

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

March 16, 2009

VIA HAND DELIVERY

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

RE: City of Dripping Springs
TCEQ Permit No. WQ0014488002
TCEQ Docket No. 2009-0012-MWD

Dear Ms. Castañuela:

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

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

Sincerely,

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

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

Enclosures

2009 MAR 16 PM 2:15
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2009 MAR 16 PM 2:44

CHIEF CLERKS OFFICE

TCEQ Docket No. 2009-0012-MWD

Application by the
CITY OF DRIPPING SPRINGS
for TCEQ Permit No. WQ0014488002

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Before the
**TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests (Response) on the application by the City of Dripping Springs (Applicant) for a new TCEQ Texas Land Application Permit (TLAP) Number WQ0014488002. This request is filed pursuant to Title 30 of the Texas Administrative Code, Section 55.254(e). The Office of Chief Clerk timely received hearing requests from **Andrew Hawkins** representing **Save Our Springs Alliance (SOSA)** and from **Karen and W. Jene Glass**. Karen and W. Jene Glass subsequently withdrew their hearing request and their comments.

Attached for commission consideration are the following:

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

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

BACKGROUND

Description of Facility

The City of Dripping Springs has applied to the TCEQ for a new TCEQ TLAP permit that would authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 0.0625 million gallons per day (MGD) via public access subsurface drip irrigation system with a minimum area of 14.35 acres in the Interim I Phase, 0.125 MGD via public access subsurface drip irrigation system with a minimum area of 28.70 acres in the Interim II Phase, and 0.250 million gallons per day via public access subsurface drip irrigation system with a minimum area of 57.39 acres in the Final Phase. Application rates shall not exceed 0.1 gallons per square foot per day. The Applicant will maintain Bermuda grass overseeded with winter rye grass on the disposal site. The

draft permit will not authorize a discharge of pollutants into water in the state. The wastewater treatment facility will serve the Scenic Greens Subdivision in Hays County.

The Scenic Greens Wastewater Treatment Facility will consist of an activated sludge process plant using the single stage nitrification mode in all phases. Treatment units will include bar screens, aeration basins, final clarifiers, aerobic digesters, and chlorine contact chambers. The Applicant is required to provide at least three days of temporary storage for times when the facility is out of service due to an emergency or for scheduled maintenance. The facility has not been constructed. Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at a TCEQ permitted landfill.

The wastewater treatment facility and disposal site will serve and be located within the Scenic Greens development, located approximately 4.4 miles west of Dripping Springs along U.S. Highway 290 in Hays County, Texas. The wastewater treatment facility and disposal site will be located in the drainage basin of Onion Creek in Segment No. 1427 of the Colorado River Basin.

Procedural Background

The application was received on August 16, 2007, and declared administratively complete on September 26, 2007. Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published October 9, 2007 in the *Austin American-Statesman*. The TCEQ Executive Director completed the technical review of the application on February 28, 2008, and prepared a draft permit. Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published June 23, 2008 in the *Austin American-Statesman* and the comment period closed July 23, 2008. During the summer and fall of 2008, the Applicant negotiated with the Executive Director to relocate the treatment facility by a matter of a few hundred feet to accommodate the concerns of Karen and W. Jene Glass. The Glasses subsequently withdrew their comments and hearing request. The Executive Director's Response to Public Comment (RTC) was filed with the Office of Chief Clerk on December 3, 2008, and the period for requesting reconsideration or a contested case hearing ended January 5, 2009. 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).

LEGAL AUTHORITY FOR REVIEW OF HEARING REQUESTS

A party that requests a contested case hearing declared administratively complete on or after September 1, 1999 must comply with the requirements of 30 TAC §§ 55.201 to 55.205. In particular, the party must file its request no later than 30 days after the Chief Clerk mails or transmits the Executive Director's response to comments. 30 TAC § 55.201(a). Furthermore, the request must

be in writing, and may not be based on an issue that was raised solely in a public comment that was specifically withdrawn by the commenter.

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

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

30 TAC §§ 55.201(d)(1)–(5).

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

- (a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- (b) Government entities, including local governments and public agencies, with authority under state law or over issues raised by the application may be considered affected persons.

30 TAC §§ 55.203(a)–(b). This section of the Administrative Code also includes several non-exclusive factors to consider in determining whether a party is an affected person. These factors are as follows:

- 1) whether the interest claimed is one protected by the law under which the application will be considered;
- 2) distance restrictions or other limitations imposed by law on the affected person;

- 3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- 4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- 5) likely impact of the regulated activity on use of the impacted resource by the person; and
- 6) for government entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC §§ 55.203(c)(1)–(6).

A group or association may request a contested case hearing only if the group or association meets all of the following requirements:

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

30 TAC § 55.205(a).

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

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

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

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

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

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

See 30 TAC § 55.209(e).

ANALYSIS OF THE HEARING REQUESTS

The comment period for this application generated two hearing requests.

Karen and W. Jene Glass filed a hearing request by written letter dated May 27, 2008, during the comment period. The Glasses subsequently withdrew their comments and hearing request by written letter dated September 22, 2008, before the RTC was completed and filed. Their comments are no longer available to be considered for referral to SOAH under 30 TAC § 55.209(e)(5), and their hearing request will not be further analyzed.

1. Whether the Request Complies with 30 TAC § 55.201(a)–(d)

Andrew Hawkins submitted two timely hearing requests on July 22, 2008, and January 3, 2009, meeting the requirement of 30 TAC § 55.201(a) that the request be filed no later than 30 days after the Chief Clerk mails or transmits the Executive Director's response to comments. In this case, the Chief Clerk mailed the response to comments on December 5, 2008, and the deadline for submitting timely hearing requests was January 5, 2009. The request was in writing, and was not based upon comments that were specifically withdrawn, meeting certain requirements of 30 TAC § 55.201(c), and contained the relevant information required by 30 TAC § 55.201(d).

The Executive Director concludes that Andrew Hawkins on behalf of SOSA has substantially complied with 30 TAC §§ 55.201(a)–(d).

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

For a group or association to be an affected person, the interests it seeks to protect must be germane to the organization's purpose. Mr. Hawkins points out that SOSA is a non-profit public interest corporation committed to protecting the Edwards Aquifer, its springs and contributing streams, and the natural and cultural heritage of its Hill Country watersheds, with special emphasis on the Barton Springs Edwards Aquifer.

The Executive Director concludes that the interests SOSA seeks to protect are germane to the organization's purpose, as required by 30 TAC § 55.205(a)(2).

In addition, neither the claim asserted nor the relief requested can require the participation of the individual members of the group or association in the case. Although not specifically pleaded by Mr. Hawkins in his letter, he does point out that SOSA has participated in numerous contested case hearings in the past, and the ability of SOSA's legal counsel is known to the Executive Director.

The Executive Director concludes that participation of SOSA's individual members is not required in this case, satisfying the requirements of 30 TAC § 55.205(a)(3).

Finally, one or more members of the group or association must otherwise have standing to request a hearing in their own right for a group or association to be an affected person. Mr. Hawkins names two individuals and a larger group of unnamed members in his letter as the basis for SOSA's claim to group or association standing status.

First, Mr. Hawkins alleges SOSA has unnamed members who live adjacent to and downstream from the proposed facilities and who live and play in the immediate vicinity of the proposed facilities as well as in downstream areas of Blue Creek, Barton Creek, and Onion Creek. He also says that many unnamed SOSA members regularly swim in and recreate in Blue Creek, Barton Creek, Onion Creek, and Barton Springs, and unnamed members also research and enjoy the presence of the endangered Barton Springs Salamander.

Without specific names or addresses that can be verified, the Executive Director cannot evaluate the claims made on behalf of SOSA, and concludes that SOSA's standing as an affected party has not been demonstrated by its unnamed members.

Next, Mr. Hawkins mentions Colin Clark, a SOSA member who regularly swims in Barton Springs pool, enjoys attempting to observe the endangered Barton Springs Salamander and other aquatic life in Barton Springs pool, and enjoys swimming in Barton Creek at the many publicly accessible swimming holes along the creek.

RECREATIONAL USE/INTEREST AS A BASIS TO ESTABLISH STANDING

There is a common misconception that federal courts have established recreational use (standing alone) as an absolute basis for standing in environmental cases. As the following cases demonstrate, an interested person has to do more than show that he recreates in the creek or stream. He must also show harm to his recreational interest or how his recreational use is affected in ways not common to the general public.

In *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992), the U.S. Supreme Court reaffirmed a longstanding requirement that the irreducible constitutional minimum of standing contains three elements: (1) an “injury in fact”—an invasion of a legally protected interest that is (a) concrete and particularized and (b) actual or imminent, not “conjectural” or “hypothetical”; (2) there must be a causal connection between the injury and conduct complained of—the injury has to be fairly traceable to the challenged action of the defendant and not the result of the independent action of some third party not before the court; and (3) it must be likely, as opposed to merely speculative, that the injury can be redressed by a favorable decision. *Id.* at 560–61.

In *Lujan*, the court recognized that “the desire to use or observe an animal species, even for purely esthetic purposes, is undeniably a cognizable interest for purpose of standing.” *Id.* at 562–63. But the court went on to cite an earlier case, “the ‘injury in fact’ test requires more than an injury to a cognizable interest. It requires that the party seeking review be himself among the injured.” *Id.* at 563; *Sierra Club v. Morton*, 405 U.S. 727, 734–35 (1972). The court required that the association’s members be directly affected apart from their special interest in the subject. *Lujan* at 563. The following excerpts from *Sierra Club v. Morton* further illustrate the interpretation of recreational use interests in environmental permitting cases:

Aesthetic and environmental well-being, like economic well-being, are important ingredients of the quality of life in our society, and the fact that particular environmental interests are shared by the many rather than the few does not make them less deserving of legal protection through the judicial process. But the injury in fact test requires more than an injury to a cognizable interest. It requires that the party seeking review be himself among the injured. *Sierra Club v. Morton* at 734-35.

* * *

It is clear that an organization whose members are injured may represent those members in a proceeding for judicial review. [Internal cites omitted.] But a mere interest in a problem, no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself to render the organization adversely affected or aggrieved within the meaning of the APA. *Id.* at 739.

* * *

The requirement that a party seeking review must allege facts showing that he is himself adversely affected does not insulate executive action from judicial review, nor does it prevent any public interests from being protected through the judicial process. It does serve as at least a rough attempt to put the decision as to whether review will be sought in the hands of those who have a direct stake in the outcome.

That goal would be undermined were we to construe the APA to authorize judicial review at the behest of organizations or individuals who seek to do no more than vindicate their own value preferences through the judicial process. *Id.* at 140.

Texas courts have long used similar principles to determine standing. In *San Antonio Conservation Soc. v. City of San Antonio*, 250 S.W.2d 259 (Tex. Civ. App.—Austin 1952, writ ref'd), the court held that “any right [that the society’s members] have to enjoy the charm and beauty of the San Antonio River and its banks . . . is a right shared in common with all the people of San Antonio and with the public in general.” *Id.* at 263. “[A]ny impairment of this right is an injury or damage sustained by [the society’s members] in common with the general public. *Id.* “The interests [the society’s members] seek to protect are the same whether they are used or enjoyed much or little or none,” and the interests are “common to those who avail themselves of the privilege as well as to those who do not or cannot.” *Id.* at 264. Finally, the court held that “[o]nly lawfully constituted guardians of the public interest may maintain actions for the redress of such character of injuries.” *Id.* at 263.

In *Persons v. City of Fort Worth*, 790 S.W.2d 865 (Tex. App.—Fort Worth 1990, no writ), the court determined that a private citizen had not shown “that his uses of the park are unique or peculiar to him as compared to the park uses by the public at large,” and determined “that he does not have a greater right to use the park than any other citizen of the City.” *Id.* at 870. The court specifically held that he “has not shown that he has been damaged or injured as a result of the City’s actions other than as a member of the general public,” and thus lacked standing to maintain his action. *Id.*

In *Texas Rivers Protection Ass’n v. Texas Natural Resource Conservation Comm’n*, 910 S.W.2d 147 (Tex. App.—Austin 1995, writ denied), the court held that an association member and another individual protesting a permitting action both had standing as “aggrieved” parties with a personal justiciable interest in the matter being considered. Both owned land fronting the affected area of the river and both conducted canoeing trips for others on the affected area of the river. Therefore, both had economic and riparian interests in addition to their recreational interests. *Id.* at 151. In elucidating the protestants’ recreational interest, the court distinguished their peculiar interest as opposed to those of the general public as follows – “Appellants’ riparian ownership alone sufficiently distinguishes their injury from that of the public at large.” *Id.*

Finally, in *Hix v. Robertson*, 211 S.W.3d 423 (Tex. App.—Waco 2006, pet. denied), the court held that landowners had standing to pursue an action regarding their use of a stream that ran through their land for fishing, boating, and recreational purposes. *Id.* at 426. Citing *Robinson v. Neeley*, 192 S.W.3d 904, 907 (Tex. App.—Dallas 2006, no pet.), the court noted the landowner to be an appropriate party to assert the public’s interest in the matter, as well as his own. *Id.*

As these cases illustrate, the mere expressing of recreational use is not enough to confer standing. An analysis of the cases shows that the following questions must be asked when a

recreational interest is raised: (1) what recreational interest is claimed? (2) is the recreational interest common to the general public? (3) is there harm or injury to the recreational interest? and (4) does the harm or injury affect protestant's property right, economic interest, or environmental interest? In order to be an affected group or association, SOSA needs to demonstrate that its member, Colin Clark, had some additional interest in the creeks, springs, and endangered species—something more than simple recreational, esthetic, or scientific interests—that would distinguish his interest from those of the general public. The Executive Director is not prepared to claim that economic or riparian interests are the only additional interests that may confer standing in a matter, but in this case a demonstration of some personal justiciable interest more than just expressions of enjoying those interests at publicly accessible swimming holes would help.

The Executive Director concludes that SOSA's standing as an affected party has not been demonstrated by its member Colin Clark.

Finally, Mr. Hawkins proposes SOSA member Doug Wierman, who owns property at 400 Blue Creek Road, approximately 1800 feet from the proposed irrigation field sites and Blue Creek runs directly through his property. Mr. Hawkins lists several ways that Mr. Wierman's home and property could be affected by the proposed facilities.

The Executive Director concludes that SOSA member Doug Wierman would otherwise have standing to request a hearing in his own right.

The Executive Director concludes that SOSA has met the requirements for a group or association to be an affected person based solely on the status of its member Doug Wierman.

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

Andrew Hawkins raises a number of issues in his two letters dated July 22, 2008, and January 3, 2009.

The Executive Director concludes the following fact issues are relevant and material to the Commission's decision on this wastewater permit application: (corresponding numbered comments and responses in the RTC in parentheses following each issue)

- ISSUE 1: Whether runoff from the proposed irrigation fields could pollute Blue Creek, Barton Creek, Onion Creek, subsequently recharge the Edwards Aquifer, and ultimately pollute Barton Springs and the Colorado River? (RTC #1)
- ISSUE 2: Is there adequate distance considering soil, vegetation, and other natural features between the proposed irrigation fields and Blue Creek, Barton Creek, and Onion Creek to allow for proper attenuation of pollutants? (RTC #2)

- ISSUE 3: Have the proposed irrigation fields been properly determined and evaluated? (RTC #3)
- ISSUE 4: Will irrigation occur during wet weather? (RTC #4)
- ISSUE 5: Will plant uptake of treated irrigation wastewater be uniform or would uneven uptake result in clogging of the drip irrigation system or over-watering during certain times of the year? (RTC #5)
- ISSUE 6: Will nitrogen and phosphorus from the proposed irrigation fields enter the Edwards Aquifer and degrade the aquatic habitat of Barton Springs? (RTC #6)
- ISSUE 7: Is the proposed soil moisture monitoring system adequate to detect saturation in each zone? (RTC #7 in part)
- ISSUE 8: Is 3-day storage of treated wastewater during an emergency or routine maintenance adequate to prevent runoff? (RTC #8)
- ISSUE 9: Is it necessary to establish the direction of groundwater flow before issuing the permit? (RTC #10)
- ISSUE 10: Will there be nuisance odors from the facility? (RTC #11 in part)
- ISSUE 11: Will water wells in the Trinity Aquifer be vulnerable to pollution? (RTC #12)
- ISSUE 12: Does the draft permit ensure no discharge of effluent into Blue Creek, Barton Creek, and Onion Creek. (RTC #13)
- ISSUE 13: Will nutrients and toxic chemicals from the facility affect the Barton Springs Salamander? (RTC #15)

The Executive Director concludes that the following fact issues are not relevant or material to the Commission's decision on this wastewater permit application: (corresponding numbered comments and responses in the RTC in parentheses following each issue)

- ISSUE 14: Will soil moisture monitors fail causing runoff into Blue Creek, Barton Creek, and Onion Creek? (RTC #7 in part)
- ISSUE 15: Is there a procedure to prevent public use of the irrigation fields during irrigation? (RTC #9)
- ISSUE 16: Will there be nuisance noise or visual pollution from the facility? (RTC #11 in part)
- ISSUE 17: Will the facility cause increased traffic? (RTC #14)
- ISSUE 18: Will nuisance odors and runoff pollution from the development (rather than the facility proposed to be permitted) affect use and enjoyment or devaluation of SOSA members' property? (RTC #16)

DURATION FOR THE CONTESTED CASE HEARING

The Executive Director recommends that, should the Commission conclude that a contested case hearing is warranted, the duration for the hearing on this matter, between preliminary hearing and the presentation of a proposal for decision before the Commission, be 6 months.

REQUEST FOR RECONSIDERATION

In his second letter dated January 3, 2009, Andrew Hawkins also makes a request for reconsideration of Permit No. WQ0014488002. He then proceeds to address only factors that affect his request for a contested case hearing. It is unclear to the Executive Director the exact basis or foundation for his request for reconsideration, but it can be assumed it is based on the same issues raised in his request for a contested case hearing. Mr. Hawkins presents no new evidence that would cause the Executive Director to reconsider his decision in this matter without a contested case hearing on those factual issues that are relevant and material to the Commission's decision on this matter.

The Executive Director recommends denial of the request for reconsideration.

EXECUTIVE DIRECTOR'S RECOMMENDATION

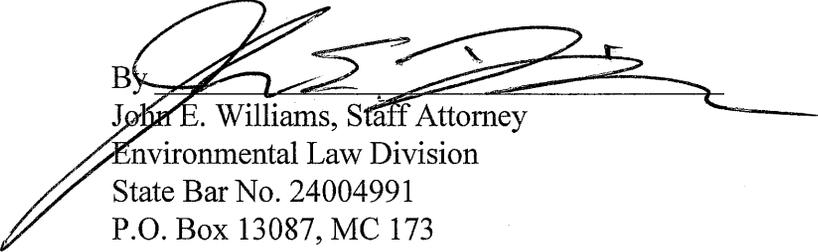
The Executive Director recommends that the Commission find that the Save Our Springs Alliance is an affected party, and refer Issues 1 through 13 listed above to the State Office of Administrative Hearings for a contested case hearing of 6 months' duration.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

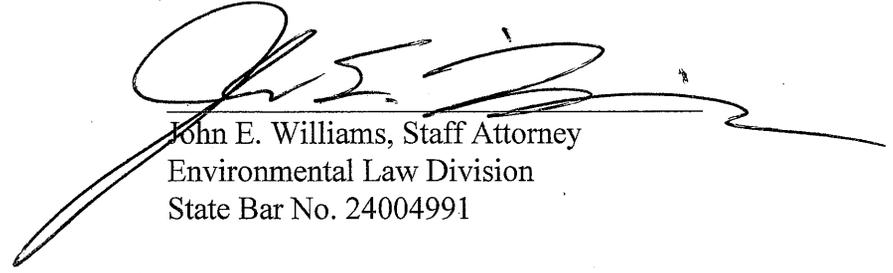
By 
John E. Williams, Staff Attorney
Environmental Law Division

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Austin, Texas 78711-3087
512-239-0455

Representing the Executive Director of the Texas
Commission on Environmental Quality

CERTIFICATE OF SERVICE

I certify that on March 16, 2009, the original and seven copies of the "Executive Director's Response to Hearing Request" for Permit No. WQ0014488002 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was e-mailed, faxed, or mailed to all persons on the attached mailing list.



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

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 MAR 16 PM 2:44
CHIEF CLERKS OFFICE

Mailing List
City of Dripping Springs
TPDES Permit No. WQ0014488002
TCEQ Docket No. 2009-0012-MWD

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Kyle Lucas
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512/239-4010 FAX 512/239-4015

FOR THE CHIEF CLERK [Via Hand Delivery]

LaDonna Castañuela
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Austin, TX 78711-3087
FAX 512/239-3311

LIST OF ATTACHMENTS

Application by City of Dripping Springs for TCEQ Permit No. WQ0014488002
TCEQ Docket No. 2008-1453-MWD

- Attachment A — Draft Permit No. WQ0014488002, City of Dripping Springs
- Attachment B — Technical Summary and Executive Director's Preliminary Decision, Draft Permit No. WQ0014488002, City of Dripping Springs
- Attachment C — Compliance Summary, Draft Permit No. WQ0014488002, City of Dripping Springs
- Attachment D — Executive Director's Response to Public Comment, Application by City of Dripping Springs, Draft Permit No. WQ0014488002
- Attachment E — Map of the Proposed Facility Site of City of Dripping Springs, Scenic Greens Wastewater Treatment Plant, Draft Permit No. WQ0014488002, and surroundings

Attachment A

Draft Permit No. WQ0014488002
City of Dripping Springs.



PERMIT NO. WQ0014488002

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

PERMIT TO DISCHARGE WASTES
under provisions of Chapter 26
of the Texas Water Code

Permittee:

City of Dripping Springs

P.O. Box 384
Dripping Springs, Texas 78620-0384

Nature of Business Producing Waste: Domestic wastewater treatment operation, SIC Code 4952

General Description and Location of Waste Disposal System:

Description: The Scenic Greens Wastewater Treatment Facility will consist of an activated sludge process plant using the single stage nitrification mode in all phases. Treatment units will include bar screens, aeration basins, final clarifiers, aerobic digesters, and chlorine contact chambers. The permittee is required to provide at least three days of temporary storage for times when the facility is out of service due to an emergency or for scheduled maintenance. The permittee is authorized to dispose of treated domestic wastewater effluent at a daily average flow not to exceed 0.0625 million gallons per day (MGD) via public access subsurface drip irrigation system with a minimum area of 14.35 acres in the Interim I Phase, 0.125 MGD via public access subsurface drip irrigation system with a minimum area of 28.70 acres in the Interim II Phase, and 0.250 MGD via public access subsurface drip irrigation system with a minimum area of 57.39 acres in the Final Phase. Application rates shall not exceed 0.1 gallons per square foot per day. The permittee will maintain the Bermuda grass overseeded with winter rye grass on the disposal site.

Location: The wastewater treatment facility and disposal site will be located within the Scenic Greens development, located approximately 4.4 miles west of Dripping Springs along U.S. Highway 290 in Hays County, Texas. (See Attachment A.)

Drainage Area: The wastewater treatment facility and disposal site will be located in the drainage basin of Onion Creek in Segment No. 1427 of the Colorado River Basin. No discharge of pollutants into water in the State is authorized by this permit.

This permit and the authorization contained herein shall expire at midnight on September 1, 2013.

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

A. Effluent Limitations

- Character: Treated Domestic Sewage Effluent
- Volume: Daily Average Flow - 0.0625 MGD in the Interim I Phase
Daily Average Flow - 0.125 MGD in the Interim II Phase
Daily Average Flow - 0.250 MGD in the Final Phase from the treatment system
- Quality: The following effluent limitations shall be required:

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

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

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

B. Monitoring Requirements:

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

The monitoring shall be done after the final treatment unit and prior to storage of the treated effluent. If the effluent is land applied directly from the treatment system, monitoring shall be done after the final treatment unit and prior to land application. These records shall be maintained on a monthly basis and be available at the plant site for inspection by authorized representatives of the Commission for at least three years.

STANDARD PERMIT CONDITIONS

This permit is granted in accordance with the Texas Water Code and the rules and other Orders of the Commission and the laws of the State of Texas.

DEFINITIONS

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. 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.
- b. 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.
- c. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.

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.

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 REQUIREMENTS

1. Monitoring Requirements

Monitoring results shall be collected 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 in accordance with 30 TAC §§ 319.4 - 319.12.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating 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, records 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, monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, and records of all data used to complete the application for this permit 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, or application. 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 determining compliance with permit requirements.

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.
 - 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.
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).

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 Special Provisions section of this permit.
 - h. 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).
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 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;
 - ii. 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.

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. Property Rights

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

8. 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.

9. 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.

10. 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;
 - ii. the permit number(s);
 - iii. the bankruptcy court in which the petition for bankruptcy was filed; and
 - iv. 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 Municipal Permits 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 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. 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.
11. 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 by 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 11) 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 11) 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 11) 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 11) 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 11) 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 11) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year the following information:

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

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

SPECIAL PROVISIONS:

1. This permit is granted subject to the policy of the Commission to encourage the development of areawide waste collection, treatment and disposal systems. The Commission reserves the right to amend this permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an areawide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such areawide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
2. The permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

This Category 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.

3. The permittee shall maintain and operate the treatment facility in order to achieve optimum efficiency of treatment capability. This shall include required monitoring of effluent flow and quality as well as appropriate grounds and building maintenance.
4. Prior to construction of the Interim I, II and Final Phase wastewater treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) of the Water Quality Division, a summary transmittal letter according to 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 the requirements of 30 TAC Chapter 317, Design Criteria for Sewerage Systems. The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Page 2 of the permit.
5. Prior to construction of the subsurface area drip dispersal system, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC148) of the Water Quality Division, an engineering report, including plans and specifications, that meets the requirements in 30 TAC Chapter 222, Subsurface Drip Dispersal Systems, Subchapter D: Design Criteria.
6. 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).
7. According to the requirements of 30 TAC Section 222.81(a), the permittee shall locate the subsurface area drip dispersal system a minimum horizontal distance of 100 feet from surface waters in the state. The permittee shall locate the subsurface area drip dispersal system a minimum horizontal distance of 500 feet from public

- water wells, springs, or other similar sources of public drinking water and 150 feet from private water wells as described in 30 TAC Section 309.13(c)(1). The permittee shall not locate a subsurface area drip dispersal system within a floodway according to the requirements of 30 TAC Section 222.81(d).
8. Monitoring requirements contained in the permit are suspended from the effective date of the permit until plant startup. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 11) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup.
 9. Application rates shall not exceed 0.1 gallons per square foot per day. The permittee is responsible for providing equipment to determine the application rate and for maintaining accurate records of the volume of effluent applied. According to the requirements of 30 TAC Section 222.161(d), the permittee shall maintain records documenting all activities associated with maintaining the vegetative cover, like planting, over-seeding, mowing height, fertilizing, and harvesting. These records shall be maintained for a minimum of five years and be made available to TCEQ staff upon request.
 10. Based on the requirements of 30 TAC Section 222.151, the subsurface drip irrigation system shall be designed and managed so as to prevent seepage or percolation out of the root zone, other than leaching in the amount required to maintain the health of the vegetative cover. Surfacing and ponding is prohibited. Creating a condition at the treatment facility or the drip dispersal zones that contributes to vector attraction or odor is prohibited.
 11. The permittee will maintain the Bermuda grass overseeded with winter rye grass on the disposal site. The irrigated crops shall be established and well maintained to provide year-round vegetative growth for wastewater and nutrient uptake by the crop and to prevent pathways for wastewater surfacing.
 12. The subsurface drip irrigation system shall consist of a sufficient number of different dispersal zones. The minimum depth of soil above the drip irrigation lines shall be at least six inches, and the minimum depth of soil below the drip irrigation lines shall consist of at least twelve inches of usable soil. In the event of wastewater surfacing due to damage to the drip irrigation lines, wastewater application shall be shut-off to the drip irrigation zone and public access to the zone shall be restricted.
 13. The permittee shall design and install temporary storage that equals at least three days of the design flow of the facility for times when the subsurface area drip dispersal system is out of service due to an emergency or scheduled maintenance. In addition, the permittee shall pump and haul wastewater from the facility to prevent the discharge of treated or untreated wastewater if complete shutdown of the wastewater treatment facility becomes necessary or if the storage capacity is exceeded.
 14. Permanent transmission lines shall be installed from the treatment system to each drip irrigation zone of the subsurface drip irrigation system. According to 30 TAC Section 222.153, the permittee shall flush the subsurface area drip dispersal system from the dispersal zone and return the flush water to a point preceding the treatment system at least once every two months.
 15. Wastewater shall not be applied for irrigation when the ground is saturated.
 16. Irrigation with effluent shall be accomplished only when the area specified is not in use.
 17. The permittee shall erect adequate signs stating that the irrigation water is from a non-potable water supply for any area where treated effluent is stored or where there exist hose bibs or faucets. Signs shall consist of a red slash superimposed over the international symbol for drinking water accompanied by the message "DO NOT DRINK THE WATER" in both English and Spanish. All piping transporting the effluent shall be clearly

marked with these same signs.

18. The permittee shall maintain a long term contract with the owner(s) of the land application site which is authorized for use in this permit, or own the land authorized for land application of treated effluent.
19. According to 30 TAC Section 222.163, Closure Requirements, the permittee shall close the system under the standards set forth in this section.
20. The permittee shall address any recharge features uncovered by construction activities in an updated and certified Recharge Feature Plan (RFP). The RFP shall include the best management practices implemented that will prevent impact to recharge features from wastewater application and prevent groundwater contamination. The updated certified RFP will be submitted to the TCEQ Water Quality Assessment Team (MC 150) and the TCEQ Regional Office (MC Region 11).
21. According to the requirements of 30 TAC Section 222.43, the permittee shall notify the TCEQ Regional Office (MC Region 11) for each of the following activities:
 - a. At least 30 days prior to the date the field layout and/or construction startup is scheduled to begin for the proposed subsurface drip irrigation system.
 - b. At least 30 days prior to the date that construction is projected to be complete.
 - c. Within 30 days after operation of the proposed subsurface drip irrigation system.
 - d. If soils are imported, at least 30 days prior to completion of the soil importing/amendment project.
22. According to the requirements of 30 TAC Section 222.45, the permittee shall submit a copy of the issued permit to the health department with jurisdiction in the area where the system is located before commencing operation of the proposed subsurface drip irrigation system. The permittee shall retain proof of delivery for the duration of the permit.
23. The permittee shall use cultural practices to promote and maintain the health and propagation of the grass vegetation and avoid plant lodging. Harvesting (cutting and removing from the field) shall be conducted at least once per year. Harvesting and mowing dates of the grass crops shall be recorded in a log book kept on site and made available to TCEQ personnel upon request.
24. The permittee shall maintain a minimum rootable soil depth below the drip irrigation lines of 12 inches. At least a six-inch layer of soil shall be maintained over the drip lines. If imported soils are utilized, the permittee shall submit no later than 90 days prior to construction to the TCEQ Water Quality Assessment Team (MC 150) and the Wastewater Permitting Section (MC 148) of the Water Quality Division a plan for review/revision and approval describing how the imported soils will be incorporated into the native soils and how soil erosion will be prevented in the affected areas.
25. Drip irrigation lines shall be installed on the contour and lateral slopes of the tubing shall not exceed 1 percent. The permittee can apply for a variance to this provision by providing justification in the detailed design criteria per Chapter 222 indicating how uneven application of effluent due to back draining will be avoided. The permittee shall notify the TCEQ Regional Office (MC Region 11) 30 days prior to installation of the drip lines.
26. Each drainfield (zone) shall have at least one moisture sensing device placed at 12 inches below the drip lines that will automatically shut off irrigation to the drainfield when the soil becomes saturated.

27. Each drainfield (zone) shall be dosed a minimum of two (2) times in a 24-hour period with minimum rest periods of 3 hours between dosings.
28. The permittee shall obtain representative soil samples from the root zones of the irrigation area. Composite sampling techniques shall be used. Each composite sample shall represent no more than 57.4 acres with no less than two soil cores per each dispersal zone. Subsamples shall be composited by like sampling depth and soil type for analysis and reporting. Soil types are soils that have like topsoil or plow layer textures. These soils shall be sampled individually from 0 to 12 inches and 12 to 24 inches below ground level. Soils shall be sampled in December to February and shall be analyzed within 30 days of sample procurement.

The permittee shall provide annual soil analyses of the irrigation area for pH [2:1 (v/v) water/soil mixture]; electrical conductivity [2:1 (v/v) water/soil mixture]; total Kjeldahl nitrogen (TKN); nitrate-nitrogen; plant-available potassium, calcium, magnesium, sulfur, and phosphorus; and sodium adsorption ratio (SAR) and its constituent parameter analysis, i.e., water-soluble sodium, calcium and magnesium (water-soluble ions expressed in mg/liter). The plant nutrient parameters shall be analyzed on a plant-available basis. Phosphorus shall be analyzed according to the Mehlich III procedure and potassium, calcium, magnesium, sodium, and sulfur may also be analyzed in the Mehlich III extract. Plant-available phosphorus, potassium, calcium, magnesium, sodium and sulfur shall be reported on a dry weight basis in mg/kg; electrical conductivity, in mmho/cm; and pH, in standard units. Kjeldahl procedures that use methods that rely on mercury as a catalyst are not acceptable. If the SAR is 10 or greater, amendments (e.g., gypsum) shall be added to the soil to adjust the SAR to less than 10.

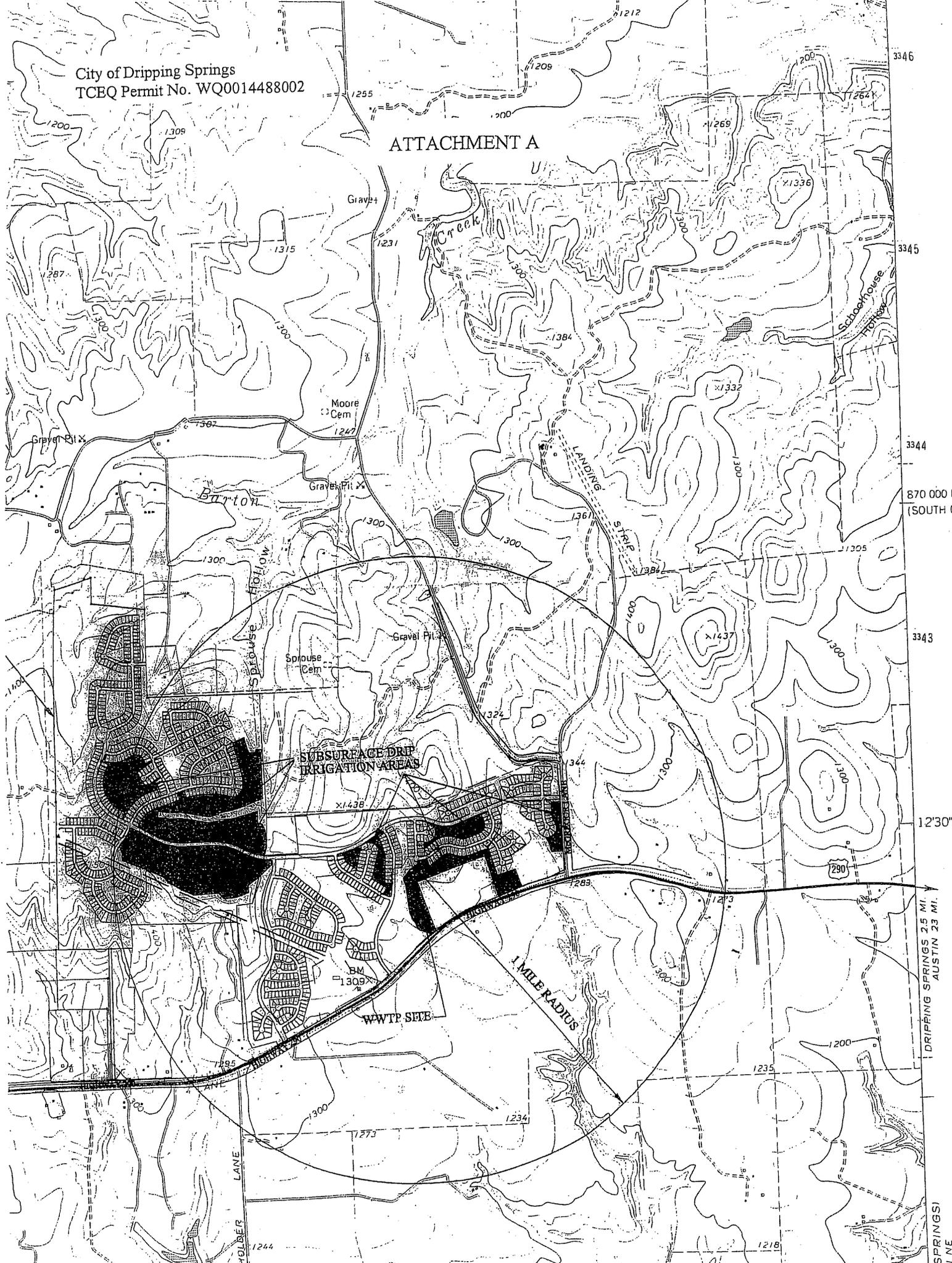
The permittee shall submit the laboratory analyses of the soil samples with copies of the laboratory reports to the TCEQ Regional Office (MC Region 11) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division no later than September 1 following the sampling date of each year.

29. The physical condition of the drip irrigation fields shall be monitored on a weekly basis. Any areas with problems such as surface runoff, surficial erosion, stressed or damaged vegetation, etc., will be recorded in the field log kept onsite and corrective measures will be implemented immediately.
30. The facility is located on the Edwards Aquifer Contributing Zone, as mapped by the TCEQ, and is subject to 30 TAC Chapter 213, Subchapter B.
31. The permittee shall construct berms or swales that will prevent stormwater from entering all subsurface wastewater application areas.
32. The permittee shall develop a Seeps/Springs monitoring plan and submit the plan to the TCEQ Water Quality Assessment Team (MC 150) for review and approval 30 days of permit issuance.
 - a. At a minimum, the plan shall include:
 - i. A procedure to conduct field checks at the irrigation fields and down-gradient of the fields to identify emerging springs or seeps.
 - A. Field checks shall be conducted quarterly. If possible, the field checks shall be made within 3 days of a 0.5-inch or greater rain event.
 - B. The locations of the field checks shall be recorded in a field log kept onsite for TCEQ inspection for 5 years.
 - C. The quarterly checks shall continue for the life of the system.

- ii. A procedure to obtain grab samples of springs or seeps in the event that springs/seeps develop after irrigation.
 - A. The samples from the springs/seeps water shall be analyzed for chlorides, specific conductivity, the complete nitrogen series [(NO₃ + NO₂ - N), Total Kjeldahl Nitrogen, ammonia-N], total phosphorus, ortho-phosphate.
 - B. The locations of the seeps/springs that were sampled shall be recorded in a field log kept onsite for TCEQ inspection for 5 years, along with the results of the analyses.
 - C. Monitoring of emerging springs/seeps and of existing seeps shall continue for the life of the system.
 - b. The permittee shall implement the plan upon approval by the TCEQ Water Quality Assessment Team. The executive director may request modification of the approved plan if future information indicates that it would be necessary for the protection of the environment.
 - c. The applicant shall submit the data from the Seeps/Springs Monitoring Plan to the TCEQ Water Quality Assessment Team (MC 150) of the Water Quality Division and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division during the month of September of each year for review.
33. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
34. The water well identified as a windmill on the USGS topographic map located in irrigation area C shall be plugged and abandoned per 16 TAC Section 76.1004 within 30 days of permit issuance.

City of Dripping Springs
TCEQ Permit No. WQ0014488002

ATTACHMENT A



3346

3345

3344

870 000 F
(SOUTH C

3343

12'30"

DRIPPING SPRINGS 2.5 MI.
AUSTIN 23 MI.

SPRINGS
LINE

Attachment B

Technical Summary and Executive Director's Preliminary Decision
Draft Draft Permit No. WQ0014488002
City of Dripping Springs

TECHNICAL SUMMARY AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant: City of Dripping Springs; Permit No. WQ0014488002

Regulated Activity: Domestic Wastewater Permit

Type of Application: New Permit

Request: New Permit

Authority: Texas Water Code §26.027; 30 TAC Chapters 222, 305, 309, 312, 319, and 30; and Commission policies.

EXECUTIVE DIRECTOR RECOMMENDATION

The executive director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The proposed permit includes an expiration date of September 1, 2013, according to 30 TAC Section 305.127(1)(C)(III), Conditions to be Determined for Individual Permits.

REASON FOR PROJECT PROPOSED

City of Dripping Springs has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, Permit No. WQ0014488002, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 0.0625 million gallons per day (MGD) via public access subsurface drip irrigation system with a minimum area of 14.35 acres in the Interim I Phase, 0.125 MGD via public access subsurface drip irrigation system with a minimum area of 28.70 acres in the Interim II Phase, and 0.250 million gallons per day (MGD) via public access subsurface drip irrigation system with a minimum area of 57.39 acres in the Final Phase. The wastewater treatment facility will serve the Scenic Green Subdivision in Hays County.

PROJECT DESCRIPTION AND LOCATION

The Scenic Greens Wastewater Treatment Facility will consist of an activated sludge process plant using the single stage nitrification mode in all phases. Treatment units will include bar screens, aeration basins, final clarifiers, aerobic digesters, and chlorine contact chambers. The permittee is required to provide at least three days of temporary storage for times when the facility is out of service due to an emergency or for scheduled maintenance. The facility has not been constructed.

Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at a TCEQ permitted landfill.

The wastewater treatment facility and disposal site will be located within the Scenic Greens development, located approximately 4.4 miles west of Dripping Springs along U.S. Highway 290 in Hays County, Texas.

The wastewater treatment facility and disposal site will be located in the drainage basin of Onion Creek in Segment No. 1427 of the Colorado River Basin. No discharge of pollutants into water in the State is authorized by this permit.

SUMMARY OF EFFLUENT DATA

N/A - No self-reporting data is available.

PROPOSED PERMIT CONDITIONS

The draft permit authorizes the disposal of treated domestic wastewater effluent at a daily average flow not to exceed 0.0625, 0.125, 0.250 MGD via public access subsurface drip irrigation system with a minimum area of 14.35 acres in the Interim I Phase, 28.70 acres in the Interim II Phase and 57.39 acres in the Final Phase. The permittee is required to provide at least three days of temporary storage for times when the facility is out of service due to an emergency or for scheduled maintenance. Application rates shall not exceed 0.1 gallons per square foot per day. The permittee will maintain the Bermuda grass overseeded with winter rye grass on the disposal site.

The effluent limitations in the draft permit, based on a daily average, are 20 mg/l BOD₅, and 20 mg/l TSS. The effluent shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The 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).

In addition, the permittee shall comply with the requirements of 30 TAC Section 222.81(a), (b) and (d).

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

SUMMARY OF CHANGES FROM APPLICATION

No changes from the application.

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 August 16, 2007 and additional information received September 20, 2007, October 4, 2007, December 10, 2007 and January 15, 2008.
2. Interoffice Memoranda from the Water Quality Assessment Team, Water Quality Assessment & Standards Section, Water Quality Division.

PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for review and copying in the county where the facility is or will be located. This application will be in a public place throughout

the comment period. The Chief Clerk also mails this notice to any interested persons and, if required, to landowners identified in the permit application. This notice informs the public about the application, and provides that an interested person may file comments on the application or request a contested case hearing or a public meeting.

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

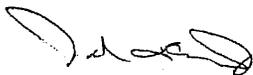
Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding.

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

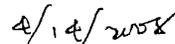
The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will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

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

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



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



Date

Attachment C

Compliance Summary

Draft Permit No. WQ0014488002

City of Dripping Springs

Compliance History Report

Customer/Respondent/Owner-Operator: CN602491284 City of Dripping Springs Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105330948 SCENIC GREENS WWTP Classification: AVERAGE Site Rating: 3.01
BY DEFAULT

ID Number(s): WASTEWATER PERMIT WQ0014488002
Location: APPROXIMATELY 4.4 MILES WEST OF DRIPPING SPRINGS, TEXAS ALONG HIGHWAY 290 WEST
TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: March 10, 2009

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

Compliance Period: August 16, 2002 to March 10, 2009

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

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

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

Sites Outside of Texas

N/A

Attachment D

Executive Director's Response to Public Comment
Application by City of Dripping Springs
Draft Permit No. WQ0014488002

Proposed New TCEQ Permit No. WQ0014488002

Application by the	§	Before the
CITY OF DRIPPING SPRINGS	§	TEXAS COMMISSION ON
for TCEQ Permit No. WQ0014488002	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by the City of Dripping Springs (Applicant) for a new TCEQ Permit Number WQ0014488002 and on the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC), Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant, comments. The Office of the Chief Clerk timely received comment letters from **Karen and W. Jene Glass** and from **Andrew Hawkins** representing the **Save Our Springs Alliance (SOS)**. Karen and W. Jene Glass later withdrew their comments. This Response addresses all comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

The City of Dripping Springs has applied to the TCEQ for a new TCEQ permit that would authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 0.0625 million gallons per day (MGD) via public access subsurface drip irrigation system with a minimum area of 14.35 acres in the Interim I Phase, 0.125 MGD via public access subsurface drip irrigation system with a minimum area of 28.70 acres in the Interim II Phase, and 0.250 million gallons per day via public access subsurface drip irrigation system with a minimum area of 57.39 acres in the Final Phase. Application rates shall not exceed 0.1 gallons per square foot per day. The Applicant will maintain Bermuda grass overseeded with winter rye grass on the disposal site. The draft permit will not authorize a discharge of pollutants into water in the state. The wastewater treatment facility will serve the Scenic Greens Subdivision in Hays County.

The Scenic Greens Wastewater Treatment Facility will consist of an activated sludge process plant using the single stage nitrification mode in all phases. Treatment units will include bar screens, aeration basins, final clarifiers, aerobic digesters, and chlorine contact chambers. The Applicant is required to provide at least three days of temporary storage for times when the facility is out of service due to an emergency or for scheduled maintenance. The facility has not been constructed.

Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at a TCEQ permitted landfill.

The wastewater treatment facility and disposal site will serve and be located within the Scenic Greens development, located approximately 4.4 miles west of Dripping Springs along U.S. Highway 290 in Hays County, Texas. The wastewater treatment facility and disposal site will be located in the drainage basin of Onion Creek in Segment No. 1427 of the Colorado River Basin.

Procedural Background

The application was received on August 16, 2007, and declared administratively complete on September 26, 2007. Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published October 9, 2007 in the *Austin American-Statesman*. The TCEQ Executive Director completed the technical review of the application on February 28, 2008, and prepared a draft permit. Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published June 23, 2008 in the *Austin American-Statesman* and the comment period closed July 23, 2008. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999).

Access to Rules, Laws and Records

Secretary of State website for all administrative rules: www.sos.state.tx.us

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

Texas statutes: www.capitol.state.tx.us/statutes/statutes.html

TCEQ website: www.tceq.state.tx.us (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules," then "Current TCEQ Rules," then "Download TCEQ Rules")

Federal rules in Title 40 of the Code of Federal Regulations: www.epa.gov/epahome/cfr40.htm

Federal environmental laws: www.epa.gov/epahome/laws.htm

Commission records for this facility are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The application for this facility has been available for viewing and copying at the Dripping Springs Community Library, 501 Sportsplex Drive, Dripping Springs, Texas, since publication of the NORI and the application, draft permit, statement of basis/technical summary, and Executive Director's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

COMMENTS and RESPONSES

COMMENT 1

SOS claimed that because the proposed wastewater treatment facility and irrigation site are in close proximity to Blue Creek, Barton Creek, and Onion Creek, the effluent could enter these creeks, subsequently recharge the Edwards Aquifer, and pollute the Barton Springs and the Colorado River.

RESPONSE 1

This draft permit is for a subsurface drip dispersal system, and consequently allows no discharge to water in the state. The draft permit includes provisions to protect surface and groundwater through the use of buffers from creeks and wells, requirements to maintain crop coverage and health, survey and sampling of any seeps or springs quarterly, no application of wastewater when the ground is saturated, and weekly inspections of the irrigation fields.

Special Provision No. 7 requires a minimum horizontal distance of 100 feet between surface water in the state and the subsurface area drip dispersal system irrigation areas per 30 TAC Section 222.81(a), a minimum horizontal distance of 500 feet from public water wells, springs, or other similar sources of public drinking water, and 150 feet from private water wells as described in 30 TAC Section 309.13(c)(1). The Applicant shall not locate a subsurface area drip dispersal system within a floodway according to the requirements of 30 TAC Section 222.81(d). Special Provision No. 10 requires the subsurface drip irrigation system to be designed and managed to prevent seepage or percolation out of the root zone, other than leaching in the amount required to maintain the health of the vegetative cover, and prohibits surfacing and ponding. Special Provision No. 11 requires the maintenance of Bermuda grass overseeded with winter rye grass on the disposal site for wastewater and nutrient uptake. Special Provision No. 15 mandates that wastewater shall not be applied for irrigation when the ground is saturated. Special Provision No. 29 requires the monitoring of the physical condition of the drip irrigation fields on a weekly basis, and the recording and immediate correction of problems such as surface runoff, surficial erosion, stressed or damaged vegetation, etc. Special Provision No. 32 requires the development of a seeps/springs monitoring plan.

COMMENT 2

SOS claimed that there was inadequate space with soil, vegetation, and other natural features between the proposed irrigation site and Blue Creek, Barton Creek and Onion Creek to allow for proper attenuation of effluent to protect the Edwards Aquifer from pollution.

RESPONSE 2

The requirements of the draft permit are intended to minimize the potential for percolation of effluent beyond the rooting depth so that effluent is used by the cover crops and does not reach Blue Creek, Barton Creek, or Onion Creek. The draft permit is for subsurface drip irrigation and consequently allows no discharge to water in the state. The Applicant proposes to use the irrigated areas for Bermuda grass (a warm season grass) and rye grass (a cool season grass). Each of these plant species requires a certain volume of water for its growth and development. The draft permit also includes Special Provisions 9, 10, 23, 24, 26, 28, 29, and 32 which require the Applicant not to exceed an application rate of 0.1 gallons per square foot per day, to prevent seepage or percolation out of the root zone, maintain the health of the grass vegetation including harvesting, maintain a minimum rootable soil depth below the drip irrigation lines of twelve inches, install moisture sensing devices, obtain regular soil samples, and implement a seep/springs monitoring plan.

Special Provision No. 9 requires that application rates shall not exceed 0.1 gallons per square foot per day, and the Applicant is responsible for providing equipment to determine the application rate and for maintaining accurate records of the volume of effluent applied. Special Provision No. 10 requires the subsurface drip irrigation system to be designed and managed to prevent seepage or percolation out of the root zone, other than leaching in the amount required to maintain the health of the vegetative cover, and prohibits surfacing and ponding. Special Provision No. 23 requires the Applicant to use cultural practices to promote and maintain the health and propagation of the grass vegetation and avoid plant lodging. It also requires harvesting (cutting and removing from the field), at least once per year. Special Provision No. 24 requires the Applicant to maintain a minimum rootable soil depth below the drip irrigation lines of twelve inches. Special Provision No. 26 requires that each drainfield (zone) must have at least one moisture sensing device placed at twelve inches below the drip lines that will automatically shut off irrigation to the drainfield when the soil becomes saturated. Special Provision No. 28 requires the Applicant to obtain representative soil samples from the root zones of the irrigation area on an annual basis. Special Provision No. 29 requires the monitoring of the physical condition of the drip irrigation fields on a weekly basis, and the recording and immediate correction of problems such as surface runoff, surficial erosion, stressed or damaged vegetation, etc. Special Provision No. 32 requires the development of a seeps/springs monitoring plan.

COMMENT 3

SOS noted that several sites in excess of the minimum area required by the draft permit were proposed in the application, and suggested that the actual locations of areas for irrigation should first be determined before evaluating the application.

RESPONSE 3

The Applicant indicates that out of 118.65 acres, an aggregate of 57.4 acres will be installed with drip lines. The 118.65 acres shown by the Applicant as potential subsurface drip irrigation

areas were assessed for their suitability for subsurface drip irrigation. The terms and conditions of the draft permit are such that any area selected within the assessed area will be consistent with 30 TAC Chapter 222.

COMMENT 4

SOS claimed that since it was impossible to predict the timing, amount, and rate of rainfall, irrigation during wet weather might not be avoided and could supersaturate the irrigation fields and cause runoff of effluent into Blue Creek, Barton Creek and Onion Creek.

RESPONSE 4

30 TAC Chapter 222 does not proscribe irrigation during wet weather. Saturation at 12 inches below the drip lines will trigger a stop of treated effluent to the affected drain field. The subsurface drip system is designed to avoid saturated conditions from occurring at the terrain surface. Runoff from the proposed drip irrigation fields is not expected to be high given that a cover of introduced and managed grasses will grow on the terrain surface (Bermuda and winter rye grass). The subsurface drip irrigation system is designed so that the emitted treated effluent will not commingle with the normal surface runoff that naturally occurs on terrain surfaces. Further, Special Provision No. 31 requires that all run on be diverted away from the drip fields.

COMMENT 5

SOS stated that the calculations of wastewater irrigation evaporation and nutrient loadings appeared to assume uniform application when, in reality, distribution would be uneven in the uptake of water nutrients. SOS claimed that uneven irrigation would result from design limitations of drip irrigation, clogging and intentional operation (desiring greener turf in certain or during certain events or times of the year). SOS further stated that uneven uptake would result from slope, exposure to sunlight, depth and make-up of soil, temperature, etc. SOS cited the TCEQ February 2008 site assessment which noted "the presence of 'very thin, rocky soil'" and that "[t]he depth of soil coverage is variable over many of the proposed rip irrigation areas." (quote by SOS). SOS claimed that the application did not fully address these issues or explain how to address these issues.

RESPONSE 5

The provision of 30 TAC Section 222.117 requires the subsurface drip dispersal system to supply effluent uniformly throughout each dispersal zone in the system. Clogging prevention modes are built into the irrigation system as required by Section 222.117 by flushing the system with flow velocities of at least two feet per second and this flushing done at least every two months as required also by Special Provision No. 14. The information contained in the application indicates that the

irrigation delivery and plant cover systems are designed for the plant cover to take up the added water and nutrients in the treated effluent. The Applicant has proposed the importation of soils - class II (sandy loams) and class III (silty clay loam) to ensure a minimum of 18 inches of soil and at least 12 inches of soil below the drip lines. Special Provision No. 24 requires that a plan be submitted for review/revision and approval when imported soils are proposed to be used in the construction of the drip fields. Assessment of the information contained in the application indicates that the concerns mentioned in this comment have been addressed by the Applicant.

COMMENT 6:

SOS stated that nitrogen and phosphorus (from the irrigation area) would enter the Edwards Aquifer and Barton Springs through Blue Creek, Barton Creek and Onion Creek and would cause further degradation of the Barton Springs aquatic habitat. SOS claimed that the interests of one of its members, Mr. Colin Clark, would be harmed by effluent polluting Barton Creek, Onion Creek and Barton Springs.

RESPONSE 6

Treated effluent and nutrient input into the irrigation field will be applied at least six inches below the terrain surface. The Applicant proposes to remove all surface rocks from the irrigation fields that are 6 inches or greater in size. Most all rocks are not free standing as they are partially buried with a portion (face) exposed to the surface. The location of the rocks in the terrain is such that the rock removal operation will disturb at least the top six inches of soil. Importation of soil is also proposed to be used in areas to ensure a minimum soil depth of 18 inches. Based on the Applicant's proposal, there will not be any lateral conduits for effluent surfacing after the above proposed field preparation operations. Further, the introduced grasses will use all the effluent and nutrients (nitrogen and phosphorus included) contained in the treated effluent applied through the emitters. Nutrients and effluent are not expected to leave the land application area or affect areas downslope of the irrigation areas.

COMMENT 7

SOS claimed that soil moisture monitors were not failsafe and that rainfall could still supersaturate the irrigation fields undetected causing runoff into Blue Creek, Barton Creek and Onion Creek.

RESPONSE 7

Soil moisture monitoring devices in current drip irrigation systems are some of the most advanced methods of controlling wastewater disposal available today. The drip system is not

designed to fail. The dosing is designed to provide the volume of effluent sufficient for plants to take up for their growth. Weekly inspections of the irrigation system are required by Special Provision No. 29 with immediate corrective measures to be implemented. Nutrients in the treated effluent and the emitted volume of effluent are not expected to leave the land application area or affect areas downslope of the irrigation areas.

COMMENT 8

SOS claimed that the draft permit and the application did not ensure that there would be no runoff of effluent in saturated conditions, even with three-day storage.

RESPONSE 8

Moisture sensing devices in each drain field will stop effluent application to that field upon sensing saturated conditions at the 12-inch depth below the drip lines. The system is designed so that surfacing of treated effluent will not occur given that the dosings and volume of treated effluent applied will be taken up by the roots for plant growth. The land preparation prior to the installation of the drip lines is such that lateral conduits will not be present for effluent to surface and commingle with surface runoff. Special Provision No. 13 requires the Applicant to pump and haul treated effluent if the drip system shuts down or if the 3-day storage capacity is exceeded. Nutrients in the treated effluent and the emitted volume of effluent are not expected to leave the land application area or affect areas downslope of the irrigation areas.

COMMENT 9

SOS stated that application did not provide a procedure "in place" to prohibit the public use of the irrigation fields during irrigation.

RESPONSE 9

The requirement to irrigate only when the irrigation area is not in use is a provision in the draft permit. Having a procedure "in place" and describing or incorporating this in the application would be premature, because no authorization to irrigate has been issued. A procedure should be in place to implement this provision of the draft permit when the permit is issued and before commencing irrigation.

COMMENT 10

SOS claimed the direction of groundwater flow was not established and recommended that this should first be established before proceeding with the processing of the application.

RESPONSE 10

The direction of groundwater flow is discussed in the Recharge Feature Plan. A revised Recharge Feature Plan, signed and sealed by Mr. Stan Reece, P.G., was received by the Water Quality Assessment Team on December 17, 2007. In Section 3.3 Groundwater Characteristics, Mr. Reece states, "However, information provided in the 'Trinity-Hill Country GAM [Groundwater Availability Model]' updated June 2005 indicates a regional flow to the east-northeast."

COMMENT 11

SOS expressed concern that nearby homes would be exposed to nuisance odors from the facilities and may suffer from noise and visual pollution.

RESPONSE 11

One of the alternatives that 30 TAC Section 309.13(e) requires to control a nuisance of odor is to maintain a distance of at least 150 feet from the wastewater treatment plant units to the nearest property line. The Applicant indicates that the nearest property line to the proposed wastewater treatment facility is approximately 176 feet.

In addition, the proposed wastewater treatment would be an aerobic biological process, i.e., an activated sludge process plant using the single stage nitrification mode in all three phases. Aerobic biological processes use oxygen from the air to reduce the organic content of the wastewater through biological action. Oxygen turns sulfide compounds (the most common odor-causing compounds) into odorless sulfates. Wastewater without dissolved oxygen can also produce offensive odors. The design of an activated sludge plant will require a residual dissolved oxygen throughout the entire aeration process.

Neither the Texas Water Code nor agency regulations governing wastewater permitting address visual and noise pollution concerns or traffic concerns. Consequently, the agency does not have jurisdiction to regulate visual and noise pollution or traffic in the draft permit.

COMMENT 12

SOS claimed that the proposed irrigation areas directly overlie the recharge area of the Trinity Aquifer, and water wells from the Trinity Aquifer are vulnerable to pollution.

RESPONSE 12

Mr. Stan Reece, P.G., signed and sealed a Recharge Feature Plan (RFP) for the permit on December 5, 2007. Mr. Reece states, "No springs, seeps, potential seeps, or wetlands were identified within the subject area. No sinkholes, caves, solution cavities, or solution-enlarged fractures were observed to occur within the subject area."

Three water wells were identified on the property. One well was an old windmill located in irrigation area C. The windmill was removed, but the well hole remained open. The RFP states that the well will be plugged and abandoned per 16 TAC Section 76.1004. According to the RFP, another well (New Well) was located near the center of the property, adjacent to a stock pond. The well is about 500 feet from irrigation area D and E. A third well (#52215) was located just southwest of proposed irrigation area A. It is located about 500 feet from the irrigation area. The well survey prepared by GeoSearch for CMA Engineering, located an additional well along the far eastern boundary of the facility along McGregor Lane, and two other wells located along the far southern boundary of the facility. In a response dated October 26, 2007, Mr. Craig Gonzalez, P.E. of CMA Engineering, Inc., indicated that the well located along McGregor Lane could not be found during a site visit to verify the location of the well. The water wells meet the required buffer distances of 30 TAC Section 222.81 and Special Provision Nos. 6 and 7. Special Provision No. 6 requires compliance with the buffer zone setbacks required by 30 TAC Section 309.13(a-e). Special Provision No. 7 requires a minimum horizontal distance of 100 feet from surface water in the state and the subsurface area drip dispersal system irrigation areas per 30 TAC Section 222.81(a), a minimum horizontal distance of 500 feet from public water wells, springs, or other similar sources of public drinking water, and 150 feet from private water wells as described in 30 TAC Section 309.13(c)(1). The Applicant shall not locate a subsurface area drip dispersal system within a floodway according to the requirements of 30 TAC Section 222.81(d).

In addition, the requirements of the draft permit are set to minimize the potential for percolation of effluent beyond the rooting depth so that effluent is completely used by the cover crops and does not reach groundwater. Special Provision No. 20 requires that the Applicant address and provide appropriate best management practices that prevent impact from wastewater application and prevent groundwater contamination for any recharge features uncovered by construction activities in an updated and certified Recharge Feature Plan (RFP).

COMMENT 13

SOS stated that the draft permit did not ensure no discharge of effluent into Blue Creek, Barton Creek and Onion Creek.

RESPONSE 13

The drip irrigation fields are designed to provide the amount of effluent that the proposed grass vegetative cover will take up for its growth and propagation. Lateral effluent flow will not occur because of the site preparation prior to drip line installation. Moisture sensing devices located

12 inches below the drip lines will shut off supply of effluent to the drain fields in saturated conditions. The drip irrigation system is designed so that all effluent and nutrients will be used in the land application area. Nutrients in the treated effluent and the emitted volume of effluent are not expected to leave the land application area or affect areas downslope of the irrigation areas.

Special Provision No. 10 requires the subsurface drip irrigation system to be designed and managed to prevent seepage or percolation out of the root zone, other than leaching in the amount required to maintain the health of the vegetative cover, and prohibits surfacing and ponding. Special Provision No. 11 requires the maintenance of Bermuda grass overseeded with winter rye grass on the disposal site. Special Provision No. 15 mandates that wastewater shall not be applied for irrigation when the ground is saturated. Special Provision No. 29 requires the monitoring of the physical condition of the drip irrigation fields on a weekly basis, and the recording and immediate correction of problems such as surface runoff, surficial erosion, stressed or damaged vegetation, etc. Special Provision No. 32 requires the development of a seeps/springs monitoring plan. Furthermore, Special Provision No. 13 requires the Applicant to pump and haul wastewater from the facility to prevent the discharge of treated or untreated wastewater if complete shutdown of the wastewater treatment facility becomes necessary or if the storage capacity is exceeded.

Any discharge from the irrigation area would constitute a violation of the terms of the permit for which an enforcement action will be prosecuted against the Applicant. To file an environmental complaint against this or any entity regulated by the TCEQ, please visit our website at www.tceq.state.tx.us/compliance/complaints/index.html and complete our online form. You may also report a complaint by sending us an e-mail at cmplaint@tceq.state.tx.us, or by calling us toll free at 1-888-777-3186.

COMMENT 14

SOS expressed concern over increased traffic due to the proposed facility and the development it would serve.

RESPONSE 14

Neither the Texas Water Code nor agency regulations governing wastewater permitting address traffic concern. Consequently, the agency does not have jurisdiction to regulate traffic in the draft permit.

COMMENT 15

SOS expressed concern over the increased discharge of nutrients and toxic chemicals into Barton Springs as that pollution would affect the Barton Springs salamander.

RESPONSE 15

The proposed effluent is essentially domestic in origin, from residential toilets, bathrooms, laundry rooms, and kitchens. Nutrients would be components of the discharge, but toxic chemicals would typically be contributed only by industrial sources and would not be expected in the effluent.

The Executive Director has not identified any water quality impacts due to the draft permit that would adversely affect aquatic organisms, including endangered species, since the draft permit requires disposal by land application and does not allow discharge into water in the state. Nonetheless, the Texas Parks and Wildlife Department and the U.S. Fish and Wildlife Service were notified about the permit application. No comment was received from either agency.

In addition, moisture sensing devices in each drain field will stop effluent application to that field upon sensing saturated conditions at the 12-inch depth below the drip lines. The system is designed so that surfacing of treated effluent will not occur given that the dosings and volume of treated effluent applied will be taken up by the roots for plant growth. The land preparation prior to the installation of the drip lines is such that lateral conduits will not be present for effluent to reach the surface and commingle with surface runoff. Special Provision No. 13 requires the Applicant to pump and haul treated effluent if the drip system shuts down or if the 3-day storage capacity is exceeded. Nutrients in the treated effluent and the emitted volume of effluent are not expected to leave the land application area or affect areas downslope of the irrigation areas.

COMMENT 16

SOS expressed concern that the use and enjoyment of the property of one of its members, Mr. Wierman, would be threatened by nuisance odors, runoff pollution, pollution from the development to be served by the property, and the devaluation of his property.

RESPONSE 16

Texas Water Code Chapter 26 and applicable wastewater regulations do not authorize the agency to consider devaluation of property when reviewing a permit application. Thus, the TCEQ has no regulatory authority to consider property values when reviewing wastewater applications and draft permits. Development issues are not addressed in the wastewater permitting process. The scope of the wastewater discharge/land application permit application is limited to the treatment and disposal of the wastewater generated and collected from a proposed residential development.

One of the alternatives that 30 TAC Section 309.13(e) requires to control a nuisance of odor is to maintain a distance of at least 150 feet from the wastewater treatment plant units to the nearest property line. The Applicant indicates that the nearest property line to the proposed wastewater treatment facility is approximately 176 feet. In addition, Special Provision No. 10 of the draft permit prohibits the creation of conditions at the treatment facility and the drip dispersal zones that contributes to vector attraction and odor.

COMMENT 17

Karen and W. Jene Glass stated that the water well map on file does not show the location of their well and they included a map of their well location. The Glasses later withdrew this comment.

RESPONSE 17

The information by the Glasses on their well location in reference to the proposed permit boundary, wastewater treatment plant, and subsurface drip irrigation fields indicates their well is 325 feet south and 348 feet east of the boundary between their property and the subsurface drip irrigation field E. No additional information about the construction of the well, depth of the well, water level, or water quality was provided. Special Provision No. 7 requires the maintenance of a minimum horizontal distance of 150 feet from private water wells as described in 30 TAC Section 309.13(c)(1). From the information provided, it appears that the application and the draft permit satisfy this requirement.

COMMENT 18

Karen and W. Jene Glass stated that the water well listed as one on the property site of the application is incorrect and is a well located a mile up U.S. Highway 290 and on the opposite side of the highway in Los Lagos Subdivision. The Glasses later withdrew this comment.

RESPONSE 18

We are unable to determine exactly which well has an incorrect location as described by the Glasses. Three water wells were identified and verified in the Recharge Feature Plan. The well in question is described as being located a mile away. Special Provision No. 7 requires the maintenance of a minimum horizontal distance of 150 feet from private water wells as described in 30 TAC Section 309.13(c)(1). From the information provided, it appears that the draft permit satisfies this requirement.

COMMENT 19

Karen and W. Jene Glass provided a conceptual plan map and a well location map to show their property relative to the proposed wastewater treatment plant and the subsurface drip irrigation fields. The Glasses suggested moving the treatment plant and drip irrigation fields. The Glasses later withdrew this comment.

RESPONSE 19

In a letter dated June 20, 2008, the Applicant proposed to move the proposed treatment facility to another location, i.e., approximately 400 feet to the northeast in the same property. Attachment A was subsequently updated to show this new location.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

In response to public comment, the Executive Director revised Attachment A, which shows the proposed wastewater treatment plant's new site and the subsurface drip irrigation areas.

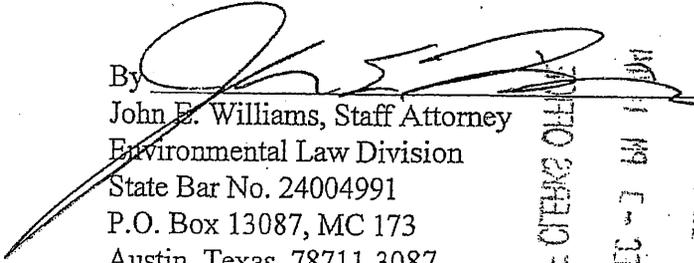
In response to public comment, the Executive Director added the following new provision, Special Provision No. 34: The water well identified as a windmill on the USGS topographic map located in irrigation area C shall be plugged and abandoned per 16 TAC Section 76.1004 within 30 days of permit issuance.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

By 
John E. Williams, Staff Attorney
Environmental Law Division

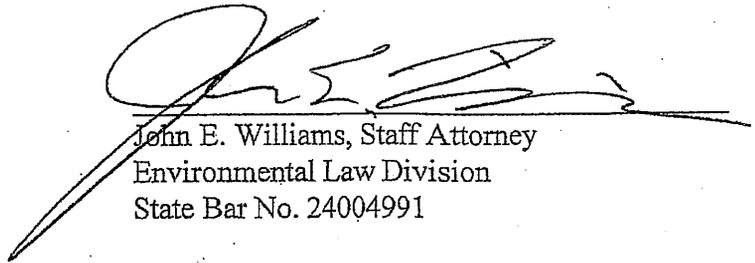
State Bar No. 24004991
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
512-239-0455

Representing the Executive Director of the Texas
Commission on Environmental Quality

CHIEF CLERK OFFICE
DEC 7 6 11 AM
COMMISSION ON ENVIRONMENTAL QUALITY TEXAS

CERTIFICATE OF SERVICE

I certify that on December 3, 2008, the "Executive Director's Response to Public Comment" for Permit No. WQ0014488002 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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

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QUALITY

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CHIEF CLERKS OFFICE

Attachment E

Map of the Proposed Facility Site City of Dripping Springs, Scenic Greens Wastewater Treatment Plant, Draft Permit No. WQ0014488002, and surroundings

City of Dripping Springs Scenic Greens WWTP
WQ0014488002
 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

March 5, 2009

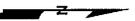


Projection: Texas Statewide Mapping System (TSMS)
 Scale 1:22,000

- Legend**
- Requestor
 - ▭ Subdivision Boundary
 - ▭ WWTP Site

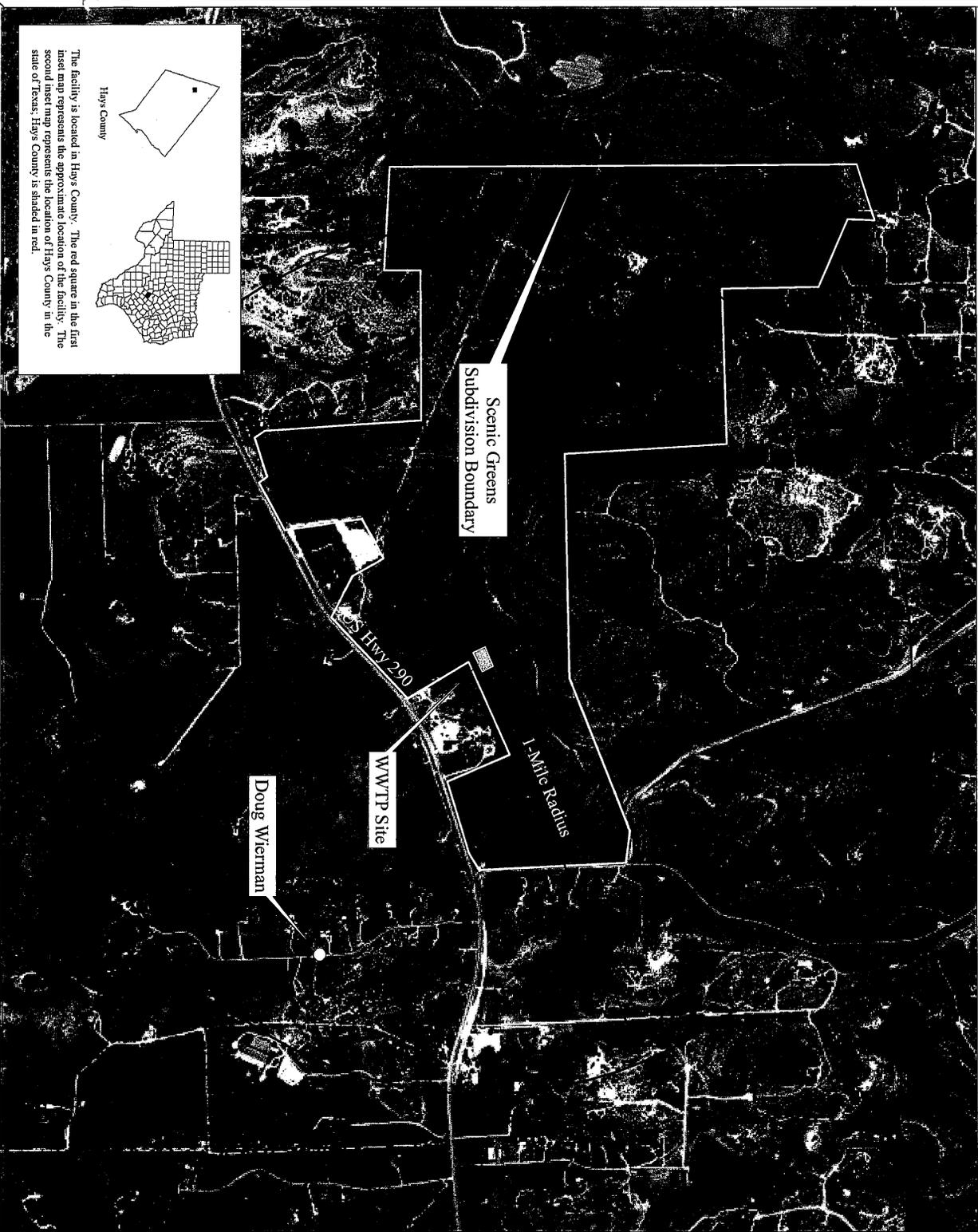
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the requestor information from the applicant. The coordinates are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a source photograph from the 2004 U.S. Department of Agriculture Imagery Program. The imagery is one-meter Color-Infra-red (CIR). The image classification number is kx061_1-1.

- This map depicts the following:
- (1) The approximate location of the plant. This is labeled "WWTP Site".
 - (2) Subdivision Boundary. This is labeled "Scenic Greens Subdivision Boundary".
 - (3) Approximate location of requestor. This is labeled with the requestor's name.
 - (4) Circle and arrow depicting the 1-mile radius. This is labeled "1-Mile Radius".



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This service is provided by a licensed surveyor and is intended for illustrative purposes only. No warranty is 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) 235-9800.

MapDocument: CIG-0603030326



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

