published on October 28, 2007 in the Collin County edition of the *Dallas Morning News*. A public meeting was held on December 4,

2007 in Farmersville, Texas. A Response to Comments (RTC) was prepared and mailed July 10, 2008. The issuance of the RTC was delayed due to the number and complexity of the comments. The Hearing Request period ended August 11, 2008.

IV. Evaluation of Hearing Requests

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. This application was declared administratively complete on February 23, 2007, and therefore, is subject to the HB 801 requirements. The Commission implemented HB 801 by adopting procedural rules in Title 30 of the Texas Administrative Code (30 TAC) chapters 30, 59, and 55. The regulations governing requests for CCH are found at 30 TAC, chapter 55.

A. Response to Requests

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

Responses to hearing requests must specifically address:

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

30 TAC §55.209(e).

B. Hearing Request Requirements

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

A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided . . . and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment. 30 TAC §55.201(c).

A hearing request must substantially comply with the following:

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

30 TAC §55.201(d).

C. Requirement that Requestor be an "Affected Person"

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

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

30 TAC § 55.203.

D. Referral to the State Office of Administrative Hearings

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

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

V. Analysis of the Requests

A. Analysis of the Hearing Requests

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

Representative Jodie Laubenberg, Commissioner Joe Jaynes, NTMWD, and James A. and Shirley Martin filed timely, written CCH requests during the public comment period.

Wilda Faye VanderVelde filed a timely, written CCH request during the public comment period and she provided her name, address, location relative to the proposed WWTP, requested a contested case hearing, and raised disputed issues of fact. However, she provided neither a daytime telephone number nor a facsimile number.

The ED recommends that the Commission find that all of the CCH requests substantially comply with the requirements of 30 TAC § 55.201(c) and (d).

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

i. *Representative Jodie Laubenberg.*

Representative Laubenberg requested a contested case hearing on behalf of her constituents. Because Representative Laubenberg did not identify how she is personally affected, the ED recommends that the Commission find she is not an affected person. However, the ED recommends granting the hearing request of James and Shirley Martin which, if granted, will provide an opportunity for local residents to participate in the contested case hearing.

The ED recommends that the Commission find that Representative Laubenberg is not an affected person because she does not meet the criteria set out in 30 TAC § 55.203.

ii. *Commissioner Joe Jaynes.*

Commissioner Jaynes requested a public hearing. He stated that families in the area want to be

assured that they will not be adversely affected by permit if it is issued. Because Commissioner Jaynes did not identify how he is personally affected, the ED recommends that the Commission find he is not an affected person. However, the ED recommends granting the hearing request of James and Shirley Martin which, if granted, will provide an opportunity for local residents to participate in the contested case hearing.

The ED recommends that the Commission find that Commissioner Joe Jaynes is not an affected person because he does not meet the criteria set out in 30 TAC § 55.203.

iii. *James and Shirley Martin.*

James and Shirley Martin assert that they are concerned about the location of the discharge point, the completeness of Farmersville's application, the discharge of harmful substances (bacteria, carcinogenic and toxic chemicals, pharmaceuticals, greases, herbicides, pesticides, and fungicides and toxins), the impact on future development of their property and the impact on a local camping and recreation area.

The Martins only provide a post office box address; however, they state that they "are the owners of Parcel 15, the neighboring property directly north of and adjacent to the proposed sewerage [sic] facility."

The ED recommends that the Commission find that James and Shirley Martin are affected persons because they meet the criteria set out in 30 TAC § 55.203.

iv. *Wilda Faye VanderVelde.*

Ms. VanderVelde expressed concern over the impact of the proposed wastewater treatment plant (WWTP) on her health. Ms. VanderVelde stated that she has breathing problems, a limited immune system and severe allergies.

Ms. VanderVelde states that her address is 3897 County Road 1014, which appears not to be adjacent to either the WWTP or the discharge route. Because Ms. VanderVelde does not describe a personal justiciable interest related not in common to members of the general public, the ED recommends that the Commission find that she is not an affected person.

The ED recommends that the Commission find that Wilda Faye Vander Velde is not an affected person because she does not meet the criteria set out in 30 TAC § 55.203.

v. *NTMWD.*

According to its hearing request, NTMWD is a regional agency that provides sewer service from District-owned or operated WWTPs north and east of Dallas, including Collin County. NTMWD also draws drinking water for its customers from Lavon Lake. As a governmental entity, NTMWD's request is analyzed according to 30 TAC § 55.203(b) which provides "[g]overnmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons." Because NTMWD is a municipal water supplier and wastewater treatment provider, it is an affected person.

The ED recommends that the Commission find that NTMWD is an affected person because it meets the criteria set out in 30 TAC § 55.203.

B. Whether Issues Raised Are Referable to State Office of Administrative Hearings (SOAH) for a Contested Case Hearing.

In addition to recommending to the Commission those persons who qualify as affected persons, the ED analyzes the issues raised in accordance with the regulatory criteria. All of the issues discussed below were raised during the comment period. None of the listed issues were withdrawn. All identified issues in the response are considered disputed, unless otherwise noted.

1. Whether the proposed outfall is on the Martin's property?

The original map in the application indicated that the proposed discharge point was on Mr. Martin's property. However, Farmersville has changed the proposed discharge point. The discharge point is now proposed to be 50 feet downstream of the original proposal. This point is not on the Martin's property, rather it is just downstream of their property.

The ED does not recommend referring this issue to SOAH.

2. Whether a discharge under the terms of the draft permit will be protective of the Texas Surface Water Quality Standards?

A Tier 1 antidegradation review preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that by adding permit requirements for phosphorus of 0.5 mg/l to the permit, no significant degradation of water quality is expected in Lake Lavon, which has been identified as having high aquatic life uses.

The ED recommends referring this issue to SOAH.

3. Whether the applicant will meet the buffer zone requirements in 30 TAC Section 309.13(e)?

According to 30 TAC Section 309.13(e), the required buffer zones are: Lagoons with zones of anaerobic activity (e.g., facultative lagoons or un-aerated equalization basins) may not be located closer than 500 feet to the nearest property line. All other wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.

According to the application, the proposed WWTP will not use lagoons. It will be a single stage nitrification activated sludge process plant. The proposed facility does not include any ponds

or lagoons with anaerobic zones. Therefore, the 500-foot buffer zone requirement does not apply to the proposed wastewater treatment facility. The facility, however, must meet the 150-foot buffer zone requirement. In its application, Farmersville indicated that the facility will meet the 150-foot buffer zone requirement by ownership of the area according to the requirements of 30 TAC Section 309 (e).

The ED recommends referring this issue to SOAH.

4. Whether there is a need for the facility and whether any additional terms or conditions should be included in the permit based upon the commission's consideration of need under Texas Water Code Section 26.0282?

At this time, there are no regional treatment plants within the area of the proposed discharge and no applications have been made for a regional facility. However, Texas Water Code, Section 26.0282 provides that in considering the issuance, amendment, or renewal of a permit to discharge waste, the Commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed areawide or regional waste collection, treatment, and disposal systems not designated as areawide or regional disposal systems by Commission Order.

The ED recommends referring this issue to SOAH.

5. Whether the draft permit should require that Farmersville hire NTMWD as the operator of the WWTP, if it is built?

The draft permit includes Other Requirement No. 1 which indicates that the proposed facility is a Category C facility and must be operated by a chief operator or an operator holding a Category C

license or higher. The TCEQ does not have authority in the permitting process to dictate who will operate a facility beyond requiring that the operator hold the appropriate license.

The ED recommends not referring this issue to SOAH.

6. Whether Farmersville submitted a complete application to TCEQ.

This issue was not raised during the comment period as required by 30 TAC Section 55.201(c)(4). During the comment period concerns over the outfall location and buffer zones around specific treatment units were raised. Neither of these issues is the same as a concern over the completeness of the application.

The ED recommends not referring this issue to SOAH.

VI. Duration of the Contested Case Hearing

If the Commission determines that this matter should be sent to SOAH for a Contested Case Hearing, the ED recommends that the duration between preliminary hearing and the presentation of a proposal for decision before the Commission be nine months.

VII. Motion for reconsideration

James and Shirley Martin filed timely written Requests For Reconsideration (RFRs) of the Executive Director's decision under 30 TAC § 55.201(e). RFRs are processed under 30 TAC § 55.209. Specifically the Martins request the ED reconsider his preliminary approval of the Farmersville permit because:

- 1. In its application, Farmersville does not clearly describe the discharge route. The Martins understand that the discharge route crosses their property; however they have not given Farmersville authorization to use their property.**

The original map in the application indicated that the proposed discharge point was on the

Martin's property. Farmersville has moved the proposed discharge point so that it will be on the Martin's property. The new proposed discharge point is in the right of way for County Road 550.

- 2. The effluent that would be discharged across their property and into the water supply will include harmful bacteria, carcinogenic and toxic chemicals, pharmaceuticals, greases, herbicides, pesticides, fungicides, and toxins found in human blood, urine and other body fluids.**

TCEQ's rules require that water in the state be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. The proposed permit was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards. 30 TAC §307.6(b)(3).

- 3. The Farmersville discharge would negatively impact the Pebble Beach Public Swimming area.**

TCEQ's rules require that water in the state be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. The proposed permit was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards. 30 TAC §307.6(b)(3).

VIII. Executive Director's Recommendation

The ED recommends the following actions by the Commission:

1. The ED recommends that the Commission find Representative Laubenberg is not an affected person because she does not meet the criteria set out in 30 TAC § 55.203.
2. The ED recommends that the Commission find Commissioner Jaynes is not an

affected person because he does not meet the criteria set out in 30 TAC § 55.203.

3. The ED recommends that the Commission find NTMWD is an affected person because it meets the criteria set out in 30 TAC § 55.203.

4. The ED recommends that the Commission find James and Shirley Martin are affected persons because they meet the criteria set out in 30 TAC § 55.203.

5. The ED recommends that the Commission find Wilda Faye VanderVelde is not an affected person because she does not meet the criteria set out in 30 TAC § 55.203.

6. If referred to SOAH, first refer the matter to Alternative Dispute Resolution for a reasonable period.

7. If referred to SOAH, refer issues identified by the ED as 2, 3, 4.

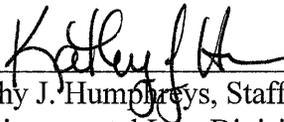
8. The ED recommends that the Commission deny the request for reconsideration.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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

Robert Martinez, Director
Environmental Law Division

By 
Kathy J. Humphreys, Staff Attorney
Environmental Law Division
State Bar No. 24006911
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-3417
(512) 239-0606
REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Attachment A



TPDES PERMIT NO. WQ0014778001

*[For TCEQ Office Use Only:
EPA ID No. TX0129402]*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY P.O. Box 13087 Austin, Texas 78711-3087	
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PERMIT TO DISCHARGE WASTES
under provisions of
Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

Farmersville Investors, LP

whose mailing address is

5400 LBJ Freeway, Suite 975
Dallas, Texas 75240

is authorized to treat and discharge wastes from the Farmersville Investors Wastewater Treatment Facility, SIC Code 4952.

located approximately 0.5 mile southwest of the intersection of State Highway 78 and County Road 550 in Collin County, Texas

to an unnamed tributary; thence to the Elm Creek Arm of Lavon Lake in Segment No. 0821 of the Trinity River Basin

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

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

ISSUED DATE:

For the Commission

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of expansion of the 0.25 million gallons per day (MGD) facilities, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.10 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 278 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u>		
	Daily Avg mg/l(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Report mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency Sample Type
Flow, MGD	Report	N/A	Report	N/A	Instantaneous	Five/week
Biochemical Oxygen Demand (5-day)	10 (8.3)	15	25	35	Grab	One/week
Total Suspended Solids	15 (13)	25	40	60	Grab	One/week
Total Phosphorus	0.5 (0.4)	1	2	3	Grab	One/week

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

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of the expansion of the 0.25 million gallons per day (MGD) facilities through the completion of expansion of the 0.50 MGD facilities, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.25 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 694 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u>		
	Daily Avg mg/l(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Report mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency Sample Type
Flow, MGD	Report	N/A	Report	N/A	N/A	Five/week Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (21)	15	25		35	One/week Grab
Total Suspended Solids	15 (31)	25	40		60	One/week Grab
Ammonia Nitrogen	3 (6.3)	6	10		15	One/week Grab
Total Phosphorus	0.5 (1.0)	1	2		3	One/week Grab

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

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

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

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

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

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTSOutfall Number 001

- During the period beginning upon the completion of the expansion of the 0.5 million gallons per day (MGD) facilities and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.5 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,389 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u>		
	Daily Avg mg/(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Report mg/l	Single Grab mg/l	Report Daily Avg. & Daily Max. Measurement Frequency Sample Type
Flow, MGD	Report	N/A	Report	N/A	Totalizing meter	Continuous
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (42)	15	25	35	One/week	Composite
Total Suspended Solids	15 (63)	25	40	60	One/week	Composite
Ammonia Nitrogen	3 (13)	6	10	15	One/week	Composite
Total Phosphorus	0.5 (2.1)	1	2	3	One/week	Composite

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

DEFINITIONS AND STANDARD PERMIT CONDITIONS

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

1. Flow Measurements

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

2. Concentration Measurements

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

The "daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of

concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

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

3. Sample Type

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

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

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

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

2. Test Procedures

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

3. Records of Results

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

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

4. Additional Monitoring by Permittee

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

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

7. Noncompliance Notification

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

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

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

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

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

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

PERMIT CONDITIONS

1. General

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

2. Compliance

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

3. Inspections and Entry

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

4. Permit Amendment and/or Renewal

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

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

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy.

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

OPERATIONAL REQUIREMENTS

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

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

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

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

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

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

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

SLUDGE PROVISIONS

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

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

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

B. Testing Requirements

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

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

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

TABLE 1

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

* Dry weight basis

3. Pathogen Control

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

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

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

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

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

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

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

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

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

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

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

Alternative 1 -

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

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

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

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

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

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

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

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

4. Vector Attraction Reduction Requirements

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

- Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38 percent.
- Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. Volatile solids must be reduced by less than 17 percent to demonstrate compliance.
- Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with a percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. Volatile solids must be reduced by less than 15 percent to demonstrate compliance.
- Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.
- Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

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

C. Monitoring Requirements

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

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

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

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

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

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

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

A. Pollutant Limits

Table 2

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

Table 3

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

* Dry weight basis

B. Pathogen Control

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

C. Management Practices

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

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

D. Notification Requirements

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

E. Record keeping Requirements

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

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

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

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

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

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

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

F. Reporting Requirements

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

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

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

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

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

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

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

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

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

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

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

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

G. Reporting Requirements

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

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

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

OTHER REQUIREMENTS

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

This Category C facility must be operated by a chief operator or an operator holding a Category C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift which does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.
2. The facility is not located in the Coastal Management Program boundary.
3. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 0821 of the Trinity River Basin and any subsequent updating of the water quality model for Segment No. 0821, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC Section 305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.
5. The permittee shall comply with the requirements of 30 TAC Section 309.13 (a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC Section 309.13(e).
6. Reporting requirements according to 30 TAC Sections 319.1-319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge, whichever occurs first, from the facility described by this permit. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 4) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first and prior to completion of each additional phase.
7. Prior to construction of the wastewater treatment facilities interim I, interim II, and final phases, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary submittal letter in accordance with the requirements in 30 TAC Section 317.1. If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and a final engineering design report which comply with 30 TAC Chapter 317, Design Criteria for Sewerage Systems. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2, 2a, and 2b of the permit.
8. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.

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

DESCRIPTION OF APPLICATION

Applicant: Farmersville Investors, LP;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0014778001, (TX0129402)

Regulated Activity: Domestic Wastewater Permit

Type of Application: New Permit

Request: New Permit

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

EXECUTIVE DIRECTOR RECOMMENDATION

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

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.1 million gallons per day in the interim I phase, a daily average flow not to exceed 0.25 million gallons per day in the interim II phase, and a daily average flow not to exceed 0.5 million gallons per day in the final phase. The proposed wastewater treatment facility will serve a residential subdivision.

PROJECT DESCRIPTION AND LOCATION

The Farmersville Investors Wastewater Treatment Facility will be a single stage nitrification activated sludge process plant. Treatment units for the interim I and II phases include a lift station, bar screen, aeration basin, final clarifier, sludge digester, and a chlorine contact chamber. Treatment units for the final phase includes a lift station, splitter box, bar screen, two aeration basins, two final clarifiers, two aerobic digesters, and two chlorine contact chambers. The facility has not been constructed.

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

The plant site will be located approximately 0.5 mile southwest of the intersection of State Highway 78 and County Road 550 in Collin County, Texas. The treated effluent is discharged to an unnamed tributary; thence to the Elm Creek Arm of Lavon Lake in Segment No. 0821 of the Trinity River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary. The designated uses for Segment No. 0821 are contact recreation, public water supply, and high aquatic life use. The effluent limitations in the draft permit will maintain

and protect the existing instream uses. In accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that by adding permit requirements for a phosphorus of 0.5 mg/L to the permit, no significant degradation of water quality is expected in Lake Lavon, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

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

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

Segment No. 0821 is not currently listed on the State's inventory of impaired and threatened waters (the 2004 Clean Water Act Section 303(d) list).

SUMMARY OF EFFLUENT DATA

N/A - New Permit.

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at an interim I volume not to exceed a daily average flow of 0.1 million gallons per day and at an interim II volume not to exceed a daily average flow of 0.25 million gallons per day and a final volume not to exceed a daily average flow of 0.5 million gallons per day.

The effluent limitations in the interim I phase of the draft permit, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS, 0.5 mg/l Phosphorus, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The effluent limitations in the interim II and final phases of the draft permit, based on a 30-day average, are 10 mg/l CBOD₅, 15 mg/l TSS, 3 mg/l NH₃-N, 0.5 mg/l Phosphorus, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

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

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

SUMMARY OF CHANGES FROM APPLICATION

Based on recommendations from TCEQ Water Quality Assessment staff, a limit of 0.5 mg/l for phosphorus has been included in the draft permit. Questions regarding this requirement can be directed to Lili Lytle, Water Quality Standards Team, at (512) 239-4596.

SUMMARY OF CHANGES FROM EXISTING PERMIT

N/A - New Permit.

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application received January 31, 2007 and additional information received February 20, 2007.
2. The effluent limitations and/or conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.10. The effluent limitations and/or conditions in the draft permit comply with the requirements in Watershed Protection, 30 TAC Chapter 311.
3. The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Domestic Wastewater Effluent Limitations.
4. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division.
5. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.
6. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.
7. Texas 2004 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, May 13, 2005; approved by USEPA on May 8, 2006.
9. "TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," Document No. 98-001.000-OWR-WQ, May 1998.

PROCEDURES FOR FINAL DECISION

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

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

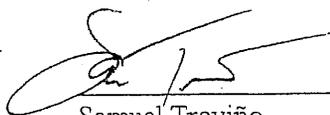
Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding.

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

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

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

For additional information about this application contact Samuel Treviño at (512) 239-4618.



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

April 4, 2007
Date

Attachment B

TCEQ PROPOSED PERMIT NO. WQ0014778001

2002 JUL -2 PM 1:28

APPLICATION BY FARMERSVILLE	§	BEFORE	CHIEF CLERK'S OFFICE
INVESTORS, L.P.	§	THE	
for	§	TEXAS COMMISSION	
PROPOSED TPDES PERMIT NO.	§	ON	
WQ0014778001	§	ENVIRONMENTAL QUALITY	

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the Farmersville Investors, LP application and ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments.

The Office of the Chief Clerk timely received comment letters and oral comments at the public meeting from the following persons: **Carla J. Chambless, Michael D. Chambless, Joni Clark, James Costabell, Jill Fuller, Amber Green, Nancy Holloman, John E. Lehan, Douglas Laube, James A. Martin, Frank Moore, Paul and Bettye Petree, Betty Pryor, Camille Reagan, Virginia Ripley, Martin C. Rochelle** representing the North Texas Municipal Water District (the District), **R.B. Seward, Deanna Tyler, Albert VanderVelde, Wilda Faye VanderVelde, and Lee Warren.**

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

BACKGROUND

Description of Facility

Farmersville Investors, LP (Applicant) has applied to the TCEQ for a new permit that will authorize the Applicant to discharge treated domestic wastewater at a daily average flow not to exceed 0.1 million gallons per day (MGD) in the interim I phase, 0.25 MGD in the interim II phase, and 0.5 MGD in the final phase. The proposed wastewater treatment facility will serve a new residential subdivision.

The treated effluent will be discharged to an unnamed tributary, then to the Elm Creek Arm of Lavon Lake in Segment No. 0821 of the Trinity River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary. The designated uses for Segment No. 0821 are contact recreation, public water supply, and high aquatic life use. In accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that by adding permit requirements for a phosphorus of 0.5 mg/L to the permit, no significant degradation of water quality is expected in Lavon Lake, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. The facility will be located approximately 0.5 mile southwest of the intersection of State Highway 78 and County Road 550 in Collin County, Texas.

The draft permit authorizes a discharge of treated domestic wastewater at an interim I volume not to exceed a daily average flow of 0.1 million gallons per day and at an interim II volume not to exceed a daily average flow of 0.25 million gallons per day and a final volume not to exceed a daily average flow of 0.5 million gallons per day. The effluent limitations in the interim I phase of the draft permit, based on a 30-day average, are 10 milligrams per liter (mg/l) Biochemical Oxygen Demand (5-day) (BOD₅), 15 mg/l Total Suspended Solids (TSS), 0.5 mg/l Phosphorus, and 4.0 mg/l minimum dissolved oxygen (DO). The effluent limitations in the interim II and final phases of the draft permit, based on a 30-day average, are 10 mg/l Carbonaceous BOD₅ (CBOD₅), 15 mg/l TSS, 3 mg/l Ammonia Nitrogen (NH₃-N), 0.5 mg/l Phosphorus, and 4.0 mg/l minimum DO. In addition, for each phase, 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.

Procedural Background

The permit application for a new permit was received on January 31, 2007 and declared administratively complete on February 23, 2007. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on March 1, 2007 in the *Farmersville Times & Princeton Herald* and on May 11, 2007 in the Collin County edition of the *Dallas Morning News*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on June 22, 2007 in the Collin County edition of the *Dallas Morning News*. In addition, both the NORI and NAPD were remailed to a corrected list of landowners on July 31, 2007 along with a letter explaining that the original mailing list required corrections for some incorrect addresses and the omission of some landowners. The Notice of Public Meeting was published on October 28, 2007 in the Collin County edition of the *Dallas Morning News*. A public meeting was held on December 4, 2007 in Farmersville, Texas. The public comment period ended on December 4, 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, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

Albert VanderVelde provided a property owner map with additional information on the correct property owners located around the Applicant's property boundary and downstream of the point of discharge.

RESPONSE 1:

After reviewing the information provided, the original mailing list was corrected and both notices, the NORI and the NAPD, were re-mailed to the corrected list of landowners on July 31, 2007 along with a letter explaining why the original mailing list required such corrections.

COMMENT 2:

Albert VanderVelde indicates that the notice was published in the Farmersville newspaper that reaches only about 2,500 residents but the notice should be published in a newspaper with larger circulation like the Dallas Morning News.

RESPONSE 2:

The Applicant originally published the first notice, the NORI, on March 1, 2007 in the *Farmersville Times* and the *Princeton Herald*. These papers were not the correct papers for notice purposes for this particular permit application. Subsequently the NORI was republished on May 11, 2007 in the Collin County edition of the *Dallas Morning News* and the second notice, the NAPD, was published on June 22, 2007 in the Collin County edition of the *Dallas Morning News*.

COMMENT 3:

James A. Martin is concerned that the Applicant has permission to discharge onto his property and indicates the application does not clearly show how treated effluent will flow from the proposed wastewater treatment plant to the outfall located on Mr. Martin's property.

RESPONSE 3:

The original map in the application did show that the proposed discharge point was on Mr. Martin's property. However, the Applicant has changed the proposed discharge point. The discharge point is

now proposed to be 50 feet downstream of the original proposal. This point is not on Mr. Martin's property and is just downstream of Mr. Martin's property. The draft permit, if issued, does not grant to the Applicant any property rights to use private property for conveyance of wastewater along the discharge route described in this permit. It is the responsibility of the Applicant to acquire property rights as may be necessary to use the discharge route. This includes property belonging to any individual, partnership, corporation or other entity. In addition, the draft permit does not authorize the invasion of any personal rights or any violation of federal, state, or local laws and regulations.

The 50 foot change in the location of the proposed discharge point does not require re-notice because the change will not affect any new landowners and is to the same receiving water.

COMMENT 4:

Martin C. Rochelle indicates that the District, which operates two wastewater treatment facilities for the City of Farmersville, is evaluating the construction of a regional wastewater treatment plant to serve the area located northeast of Lavon Lake. He indicates that in order for the District to withdraw its protest of the application, the draft permit should include a requirement that the Applicant connect to the District's regional wastewater treatment facilities as they become available. In addition, Lee Warren is concerned that the TCEQ would allow this facility to be constructed when it will not be needed after ten to twenty years when the regional facility is available.

RESPONSE 4:

At this time, there are no regional treatment plants within the area of the proposed discharge and no applications have been made for a regional facility. The draft permit does not require that the Applicant connect to any regional wastewater treatment facilities if one was to become available. However, Texas Water Code, Section 26.0282 provides that in considering the issuance, amendment, or renewal of a permit to discharge waste, the Commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed areawide or regional waste collection, treatment, and disposal systems not designated as areawide or regional disposal systems by Commission Order.

In addition, the Domestic Wastewater Permit Application Technical Report requires information concerning regionalization of wastewater treatment plants. The Applicant is required to review a three-mile area surrounding the proposed facility to determine if there is a wastewater treatment plant or sewer collection lines within the area that the permittee can use. The wastewater treatment plant must have sufficient existing capacity to accept the additional wastewater. According to the Applicant, this review was completed and no adequate treatment facilities were found for the proposed discharge.

COMMENT 5:

Martin C. Rochelle indicates that the proposed discharge is into a tributary of Lavon Lake which serves as a primary source of drinking water for water users served by the District and the District is concerned that the cumulative impact of the existing and additional dischargers into Lavon Lake would require additional treatment. He states that the District has agreed to reduce the Wilson Creek Regional Wastewater Treatment Facility's phosphorus limit from 1.0 mg/l to 0.5 mg/l and the District would expect the TCEQ to include this limit in the proposed draft permit.

RESPONSE 5:

The draft permit includes effluent limits and monitoring requirements for Phosphorus. The effluent limitations in the interim I phase of the draft permit, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS, 0.5 mg/l Phosphorus, and 4.0 mg/l minimum DO. The effluent limitations in the interim II and final phases of the draft permit, based on a 30-day average, are 10 mg/l CBOD₅, 15 mg/l TSS, 3 mg/l NH₃-N, 0.5 mg/l Phosphorus, and 4.0 mg/l minimum DO.

COMMENT 6:

Martin C. Rochelle indicates that in order for the District to withdraw its protest of the application, the draft permit should include effluent limits that are not less stringent than the effluent limits included in the District's Wilson Creek Regional Wastewater Treatment Facility wastewater permit, Permit No. WQ0012446001. These limits, based on a daily average, are 5 mg/l CBOD₅, 5 mg/l TSS, 2 mg/l NH₃-N, 0.5 mg/l Phosphorus, 200 colonies per 100 ml fecal coliform and 5 mg/l minimum DO.

RESPONSE 6:

There are many factors taken into consideration when evaluating effluent limits for a wastewater discharge permit. Effluent limits for BOD₅ or CBOD₅, Ammonia-Nitrogen, and minimum effluent dissolved oxygen are analyzed to ensure that dissolved oxygen concentrations within the water bodies along the discharge route will be maintained above the criteria assigned to them.

Dissolved oxygen levels in a water body can be affected by numerous factors related to a wastewater discharge. Among these are the location of the discharge and the size of the discharge. The effluent limits stipulated in the permit for the District's Wilson Creek plant and in the draft permit for Farmersville Investors, LP are, in both cases, predicted to be adequate to ensure that dissolved oxygen levels in all water bodies along the discharge route, including Lavon Lake, will be maintained above their designated criteria. The effluent limits for the District's Wilson Creek plant are necessarily significantly more stringent than those in the Farmersville Investors, LP draft permit because the District's existing permitted flow phase is 96 times the size of the Farmersville Investors, LP draft permit's proposed final phase flow, and the District's final permitted flow phase is 128 times the size of the draft permit's proposed final phase flow.

Every permitted and proposed wastewater treatment plant discharge location is evaluated individually to account for different conditions specific to their particular location and situation which could affect each permit's effluent limits. The effluent limits for oxygen-demanding constituents in the Farmersville Investors, LP draft permit are in the same general range as those of other similar-sized wastewater treatment facilities currently permitted to discharge into the Lavon Lake watershed.

COMMENT 7:

Martin C. Rochelle indicates that the District is the operator for many facilities located within the area. In order to ensure the proposed facility is operated at a level to protect water quality concerns near Lavon Lake, the District requests that the Applicant make a commitment that the District be selected as the operator for the proposed facility.

RESPONSE 7:

The draft permit includes Other Requirement No. 1 which indicates that the proposed facility is a Category C facility and must be operated by a chief operator or an operator holding a Category C license or higher. The TCEQ does not have authority in the permitting process to dictate who will operate a facility beyond requiring that an appropriately licensed operator operate a particular plant. However, the Applicant may contract with an individual operator, company, and other entity to operate the facility. Companies, individuals, and other non-governmental entities that contract to operate domestic wastewater facilities are required to hold a current wastewater operator registration issued by the TCEQ.

COMMENT 8:

Paul and Bettye Petree are concerned about the health effects of discharging into Lavon Lake which is a major water supply reservoir. Deanna Tyler is concerned about contamination of Lavon Lake since it is a water supply reservoir. Albert VanderVelde is concerned that there are 23 permitted discharges and 2 proposed discharges into Lavon Lake and especially since the proposed discharge is into a shallow portion of Lavon Lake. Carla J. Chambless and Michael D. Chambless are concerned that there are already 23 dischargers into Lavon Lake. Nancy Holloman is concerned about wastewater contaminating Lavon Lake. Virginia Ripley is concerned about the capacity of Lavon Lake to be able to support these wastewater treatment facilities with 23 existing dischargers and 2 pending permit applications. Jill Fuller is concerned about pollution from the proposed wastewater treatment facility. Deanna Tyler is concerned about the environment.

RESPONSE 8:

The TCEQ rules in 30 TAC Section 307.6(b)(3) state that water in the state shall be maintained to

preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. The proposed permit was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards. The provisions in the proposed draft permit were established to be protective of human health and the environment as long as the Applicant operates and maintains the facility according to TCEQ rules and requirements. The current permitted dischargers were considered in evaluating the application.

TCEQ's rules prohibit new dischargers that would cause degradation of the receiving stream. To ensure the effluent limits in the draft permit will maintain and protect existing uses, the ED's staff performs an antidegradation review of the receiving waters. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that by adding permit requirements for phosphorus of 0.5 mg/l to the permit, no significant degradation of water quality is expected in Lake Lavon, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected.

With the possible exception of the very largest of facilities, the various permitted dischargers in the Lavon Lake watershed are generally not expected to have any significant combined effect on dissolved oxygen levels in the lake. For the draft Farmersville Investors, LP permit and other similar-sized and smaller permits, effluent limit recommendations are set at levels predicted to be sufficient to ensure that water quality in the immediate vicinity of where each of the discharges enters the lake will be maintained above the relevant criteria for the lake, as well as being protective of water quality in the lake as a whole. Evaluations of effluent limits for larger facilities take larger portions of the lake into consideration for the evaluation of effects on water quality.

COMMENT 9:

James A. Martin is concerned that pollutants will be discharged into the water supply and onto the land such as harmful bacteria and pathogens, carcinogens and toxic chemicals, pharmaceuticals, greases, herbicides, pesticides and fungicides in addition to pollutants from human wastes and human bodily fluids. He is also concerned about the long term effects of discharging treated effluent, especially with respect to the discharge of elevated levels of estrogen.

RESPONSE 9:

30 TAC Section 307.6 (b)(3) requires that water in the state shall be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. The proposed permit was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards. The provisions in the proposed draft permit were established to be protective of human health and the environment as long as the Applicant operates and maintains the facility

according to TCEQ rules and requirements.

Currently, there are no federal or state criteria for emerging pollutants such as estrogen and pharmaceuticals.

COMMENT 10:

James A. Martin is concerned about the effect from the proposed discharge on recreational use of the downstream area, especially the Lakeland Park camping and water recreation area and Pebble Beach swimming area. He questions the Applicant's assumption that the receiving stream is non-contact recreation and that the future use of the area is considered agricultural. He is also concerned about being able to use his property and the unnamed tributary on his property for recreational use if treated effluent is discharged into the unnamed tributary on his property. He is concerned that chlorination of the treated effluent will not provide sufficient disinfection and will not provide enough protection for recreational use.

RESPONSE 10:

Under the general criteria (30 TAC Section 307.4 (j)) of the Texas Surface Water Quality Standards, contact recreation is presumed as a use for *all* water bodies except where listed otherwise for specific water bodies in Appendix A of 30 TAC Section 307.10. Therefore, the ED has presumed that the unnamed tributary supports contact recreation and has drafted permit limits to protect that use.

As stated above, and in accordance with 30 TAC Section 307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that by adding permit requirements for phosphorus of 0.5 mg/l to the permit, no significant degradation of water quality is expected in Lake Lavon, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected.

COMMENT 11:

Douglas Laube is concerned about the impact to the lake from the proposed discharge when the lake is at various levels such as 70, 50, 30, or 20 percent of the full capacity. He asks if the lake level of Lavon Lake is not an issue, then why was flow into Lavon Lake from Lake Texoma stopped. R.B. Seward is concerned that the TCEQ did not consider the lake level fluctuations in Lavon Lake where the lake level rose and fell more than 26.5 feet in the past 12 years.

RESPONSE 11:

TCEQ modeling in lakes for wastewater permit effluent limit determination is typically performed under conditions representative of each lake's defined normal pool elevation. This approach is used for various reasons, including consistency, efficiency, and to ensure that effluent limit recommendations are environmentally protective. For dischargers in the general size range of the proposed Farmersville Investors, LP permit, the lake portion of the dissolved oxygen modeling analyses typically focuses on only a fairly small localized portion of the lake, where the majority of the dissolved oxygen impact will occur. Although the dissolved oxygen model for this facility was configured to simulate conditions at normal pool elevations, the recommended effluent limits are expected to be protective at other lake levels as well. When lake levels are below the normal pool elevation level, the wastewater has additional time and distance prior to reaching the lake during which oxygen-demanding substances are further assimilated before they enter the lake. Lower lake levels could potentially have a significant impact on predicted dissolved oxygen levels if other dischargers normally separated by a significant lake distance have more interaction due to low lake levels. However, in this case, the only other permitted discharger outfall within a 3-mile radius is a very small 0.005 MGD permittee located about 2.4 miles around the shoreline of the lake.

COMMENT 12:

James A. Martin is concerned that the treated effluent will stand in the streambed constantly at the proposed discharge rate and that the adjacent landowners and public need to be protected from the proposed discharge. Lee Warren is concerned that the treated effluent will be stagnant and will not flow properly into Lavon Lake under severe drought conditions.

RESPONSE 12:

If the proposed discharge is left unimpeded, and provided there are no on-channel dams or obstructions, flow in the streambed should be continuous whereby drought conditions will not affect it.

COMMENT 13:

James Costabell asks how the North Texas Municipal Water Supply District, the main supplier of potable water in the area, views this proposed permit.

RESPONSE 13:

This RTC includes comments from the North Texas Municipal Water District and responses to those comments. It is represented in the District's comment letters that the District is, at the least, partially opposed to the proposed permit. The District's comment letters are available to the public for viewing and copying at the TCEQ's Office of the Chief Clerk, 12100 Park 35 Circle, Building F, Austin, Texas 78711.

COMMENT 14:

Joni Clark, Jill Fuller and Betty Pryor are concerned about the effects on local wildlife from the proposed wastewater treatment facility. Paul and Bettye Petree are concerned about the effects on cattle grazing where the discharge enters Lavon Lake which is a shallow area of the lake.

RESPONSE 14:

According to 30 TAC Section 307.6(b)(4), water in the state shall be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. The proposed permit was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards. The provisions in the proposed draft permit were established to be protective of human health and the environment as long as the Applicant operates and maintains the facility according to TCEQ rules and requirements.

COMMENT 15:

Wilda Faye VanderVelde is concerned about effects on her health, especially since she has severe allergies, from the proposed wastewater treatment facility. Albert VanderVelde is concerned about his wife and neighbors which have been diagnosed with breathing issues. John E. Lehan is concerned about the effect from the proposed wastewater treatment facility on his wife and brother-in-law's quality of life since they have emphysema and breathing issues. Jill Fuller is concerned about severe allergies and Betty Pryor is concerned about allergies and pulmonary illness due to the proposed wastewater treatment facility. Joni Clark and Amber Green are concerned about their children's allergies due to the proposed wastewater treatment facility. Carla J. Chambless is concerned about her health and the health of her grandson who has breathing issues. Michael D. Chambless is concerned about the health of his grandson who has asthma and allergies.

RESPONSE 15:

The ED does not anticipate that the proposed facility will emit airborne contaminants that would have an adverse affect on people with allergies or breathing problems. The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health and the environment will be protected. According to 30 TAC Section 106.532, wastewater treatment facilities have undergone this review and are permitted by rule as long as the wastewater treatment facility only performs the functions listed in the rule.

COMMENT 16:

James Costabell is concerned that the proposed wastewater treatment facility does not have a plan for

catastrophic release of raw untreated sewage that may result in a discharge into Lavon Lake and a lack of how this issue will be addressed by the TCEQ. R.B. Seward is also concerned that the facility does not have an adequate emergency plan. Lee Warren would like the Applicant to have an emergency action plan for the facility equipment and notify residents in the area of cleanup procedure, ecological impact studies and execution of this plan.

RESPONSE 16:

If an unauthorized discharge occurs, the Applicant is required to report it to TCEQ within 24 hours. The Applicant is subject to potential enforcement action for failure to comply with TCEQ rules or with the permit.

Details of any emergency response plan are not included in a discharge permit. However, the Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater. For example, the Applicant must maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, or retention of inadequately treated wastewater. In addition, the plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by TCEQ. Also, Standard Provision No. 7 of the proposed draft permit states that when the flow reaches 75 percent of the permitted daily average flow for three consecutive months, the Applicant must initiate engineering and financial planning for expansion or upgrade of the domestic wastewater treatment or collection facilities. When the flow reaches 90 percent of the permitted daily average flow for three consecutive months, the Applicant must obtain authorization from TCEQ to begin constructing the necessary additional treatment or collection facilities. These permit provisions are designed to help prevent unauthorized discharges of raw sewage.

COMMENT 17:

James A. Martin indicates that the rules require buffer zones to extend at least 500 feet from ponds or lagoons and that the applicant addressed only the 150-foot buffer zone requirement.

RESPONSE 17:

According to 30 TAC Section 309.13(e)(1), the buffer zone distances are defined as follows: Lagoons with zones of anaerobic activity (e.g., facultative lagoons or un-aerated equalization basins) may not be located closer than 500 feet to the nearest property line. All other wastewater treatment plant units may not be located closer than 150 feet to the nearest property line.

The proposed Farmersville Investors Wastewater Treatment Facility will not use lagoons. It will be a single stage nitrification activated sludge process plant. Treatment units for the interim I and II phases include a lift station, bar screen, aeration basin, final clarifier, sludge digester, and a chlorine

contact chamber. Treatment units for the final phase include a lift station, splitter box, bar screen, two aeration basins, two final clarifiers, two aerobic digesters, and two chlorine contact chambers. The proposed facility does not include any ponds or lagoons with anaerobic zones. Therefore, the 500-foot buffer zone requirement does not apply to the proposed wastewater treatment facility. The facility must meet the 150-foot buffer zone requirement. The Applicant indicates the facility will meet this requirement by ownership of the required buffer zone area according to the requirements of 30 TAC Section 309.13(e).

COMMENT 18:

Carla J. Chambless, Michael D. Chambless, Joni Clark, Jill Fuller, Amber Green, Nancy Holloman, John E. Lehan, Betty Pryor, James A. Martin, Deanna Tyler, R.B. Seward, Albert VanderVelde, Lee Warren, and Paul and Bettye Petree are concerned about odor issues from the proposed facility.

RESPONSE 18:

TCEQ rules require domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC Section 309.13(e). These rules provide three options for applicants to satisfy the nuisance odor abatement and control requirement. The Applicant can meet this requirement by ownership of the buffer zone area, by restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant, or by providing odor control. The Applicant indicates that the proposed facility will meet the buffer zone requirements by ownership of the required buffer zone area.

COMMENT 19:

Camille Reagan is asking how many homes are included in the interim phase at 100,000 gallons per day.

RESPONSE 19:

The Applicant indicates that there will be about 1,500 single-family connections in the proposed development and that each connection or home would average about 325 gallons per day. Therefore, about 300 connections or homes would result in about 100,000 gallons per day which is the average flow for the interim I phase of the proposed wastewater treatment facility.

COMMENT 20:

Albert VanderVelde is asking why it is necessary to place the proposed wastewater treatment facility next to an existing residential area. John E. Lehan is concerned about future residential development in the local area since the proposed wastewater treatment facility is located in an existing residential area.

RESPONSE 20:

The Texas Water Code, Section 26.027, authorizes the TCEQ to issue permits for discharges into or adjacent to water in the state. If it is determined that the application and proposed discharge meets all applicable rules and regulations, the ED does not have the authority to mandate a different discharge location or different type of wastewater treatment plant. The ED evaluates applications for wastewater treatment plants, based on the information provided in the application.

COMMENT 21:

Virginia Ripley is requesting information on the additional facilities designed by the consultant. She would like to see how these facilities are doing, how they are working, and what their records show and how many years they have been in operation.

RESPONSE 21:

The application form does not require the Applicant to provide information concerning other wastewater treatment facilities that have been designed by the Applicant's engineering consultant. However, information about the engineering consultant's firm, including information about additional facilities designed by the firm can be found at: www.jonescarter.com.

COMMENT 22:

Frank Moore is concerned about additional services such as a fire station, police station and widening of the roads that are needed for the proposed development. Carla J. Chambless, Michael D. Chambless, Joni Clark, Amber Green, Nancy Holloman, John E. Lehan, Betty Pryor, Deanna Tyler, Albert VanderVelde, Paul and Bettye Petree are concerned about the effect on their property values from the proposed wastewater treatment facility. Carla J. Chambless, Michael D. Chambless, Amber Green, Nancy Holloman, Deanna Tyler and Albert VanderVelde are concerned about traffic congestion on the area roads and effects on ambulance service and protection due to the proposed development. Lee Warren is concerned that there are no adequate roads for trucks to provide for equipment and for building and maintaining the proposed wastewater treatment facility.

RESPONSE 22:

The TCEQ's jurisdiction in a permit application is limited to the issues set out by statute. The ED does not consider property values, city planning, or a review of the proposed development during the review of a wastewater discharge permit application. Consequently, the TCEQ may not consider traffic congestion due to a development or traffic due to a proposed wastewater treatment facility in determining whether to approve or deny a permit. However, the scope of the Agency's regulatory jurisdiction does not affect or limit the ability of a landowner to seek relief from a court in response

to activities that interfere with the landowner's use and enjoyment of his or her property.

COMMENT 23:

Albert VanderVelde asks about the distance between the plant associated with the pike that just went on to highway 78 as part of the Trinity River Project and the proposed wastewater treatment facility.

RESPONSE 23:

The ED is unaware of a treatment plant that is related to the toll road portion of the Trinity River Project. To the extent of the ED's knowledge, the project is not relevant to the evaluation of this proposed permit's potential effect on Lavon Lake or on the unnamed tributary. Information about the Trinity River Project and its related toll road projects can be found at: www.trinityrivercorridor.com.

COMMENT 24:

Jill Fuller is concerned about noise from the proposed wastewater treatment facility.

RESPONSE 24:

The TCEQ's jurisdiction in a permit application is limited to the issues set out by statute. The ED does not consider noise from a facility in determining whether to approve or deny a permit. However, the scope of the Agency's regulatory jurisdiction does not affect or limit the ability of a landowner to seek relief from a court in response to activities that interfere with the landowner's use and enjoyment of his or her property.

COMMENT 25:

James A. Martin indicates that he tried to view a copy of the application at the public library and it was not available; he subsequently obtained a copy of some of the information from the TCEQ.

RESPONSE 25:

The Applicant indicates that the permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the Charles J. Rike Memorial Library, 203 Orange Street, Farmersville, Texas. In addition, the Applicant's representative certified on June 27, 2007 that these documents will remain in place until either the TCEQ acts on the application or the application is referred to the State Office of Administrative Hearings (SOAH) for hearing.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

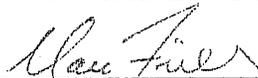
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

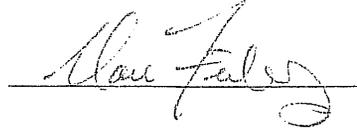


Marc Friberg, Staff Attorney
Environmental Law Division
State Bar No. 24048472
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-0611

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I hereby certify that on 7/2/05 the original of the "Executive Director's Response to Public Comment" on Farmersville Investors L.P.'s application for proposed TPDES Permit No. WQ WQ0014778001 was filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.



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

CHIEF CLERK'S OFFICE

2005 JUL -2 PM 1:28

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

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

July 24, 2008

Mr. Albert VanderVelde
3897 County Road 1014
Farmersville, Texas 75442-7113

Re: Farmersville Investors, L.P.
Permit No. WQ0014778001

Dear Mr. VanderVelde:

Thank you for drawing our attention to the misunderstanding of your formal oral comment at the public meeting for the Farmersville Investors, L.P. application for a wastewater discharge permit. This comment was addressed in the Response to Comments as "Comment and Response 23." The comment was unclear to the Executive Director because the comment referenced the Trinity River Project rather than a project by the North Texas Municipal Water District. Also, an error in the transcript led to more misunderstanding because it referenced a "big pike that went onto 78." It is now clear that you were asking about a "pipe," not a turnpike.

The Executive Director now understands that you are concerned that a pipeline from the Lake Tawakoni area that is 50 miles long will discharge effluent into Lavon Lake near the proposed point of discharge. You want to know how this discharge affects the TCEQ's review of the Farmersville application.

The Executive Director's staff consulted with engineers who are involved with the North Texas Municipal Water District (NTMWD) in water transfer projects into Lavon Lake. There is a water transfer pipeline on the east side of Lavon Lake. Discharge of water into the lake via this pipeline will commence in the near future. The water will consist primarily of water (including reuse water) from the East Fork Trinity River. While there is a wastewater component in the water taken from the East Fork (the City of Garland and the NTMWD hold permits to discharge treated effluent into the river's watershed), the East Fork's flow also includes water released from Lake Ray Hubbard. In addition, the water diverted from the East Fork for this project receives additional treatment by passing through constructed wetlands before it is piped up to Lavon Lake. Other source water will also enter the pipeline from Lake Tawakoni. This water is taken directly from the lake

The pipeline will cross Elm Creek, but the pipeline itself will not discharge into the vicinity of the Farmersville Investors, L.P.'s proposed discharge (the Elm Creek Cove of Lavon Lake) or into the Elm Creek watershed. Rather, the pipeline will discharge into the uppermost part of the eastern arm

of the lake in the vicinity of the US 380 road crossing, between the cities of Farmersville and Princeton.

This discharge does not affect the review of the permit application.

The original timeframe for requesting reconsideration or a contested case hearing has not been altered due to this letter. Instructions for requesting a contested case hearing or reconsideration are included in the cover letter attached to the *Executive Director's Response to Public Comment*, which was mailed to you on July 10, 2008.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marc Friberg". The signature is written in black ink and is positioned above the typed name.

Marc Friberg, Staff Attorney
Environmental Law Division

Attachment C

Attachment C

Sites Outside of Texas

N/A

Attachment D

Attachment D

Farmersville Investors, LP
WQ0014778001
Map Requested by TCEQ Office of Legal Services
for Commissioners Agenda



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

January 6, 2009



Projection: Texas Statewide Mapping System
 (TSM5)
 Scale 1:23,000

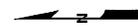
Legend

- ⊙ Wastewater Outfall
- ◻ WWTP
- Requestor's Property
- Discharge Route

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the requestor information from the applicant. The counties are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a source photograph from the 2004 U.S. Department of Agriculture Imagery Program. The imagery is one-meter Color-Infrared (CIR). The image classification number is tx085_1-1.

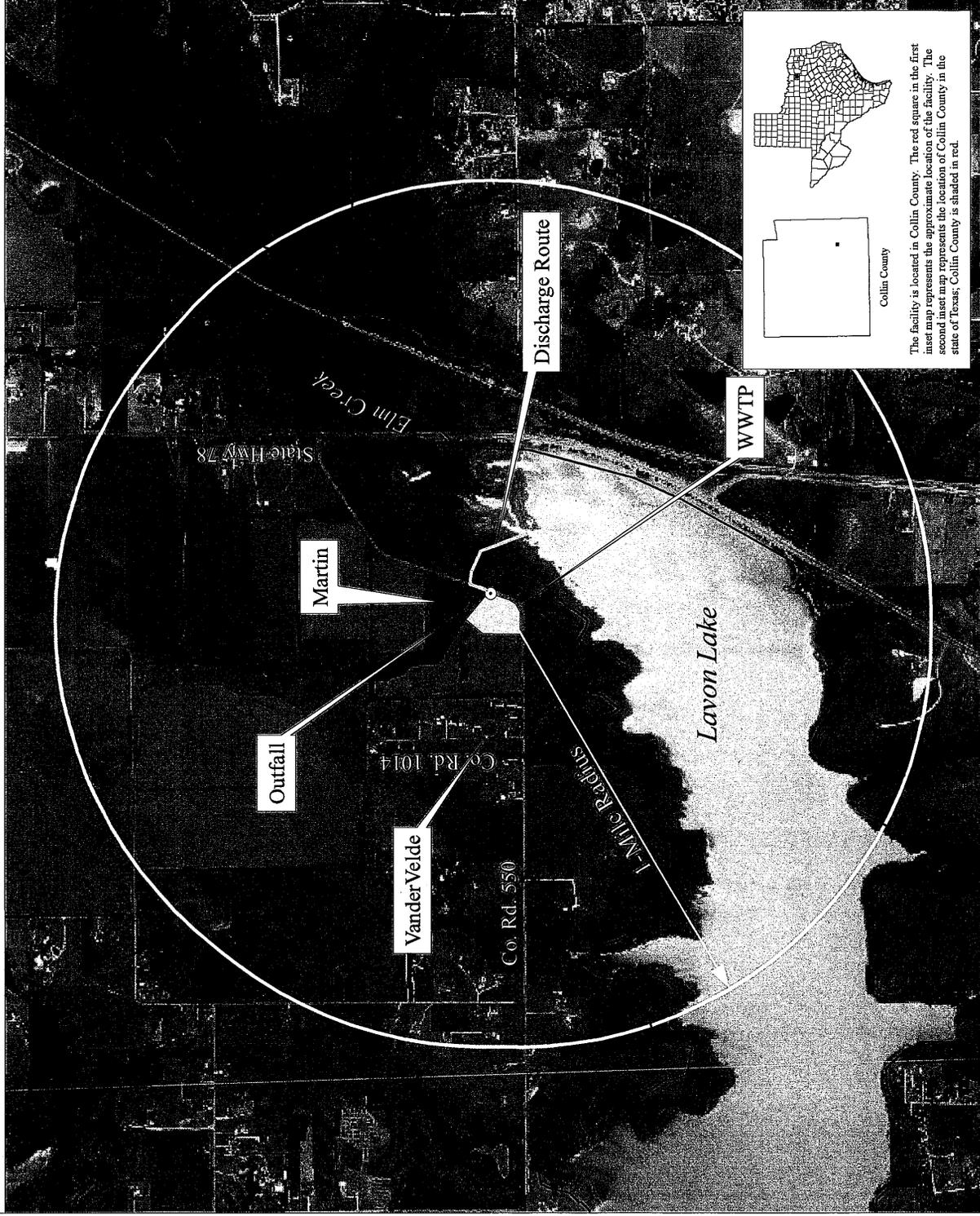
This map depicts the following:

- (1) The approximate location of the plant. This is labeled "WWTP".
- (2) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
- (3) Discharge Point. This is labeled "Outfall".
- (4) Discharge Route. This is labeled "Discharge Route".
- (5) Requestor. This is labeled with requestor's name.



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.

TAMC/Donoghue CSF-08092-002



Collin County

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

Attachment E

Attachment E

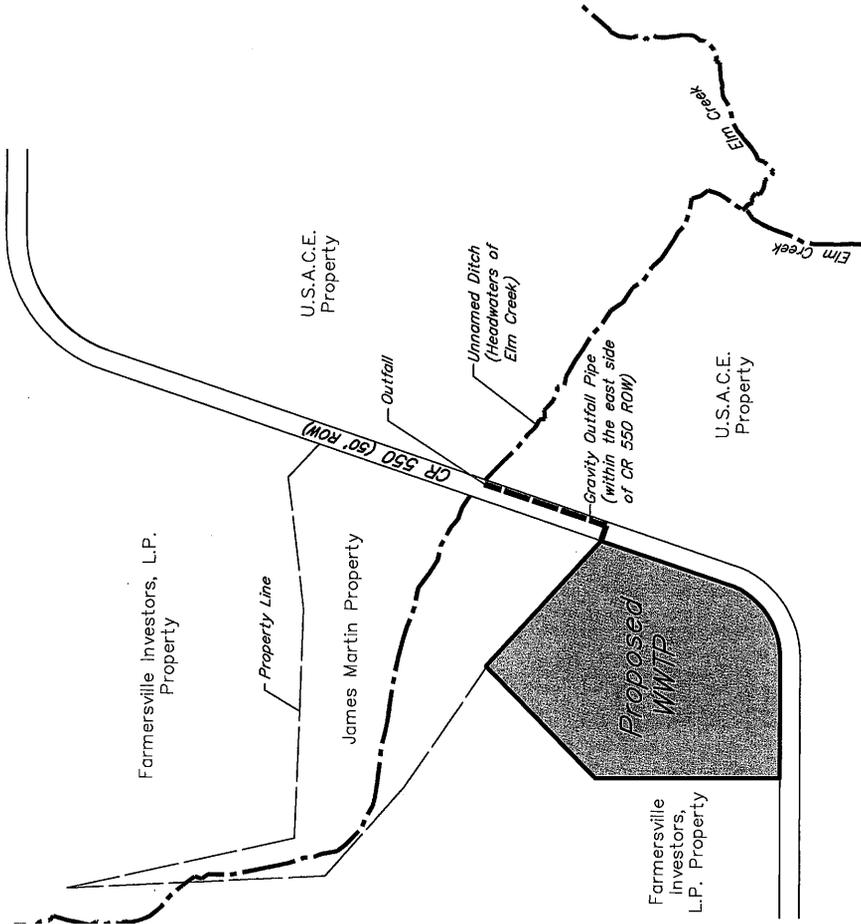
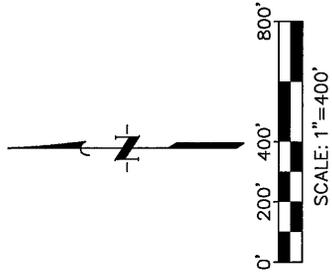


EXHIBIT
OF
PROPOSED OUTFALL
FARMERSVILLE INVESTORS, LP
COLLIN COUNTY, TEXAS
DECEMBER 2008

JONES & CARTER, INC.
ENGINEERS • PLANNERS • SURVEYORS
3030 LBJ Freeway, Suite 910 Dallas, Texas 75234 (972) 488-3880

JONES & CARTER, INC.

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2009 the original and seven true and correct copies of the **Executive Director's Response to Hearing Requests and Motion for Reconsideration** relating to the application of Farmersville Investors, LP. for a new TPDES Permit No. WQ0014778001 were filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, or by deposit in the U.S. Mail.

FOR THE APPLICANT:

Leon J. Backes
Farmersville Investors, LLP.
5400 LBJ Fwy. Ste. 975
Dallas, Texas 75240-1062

Steve Barry, PE.
Jones & Carter Inc.
8701 New Trails Dr. Ste. 200
The Woodlands, Texas 77381-4241
Tel: (281) 363-4039
Fax: (281) 363-3459

Phil Haag, Attorney
Scott Rhodes
Winstead PC.
401 Contess Ave. Ste. 2100
Austin, Texas 78701-3798
Tel: (512) 370-2800
Fax: (512) 370-2850

FOR PUBLIC INTEREST COUNSEL:

Mr. Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-6363
Fax: (512) 239-6377

PUBLIC OFFICIALS-REQUESTER(S):

The Honorable Jodie Laudenberg
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

FOR THE CHIEF CLERK:

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

FOR ALTERNATIVE DISPUTE RESOLUTION:

Mr. Kyle Lucas
Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4010
Fax: (512) 239-4015

FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Bridget Bohac, Director
Texas Commission on Environmental Quality
Office of Public Assistance, MC-108
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4000
Fax: (512) 239-4007

REQUESTER(S):

Joe Jaynes
County Commissioner Collin County
210 S. McDonald St. Ste.626
Mckinney, Texas 75069-7602

J.A. & Shirley Martin
P.O. Box 497
Gordonville, Texas 76245-0497

James A. Martin
P.O. Box 297
Gordonville, Texas 76245

Martin C. Rochelle, Attorney
Lloyd Gosselink Blevins Rochelle & Townsend PC
816 Congress Ave. Ste. 1900
Austin, Texas 78701-2442

Wilda Faye VanderVelde
3897 C.R. 1014
Farmersville, Texas 75442-6616

FOR THE EXECUTIVE DIRECTOR:

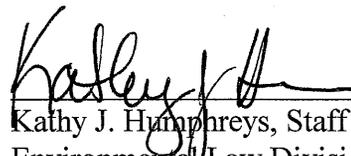
Kathy Humphreys, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-3417
Fax: (512) 239-0606

Kent Trede, Technical Staff
Texas Commission on Environmental Quality
Water Quality Division, MC-148
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-1747
Fax: (512) 239-4430

CHIEF CLERKS OFFICE

2009 JAN 16 PM 4: 23

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Kathy J. Humphreys, Staff Attorney
Environmental Law Division
State Bar No. 24006911