

DOCKET NUMBER 2009-0681-SLG

APPLICATION BY
SYNAGRO OF TEXAS CDR, INC
FOR PROPOSED
SLUDGE PERMIT NO. WQ0004451000

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

2009 AUG 31 PM 4:17
CHIEF CLERKS OFFICE

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests (Response) on the application by Synagro of Texas CDR, Inc. for a renewal of Beneficial Land Use Permit, No. WQ0004451000. TCEQ received timely hearing requests¹ from John J. Schmidt.

Attached for Commission consideration are the following:

- Attachment A Statement of Basis/Technical Summary (Fact Sheet) and Executive Director's Preliminary Decision and Draft Permit
- Attachment B Compliance History
- Attachment C Executive Director's Response to Public Comments (RTC)
- Attachment D ED's Satellite Map
- Attachment E Applicant's Affected Landowner Map & Legend

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

II. Facility Description

Synagro of Texas-CDR, Inc. has applied to the TCEQ for a permit renewal that will authorize the land application of wastewater treatment plant (WWTP) sewage sludge for beneficial use on 185.27 acres at an annual rate not to exceed 9.14 dry tons per acre per year on Fields 1, 2 and 5; 5.88 dry tons/acre/year on Field 3; 4.77 dry tons/acre/year on Field 4; 8.06 dry tons/acre/year on Field 6; and 11.32 dry tons/acre/year on Fields 7 and 9. The draft permit reduces the land application acreage from 242.71 acres to 185.27 acres. The land application site is located near the City of Chesterville, approximately 900 feet west of the intersection of Farm-to-Market Road 2764 and Farm-to-Market Road 1093 in Colorado County, Texas. The land application site is

2764 and Farm-to-Market Road 1093 in Colorado County, Texas. The land application site is located in the drainage area of the San Bernard River Above Tidal in Segment No. 1302 of the Brazos-Colorado River Basin. The draft permit does not authorize any discharge of pollutants into or adjacent to water in the State.

III. Procedural Background

TCEQ received the renewal application on August 30, 2007 and declared it administratively complete on October 19, 2007. The Applicant published the Notice of Receipt of Application and Intent to Obtain a Beneficial Land Use Permit on November 8, 2007, in the *Waller County News Citizen*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on January 28, 2009, in the, *The Colorado County Citizen*. The Executive Director completed the technical review of the application and prepared the preliminary decision and draft permit on December 3, 2008. The public comment period and time to request a contested case hearing ended on February 27, 2009. Since this application was administratively complete after September 1, 1999, it is subject to House Bill 801 (76th Legislature, 1999). This application is also subject to the Texas Health and Safety Code, § 361.121(c).

IV. The Evaluation Process for Hearing Requests

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. TCEQ declared the application administratively complete on October 19, 2007 and therefore, it is subject to the requirements of HB 801. The commission implemented HB 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The regulations governing requests for contested case hearings are found at 30 TAC, Chapter 55.

A. Rules on Responses to Requests

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

Responses to hearing requests must specifically address:

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

- (7) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e).

B. Hearing Request Requirements

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

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

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

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

30 TAC § 55.201(d).

C. Requirement that Requestor be an Affected Person

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

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

30 TAC § 55.203.

An applicant for a Class B sludge permit under Section 361.121(c) of the Texas Health and Safety Code shall:

notify by registered or certified mail each owner of land located within 1/4 mile of the proposed land application unit who lives on that land; and . . . an owner of the land located within 1/4 mile of the proposed land application unit who lives on the land is considered an "affected person" for purposes of Texas Water Code, §5.115, and Chapter 55 of this title . . . Individuals who do not own land within 1/4 mile of the proposed land application site are not excluded from being considered "affected persons" under §55.203 of this title (relating to Determination of Affected Person).

30 TAC § 312.13(b)(3).

Additionally, Section 361.121(c) of the Texas Health and Safety Codes provides in pertinent part that:

an applicant for a permit, permit amendment, or permit renewal under this section must notify by registered or certified mail each owner of land located within one-quarter mile of the proposed land application unit who lives on that land of the intent to obtain the permit, amendment, or renewal. Notice to landowners must include the information required by Section 5.552(c), Water Code, and

information regarding the anticipated date of the first application of the sludge to the proposed land application unit. An owner of land located within one-quarter mile of the proposed land application unit who lives on that land is an affected person for purposes of Section 1.115, Water Code.

D. Referral to the State Office of Administrative Hearings

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.” 30 TAC § 50.115(b).

The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue:

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

30 TAC § 50.115(c).

V. Analysis of the Requests

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

John Schmidt submitted timely comments and hearing requests on December 11 and 13, 2007 that included relevant contact information, except for his phone number, and raised disputed issues.

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

2. *Whether the Requestor Met the Requirements of an Affected Person under the Commission Rules*

John Schmidt states that he is very concerned about all of the environmental problems that Synagro can or will cause. He believes that the soil will not hold the sludge, and the sludge will run off into the stream and go onto other properties, causing water pollution and wildlife health issues. He is also concerned about the commercial cows picking up metals and this getting into our food chain. He believes that Synagro has been violating the rules. The Applicant’s affected landowner map and legend (Attachment E) does not list Mr. Schmidt. The ED’s Satellite Map indicates that Mr. Schmidt’s property appears to be about one and a half miles from the land application site. *See Attachment D.*

The Texas Health and Safety Code (THSC), § 361.121(c), specifies that those persons living within one-quarter mile from a land application unit are affected persons. 30 TAC § 312.13(b)(3)(B) states that for Class B sewage sludge beneficial land use permit renewals under

THSC § 361.121(c), individuals who do not own land within one-quarter mile of the proposed land application site are not excluded from being considered “affected persons” under § 55.203. However, the Executive Director believes that Mr. Schmidt’s property is too far from the facility for him to be an affected person. Under 30 TAC § 55.203(c) a reasonable relationship does not exist between the interest claimed and the activity regulated. He has not shown a likely impact to him from the land application of the sludge.

The ED recommends the Commission find that John J. Schmidt is not an affected person under the requirements of 30 TAC § 55.203 and the Health and Safety Code, § 361.121(c).

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

If the Commission finds that Mr. Schmidt is an affected person, the ED has analyzed issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the RTC. None of the issues were withdrawn. All identified issues in this response are considered disputed, unless otherwise noted. The issues raised for this application and the ED’s analysis and recommendations follow.

1. *Whether the land application of sludge at this site will harm wildlife or livestock?*

2. *Whether land application of sludge at this site will violate water quality standards in nearby water bodies or impact human health and safety?*

These issues were raised and addressed in the ED’s Response to Public Comment (RTC) numbers 2, 3, 4, and 5. These issues involve questions of fact. The issues raise water quality concerns, including protection of human health and safety, and impact on wildlife, as a result of the continued operation of the facility.

These issues are relevant and material to the Commission’s decision on this application, therefore the ED recommends referral of issues 1 and 2 to SOAH.

3. *Whether the soil conditions at the proposed site comply with 30 TAC Chapter 312 for the land application of sludge?*

This issue was raised and addressed in the ED’s Response to Public Comment (RTC) numbers 5 and 6. The issue involves a question of fact. The issue raises water quality concerns, including protection of human health and safety, as a result of the continued operation of the facility.

This issue is relevant and material to the Commission’s decision on this application, therefore the ED recommends referral of this issue to SOAH.

4. *Whether the Applicant’s customer compliance history justifies additional specific permit conditions or permit denial?*

According to Commission records on compliance history, the facility has received no citations for improperly disposing of sludge. The facility's compliance history rating is average. However, if Mr. Schmidt has evidence of violations by this facility, this issue may be relevant and material to a decision on this application.

This issue may be relevant and material to the Commission's decision on this application, therefore the ED recommends referral of this issue to SOAH.

VI. Duration of the Contested Case Hearing

Should the Commission decide to refer this case to SOAH, the Executive Director recommends a nine-month duration for a contested case hearing from the date of the preliminary hearing to the presentation of a proposal for decision.

VII. Executive Director's Recommendation

The ED recommends that the Commission deny the hearing request of John J. Schmidt. If the Commission grants Mr. Schmidt's hearing request, the ED recommends that the Commission refer the following issues to SOAH for a contested case hearing with a duration of nine months:

- 1. Whether the land application of sludge at this site will harm wildlife or livestock?**
- 2. Whether land application of sludge at this site will violate water quality standards in nearby water bodies or impact human health and safety?**
- 3. Whether the soil conditions at the proposed site comply with 30 TAC Chapter 312 for the land application of sludge?**
- 4. Whether the Applicant's customer compliance history justifies additional specific permit conditions or permit denial?**

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

By Robin Smith

Robin Smith, Attorney
Environmental Law Division
State Bar No. 18645600
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(512) 239-0463
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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on August 31, 2009, the original and seven copies of the "Executive Director's Response to Hearing Requests" for Synagro of Texas, Inc. TCEQ Permit No. WQ0004451000, were filed with the TCEQ's Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.

Robin Smith

Robin Smith, Staff Attorney
Environmental Law Division
State Bar No. 18645600

MAILING LIST
SYNAGRO OF TEXAS-CDR, INC.
DOCKET NO. 2009-0681-SLG; PERMIT NO. WQ0004451000

FOR THE APPLICANT:

Shan Felder
Synagro of Texas-CDR, Inc.
1002 Village Square Drive, Ste. C
Tomball, Texas 77375-4489
Tel: (281) 516-0305
Fax: (281) 516-1427

K. Ray Campbell
Synagro of Texas-CDR, Inc.
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FOR THE EXECUTIVE DIRECTOR:

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Texas Commission on Environmental
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Bijaya Raj Chalise, Technical Staff
Texas Commission on Environmental
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FOR PUBLIC INTEREST COUNSEL:

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FOR OFFICE OF PUBLIC

ASSISTANCE:

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

FOR THE CHIEF CLERK:

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

RESOLUTION:

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

REQUESTER(S):

John J. Schmidt
5624 County Road 262
East Bernard, Texas 77435-7705

ATTACHMENT A

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Firoj Vahora, Team Leader
Municipal Permits Team, Water Quality Division

Date: 4/7/2008

From: Bijaya R. Chalise, Municipal Permits Team

APPLICATION TYPE: New Renewal Minor Amendment Major Amendment

APPLICANT: Synagro of Texas-CDR, Inc.

TCEQ PERMIT NO: WQ0004451000

ADMIN COMPLETE DATE: October 19, 2007

RFI LETTER DATE:

RESPONSE LETTER DATE:

GROUNDWATER REVIEW DATE: 2/28/2008

TECHNICAL ASSIGN DATE: 10/19/2007

TECH COMPLETE DATE: 4/7/2008

COMPLIANCE HISTORY DATE: 12/12/2007

PEER REVIEWER SIGNATURE: _____ DATE: _____

ERC REVIEW NEEDED? YES NO DATE: _____

PERMIT PACKAGE

- ▶ Transmittal letter to applicant
- ▶ Technical Summary and ED Preliminary Decision
- ▶ Permit Draft

Draft Permit is saved under: *I/WQ/SLUDGE/Coordinators/Bijaya/Permits/04451/Permits.wpd*

Synagro of Texas-CDR, Inc. has applied for a permit renewal to authorize the land application of sewage sludge for beneficial use on 185.27 acres. The land application site is located at near the City of Chesterville, approximately 900 feet west of the intersection of Farm-to-Market Road 2764 and Farm-to-Market Road 1093 in Colorado County, Texas.

Mr. Jonathan Hill
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If you have any comments or questions, please contact me at (512) 239-4545 prior to the "Draft Permit Acceptance Form" deadline.

Sincerely,

Bijaya R. Chalise
Municipal Permits Team
Wastewater Permitting Section (MC 148)
Water Quality Division
Texas Commission on Environmental Quality

Enclosures

cc: TCEQ Region 12

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name; address, phone; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are germane to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission will only grant a contested case hearing on disputed issues of fact that are relevant and material to the Commission's decision on the application. Further, the Commission will only grant a hearing on issues that were raised in timely filed comments that were not subsequently withdrawn. **TCEQ may act on an application to renew a permit without providing an opportunity for a contested case hearing if certain criteria are met.**

EXECUTIVE DIRECTOR ACTION. The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

MAILING LIST. If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

Written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.state.tx.us/about/comments.html within 30 days from the date of newspaper publication of this notice.

AGENCY CONTACTS AND INFORMATION. If you need more information about this permit application or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. Si desea información en Español, puede llamar al 1-800-687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.state.tx.us.

Further information may also be obtained from Synagro of Texas-CDR, Inc. at the address stated above or by calling Ms. Shan Felder at (281) 516-0305.

Issued:

TECHNICAL SUMMARY AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant: Synagro of Texas-CDR, Inc.
Permit No. WQ0004451000
Regulated Activity: Beneficial Land Application of Wastewater Treatment Plant (WWTP) Sewage Sludge
Type of Application: Permit
Request: Renewal
Authority: Texas Water Code §26.027; 30 TAC Chapters 281, 305, 312, and Texas Health and Safety Code (THSC) §361.121; 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 will expire five years from the date of issuance in accordance with 30 TAC Chapter 312, and THSC section 361.121.

REASON FOR PROJECT PROPOSED

Synagro of Texas-CDR, Inc. has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of Permit No. 04451 to authorize the land application of WWTP sewage sludge at a rate not to exceed 9.14 dry tons/acre/year on Fields 1 and 2, 5.88 dry tons/acre/year on Field 3, 4.77 dry tons/acre/year on Field 4, 9.14 dry tons/acre/year on Field 5, 8.06 dry tons/acre/year on Field 6, and 11.32 dry tons/acre/year on Fields 7 and 9.

PROJECT DESCRIPTION AND LOCATION

The land application site is located at near the City of Chesterville, approximately 900 feet west of the intersection of Farm-to-Market Road 2764 and Farm-to-Market Road 1093 in Colorado County, Texas.

No discharge of pollutants into water in the State is authorized by this permit.

PROPOSED PERMIT CONDITIONS

Sludge Provisions are included in the draft permit according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. The draft permit authorizes the land application of WWTP sewage sludge for beneficial use on 185.27 acres.

SUMMARY OF CHANGES FROM APPLICATION

Land application of sewage sludge for beneficial use area decreased from 242.71 acres to 185.27 acres.

The annual sludge application rate has been changed from 11.63 dry tons/acre/year on fields 1, 2, 3, 5, 7 and 9 to 9.14, 9.14, 5.88, 9.14, 11.32, 11.32 dry tons/acre/year respectively and from 10.10 dry tons/acre/year on field 4 to 4.77 dry tons/acre/year.

Synagro of Texas-CDR, Inc Permit No. WQ0004451000
Technical Summary and Executive Director's Preliminary Decision

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 Mr. Bijaya R. Chalise at (512) 239-4545.

Bijaya R. Chalise
Municipal Permits Team
Wastewater Permitting Section (MC 148)
Water Quality Division

Date

IV. GENERAL REQUIREMENTS:

- A. 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.
- B. Application for renewing this permit shall be submitted by the permittee at least 180 days prior to expiration date of this permit.
- C. WWTP sludge
 - 1. In all cases, the generator or processor of sewage sludge shall provide necessary analytical information to the parties who receive the sludge, including those receiving the sewage sludge for land application, to assure compliance with these regulations.
 - 2. Permittee shall not accept the sewage sludge that fails the Toxicity Characteristic Leaching Procedure (TCLP) test per the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I or other method, which receives the prior approval of the TCEQ for the contaminants listed in Table1 of 40 CFR Section 261.24.
 - 3. Sewage sludge shall not be applied to the land if the concentration of any metal exceeds the ceiling concentration listed in Table 1 below. Additional information on the frequency of testing for metals is found in Section IX.

TABLE 1

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

* Dry weight basis

- 4. When the total aggregate amount of any metal in Table 2 (in all sludge applied at the site during the entire use of this site) reaches the cumulative level listed in table 2 below, only sludge with metal levels at or below those shown Table 3 below can be applied at the site. To compute this criteria, the total amount of each metal in all sludge applied must be summed on a continuing basis as sludge is applied.

- 2. designates the commission as an additional insured; and
 - 3. is in an amount of not less than \$3 million.
- E. The permittee shall maintain an environmental impairment insurance policy for the duration of the permit that:
- 1. is issued by an insurance company authorized to do business in this state that has a rating by the A.M. Best Company of A- or better;
 - 2. designates the commission as an additional insured; and
 - 3. is in an amount of not less than \$3 million.

V. OPERATIONAL REQUIREMENTS:

The operation and maintenance of this land application site must be in accordance with 30 TAC Chapter 312 and Title 40 of the Code of Federal Regulations (40 CFR) Part 503 as they relate to land application for beneficial use. All applicable local and county ordinances must also be followed.

VI. REQUIRED MANAGEMENT PRACTICES:

- A. Sludge applications must not cause or contribute to the harm of a threatened or endangered species of plant, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of a threatened or endangered species.
- B. Sludge must not be applied to land that is flooded, frozen or snow-covered to prevent entry of bulk sewage sludge into wetland or other waters in the State.
- C. Sludge shall be land applied in a manner which complies with Management Requirements in accordance with 30 TAC Section 312.44 including maintaining the following buffer zones for each application area:

a.	Established school, institution, business or residence	750 feet
b.	Public water supply well, intake, public water supply spring or similar source, public water treatment plant, or public water supply elevated or ground storage tank	500 feet
c.	Solution channels, sinkholes, or other conduits to groundwater	200 feet
d.	Waters in the State of Texas - when sludge is not incorporated	200 feet
e.	Waters in the State of Texas - when sludge is incorporated within 48 hours of application and a vegetated cover is established	33 feet
f.	Private water supply well	150 feet
g.	Public right of way	50 feet
h.	Property boundary	50 feet

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 §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 §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 §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 Processes to Further Reduce Pathogens (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.

2. 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. 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.

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

1. 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.
2. 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.
3. 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.
4. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of sewage sludge.
5. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.
6. 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.
7. Public access to land with a high potential for public exposure shall be restricted for 1 year after application of sewage sludge.

- 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 [30 TAC §312.83(b)(8)].
- Alternative 9 Sewage sludge shall be injected below the surface of the land. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected. 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 [30 TAC §312.83(b)(9)].
- Alternative 10 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. 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 [30 TAC §312.83(b)(10)].

IX. MONITORING REQUIREMENTS:

The sewage sludge must be monitored according to 30 TAC §312.46(a)(1) for the ten metals in Table 1 of Section IV.C.3, pathogen reduction, and vector attraction reduction.

- A. If the concentration of nitrogen or any of the metals in Table 1 in Section IV.C.3 exceeds the concentration used to calculate any of the MSARs in Sections IV.C.5 and IV.C.6, the MSAR for that element must be recalculated. If the sludge comes from multiple sources, the calculations must use Table 2 in Section IV.C.4 to provide a volume weighted average of all sludge that will be applied during the current monitoring period.
- B. After the sludge has been monitored according to 30 TAC §312.46(a)(1) for a period of two years, an application may be submitted to amend this permit to reduce the frequency of monitoring.
- C. The frequency of monitoring will be increased if recalculation of the agronomic rate increases the amount of sludge that can be applied to a higher threshold, as shown in 30 TAC §312.46(a)(1). The frequency of monitoring may also be increased if the TCEQ determines that the level of pollutants or pathogens in the sludge warrants such action.
- D. If WWTP sludge is received at this site for land application then the permittee must ensure that the test data for TCLP and PCBs is provided from the generators.
- E. All metal constituents and Fecal coliform or Salmonella sp. bacteria shall be monitored at the appropriate frequency pursuant to 30 TAC §312.46(a)(1).
- F. Representative samples of sewage sludge shall be collected and analyzed in accordance with the methods referenced in 30 TAC §312.7.

- D. For Sewage Sludge with metal concentrations at or below levels in Table 1 of Section IV.C.3; and which also meets Class B pathogen requirements in 30 TAC §312.82(b), and the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10):
1. A description of how the requirements to obtain information from the generators of sludge in 30 TAC §312.42(e) are being met. If these requirements are being met prepare and keep a certification statement per 30 TAC §312.47(5)(B)(vi).
 2. A description of how site restrictions for Class B sludge in 30 TAC §312.82(b)(3) are being met. If these requirements are being met prepare and keep a certification statement per 30 TAC §312.47(5)(B)(x).
 3. A description of how the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10) are met. If these requirements are being met prepare and keep a certification statement per 30 TAC §312.47(5)(B)(xii).

XI. REPORTING REQUIREMENTS:

- A. Permittee shall submit a separate annual report by September 30th of each year per 30 TAC §312.48 for each site. The annual report must include all the information required under 30 TAC §312.48 (including the items listed below) for a period covering September 1 of previous year through August 31 of current year. Additionally an "Annual Sludge Summary Report Form" (**Attachment C**) should be filled out and submitted with the annual report. Submit your report to the Water Quality Division, Municipal Permits Team (MC 148) and the TCEQ Regional Office (MC Region 12). Record retention requirements must be followed in accordance with 30 TAC §312.47.
1. Annual Sludge Summary Sheet (a blank form is provided in Attachment C of this permit) with following information. This information must be submitted by all permittees:
 - i. Permit number.
 - ii. The site location (address or latitude and longitude).
 - iii. Operator address, contact person name, telephone number, and fax number.
 - iv. Amount of sludge disposal dry weight (lbs/acre) at each disposal site. Report domestic septage quantities in gallons.
 - v. Number of acres on which sludge and septage is land applied.
 - vi. Vegetation grown and number of cuttings.
 - vii. Other items listed in the summary sheet.
 2. If the sludge concentration for any metal listed in Table 3 of Section IV.C.4 is exceeded, the report must include the following information:
 - i. Date and time of each sludge application.
 - ii. All four certification statements required under 30 TAC §312.47(a)(5)(B).

2. The location of the land application unit, either in terms of longitude and latitude or by physical address, including the county.
3. The dates of delivery of Class B sludge.
4. The dates of application of Class B sludge.
5. The cumulative amount of metals applied to the land application unit through the application of Class B sludge.
6. Crops grown at the land application unit site.
7. The suggested agronomic application rate for the Class B sludge.

XIII. STANDARD PROVISIONS:

- A. This permit is granted in accordance with the Texas Water Code, Health and Safety Code, and the rules and other Orders of the Commission and the laws of the State of Texas.
- B. Unless specified otherwise, any noncompliance which may endanger human health or safety, or the environment shall be reported 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 to the TCEQ Regional Office (MC Region 12) and to 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 anticipated 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.
- C. Any noncompliance other than that specified in the Standard Provision B, or any required information not submitted or submitted incorrectly, shall be reported to the TCEQ Enforcement Division (MC 224) as promptly as possible.
- D. Acceptance of this permit constitutes an acknowledgment and agreement that the permittee will comply with all the terms, provisions, conditions, limitations and restrictions embodied in this permit and with the rules and other Orders of the Commission and the laws of the State of Texas. Agreement is a condition precedent to the granting of this permit.
- E. Prior to any transfer of this permit, Commission approval must be obtained. The Commission must 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.
- F. 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.
- G. The permittee is subject to the provisions of 30 TAC §305.125.
- H. The permittee shall remit to the Commission annual fees per 30 TAC §312.9. Failure to pay the fees on time may result in revocation of this permit.
- I. This permit does not become a vested right in the permit holder.
- J. The permittee may not accept Class B sludge unless the sludge has been transported to the land application unit in a covered container with the covering firmly secured at the front and back.



Attachment C
Annual Sludge Summary Report Form

Note 1: If your site has more than one land application field, please submit a separate form for each field.
Note 2: Please note, in addition to the summary form, you need to submit all information as required by 30 TAC 312.48.
Note 3: If you operate other registered/permitted sludge land application sites, a form should be submitted for each site.
Note 4: Also send one complete copy of your report and this form to the TCEQ regional office in your area.

For TCEQ Fiscal year ____; Reporting period from September 1, ____, August 31, ____
PERMIT NO.: _____ DATE: _____
NAME OF PERMITTEE: _____
MAILING ADDRESS: _____
CONTACT PERSON: Name: _____ Telephone No: _____

Field No(if any): _____ (Please submit a separate form for each field).

- 1. Sewage Sludge :
a.. Land Applied : _____ dry tons/year
b.. Disposed Via Monofill : _____ dry tons/year
c.. Disposed Via MSW Landfill : _____ dry tons/year
2. Treated Domestic Septage - Land Applied : _____ gallons/year
a.. Method used to treat Domestic Septage: _____
3. Water Treatment Plant Sludge:
a.. Land Applied: _____ dry tons/year;
b.. Dedicated Land Disposal: _____ dry tons/year
c.. Disposed Via monofill : _____ dry tons/year

Class A sludge land applied : _____ dry tons / year
Acreage used for Sludge Application/disposal at this site: _____ acres
Site Vegetation (such as grass type etc) and # of cuttings: _____

Sewage Sludge only - Please provide information regarding the following 3 items:-

- 1. Does any of the sludge you have generated or received NOT MEET the concentration limits for the metals listed in Table 3 of "30 TAC §312.43 (b)"? Yes _____ No _____
2. Has your field/site reached or exceeded 90% of the cumulative metal loading rates for any metals as listed in Table 2 of 30 TAC §312.43 (b)"? Yes _____ No _____
3. Has sewage sludge been applied to the field/site after 90% of cumulative metal loading rates for any of the metals per Table 2 of " 30 TAC §312.43 (b)" been reached? Yes _____ No _____

PLEASE MAIL THE COMPLETED ANNUAL REPORT TO :
Texas Commission on Environmental Quality
Municipal Permits Team (MC 148)
Wastewater Permitting Section
P.O. Box 13087
Austin, TX 78711-3087

TCEQ

Attachment E

Information Sources on Phosphorous Risk Management

- **Certified Nutrient Management Specialists:**

- ▶ <http://nmp.tamu.edu/Design/Assests/CertificationDB.htm>

- **Natural Resource Conservation Service (NRCS) Code 590 Practice Standard:**

- ▶ <http://nmp.tamu.edu/Design/Assests/menu.htm>

- **Phosphorous Index:**

- ▶ http://efotg.nrcs.usda.gov/references/public/TX/TXTechNote15_rev.pdf

Note: The website addresses could change from time to time. So, please check for the latest addresses for these sites.

ATTACHMENT B

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601307630	Synagro of Texas-CDR, Inc.	Classification: AVERAGE	Rating: 1.59
Regulated Entity:	RN102994837	CAMPBELL BFU SITE	Classification: HIGH	Site Rating: 0.00
ID Number(s):	SLUDGE	REGISTRATION	710736	
	SLUDGE	PERMIT	WQ0004451000	
Location:	LOCATED NEAR THE CITY OF CHESTERVILLE, TEXAS APPROXIMATELY 900 FEET WEST OF THE INTERSECTION OF FM 2764 AND FM 1093 IN COLORADO COUNTY.			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	August 20, 2009			
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.			
Compliance Period:	August 30, 2002 to August 20, 2009			

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

Name: Bijaya Chalise Phone: 239 - 4545

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

- | | | |
|---|------------|----------|
| 1 | 02/04/2003 | (23631) |
| 2 | 05/05/2004 | (270989) |
| 3 | 04/26/2005 | (378769) |
| 4 | 05/02/2006 | (464099) |
| 5 | 05/29/2007 | (562040) |
| 6 | 07/11/2008 | (683782) |
| 7 | 05/22/2009 | (744128) |

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

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 C

TCEQ PERMIT NO. WQ0004451000

APPLICATION	§	BEFORE THE
BY	§	TEXAS COMMISSION
SYNAGRO OF TEXAS -	§	ON
CDR, INC.	§	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 Synagro of Texas-CDR, Inc.'s (Synagro or the applicant) application and the Executive Director's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received a comment letter from John J. Schmidt. This response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

Synagro of Texas-CDR, Inc. has applied to the TCEQ for a permit renewal that will authorize the land application of wastewater treatment plant (WWTP) sewage sludge for beneficial use on 185.27 acres at an annual rate not to exceed 9.14 dry tons per acre per year on Fields 1, 2 and 5, 5.88 dry tons/acre/year on Field 3, 4.77 dry tons/acre/year on Field 4, 8.06 dry tons/acre/year on Field 6, and 11.32 dry tons/acre/year on Fields 7 and 9.

The land application site is located at near the City of Chesterville, approximately 900 feet west of the intersection of Farm-to-Market Road 2764 and Farm-to-Market Road 1093 in Colorado County, Texas. The land application site is located in the drainage area of the San Bernard River Above Tidal in Segment No. 1302 of the Brazos-Colorado River Basin.

Procedural Background

The permit application for the permit renewal was received on August 30, 2007, and declared administratively complete on October 19, 2007. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on November 8, 2007, in the *Waller County News Citizen*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on January 28, 2009, in the, *The Colorado County Citizen*. The Executive Director completed the technical review of the application and prepared the preliminary decision and draft

permit on December 3, 2008. The public comment period ended on February 27, 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.

ACCESS TO RULES, LAWS, AND RECORDS

The following websites may be useful:

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, Policy, & Legislation," then "Rules and Rulemaking," then "Download TCEQ Rules")
Federal rules in Title 40 of the Code of Federal Regulations:
www.epa.gov/epahome/cfr40.htm
Federal environmental laws: www.epa.gov/epahome/laws.htm

Commission records for this facility are available for viewing and copying at TCEQ's main office, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken), and at TCEQ's Region 12 Office, 5425 Polk Street, Suite H, Houston TX 77023-1452. The application for this facility has been available for viewing and copying at the Orange Public Library, 220 North 5th Street, Orange, Texas, since publication of the NORI, and the 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 combined Notice of Application and Preliminary Decision (NAPD).

COMMENTS AND RESPONSES

COMMENT 1:

Mr. Schmidt requests that a contested case hearing take place.

RESPONSE 1:

Mr. Schmidt's request for a contested case hearing will be considered by the Commissioners at a

public meeting. He will receive notice of that public meeting. At that time the Commissioners will consider whether he is an affected person and if the application should be referred to the State Office of Administrative Hearing for a contested case hearing. This Response to Comments does not impact the decision of whether there will be a contested case hearing on this application.

COMMENT 2:

Mr. Schmidt has expressed concern about all of the environmental problems that Synagro can or will cause and also asked how much pollution this land can take.

RESPONSE 2:

The primary objective of the TCEQ's Beneficial Land Use Program is to ensure that the use of biosolids will neither endanger the public health nor degrade the environment. Only properly treated materials that have met rigid requirements to reduce vector attraction and to reduce pathogens significantly are approved for land application. These requirements, combined with site access restrictions, minimize the potential for disease transmission. In addition, 30 Texas Administrative Code (TAC) Section 312.44 outlines detailed management practices designed to protect human health and the environment. These requirements are designed to protect against contamination. Periodic site inspections are conducted by staff from the TCEQ regional offices to determine whether these regulatory mandates are met. The TCEQ also requires the applicant to submit annual reports which aid in monitoring compliance with specific conditions outlined in the permit. Biosolids, when processed and land applied in accordance with the state and federal rules and regulations, do not pose a threat to human health or the environment.

Synagro must comply with detailed management practices designed to protect human health and the environment. This includes recordkeeping requirements and monitoring requirements (30 TAC Sections 312.46 and 312.47). The draft permit provides that the Applicant must monitor the sewage sludge for ten metals (arsenic, cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc) as well as reduce pathogens and vector attraction as required by 30 TAC Section 312.46(a)(1). The draft permit, as well as 30 TAC Section 312.47(a)(4)(A)(ii), requires the Applicant to record such information as the amount of sludge applied, the number of acres to which sludge is applied, and a description of how the management practices are being met. Periodic site inspections conducted by staff from TCEQ's field offices determine whether these regulatory requirements are met. TCEQ also requires the applicant to submit an annual report which aids in monitoring compliance with specific conditions as outlined under 30 TAC Sections 312.48 and 312.47. If members of the public identify odor conditions from the facility, the public may contact TCEQ's Region 12 office in Houston at 713-767-3500, or call toll-free, at 1-888-777-3186. Citizen complaints may also be filed on-line:

<http://www.tceq.state.tx.us/compliance/complaints/index.html>.

If the facility is found to be out of compliance with the terms or conditions of its permit or with

TCEQ regulations, it is subject to enforcement action. TCEQ's regional staff investigates complaints and the agency takes appropriate enforcement action if the investigator documents a violation of regulations. In addition, the draft permit does not limit the landowner's ability to seek legal remedies regarding any potential nuisance or other causes of action in response to activities that may result in injury to human health, property, or an interference with the normal use and enjoyment of property.

COMMENT 3:

Mr. Schmidt comments that soil in Chesterville, Texas is primarily used for rice production because it has a shallow impermeable clay layer that holds water and a low cation exchange capacity that does not tie up any of the nutrients that are available to plants. He states that this brings up concerns about sludge dumping.

RESPONSE 3:

The land application area is characterized by Katy and Telf fine sandy loam soils. The capacity of soils to hold plant nutrients for plant growth is the cation exchange capacity (CEC), which is measured in milliequivalents per 100 grams of soil. Katy and Telf fine sandy loam soils have published topsoil CEC in the range of 3 to 7 milliequivalents per 100 grams of soil. This amount of CEC is sufficient to hold nutrients for the existing plant cover of Bermuda grass and rye grass as well as for the additional plant nutrients made available from the break down of the proposed sludge application.

COMMENT 4:

Mr. Schmidt expresses concern that the soil in Chesterville Texas holds water very easily and has large flood plains due to the Bernard Rivers, and he asks what keeps all of the sludge on the ground surface from washing down stream after big rains?

RESPONSE 4:

Applicant has excluded soils that flood or have a high water table from the application area as depicted on Attachment B of the draft permit. Big rainfall events on flood-prone soils will not cause sludge to move downstream because sludge is not proposed to be land applied on these areas.

COMMENT 5:

Mr. Schmidt is concerned about water pollution and wildlife health issues due to the inability of the sludge to leach down through the impermeable clay, and flooding conditions that are fairly common especially on the Campbell ground. Mr. Schmidt is also concerned about the sludge moving offsite on to other properties and waterways.

RESPONSE 5:

Sludge breaks down releasing plant nutrients which become available for plant growth. The uptake

of plant nutrients takes place in the surface soil and above any restrictive layer that may exist in Katy and Telf soils. Wildlife health is not expected to be affected in flood-prone areas because Applicant does not propose to land apply sludge in areas that are flood prone or in areas that have high water tables as depicted on Attachment B of the draft permit.

TCEQ has established management requirements, in accordance with 30 TAC Section 312.44 to protect against sludge runoff and to protect the quality of surface and groundwater against contamination. Those requirements are incorporated into the draft permit. This draft permit does not authorize discharge of waste into the waters of the State of Texas. To ensure that this is achieved, the Applicant is required to maintain a buffer zone of 200 feet between the application area and existing surface water bodies. The Applicant is required to apply sludge uniformly over the surface of the land under conditions which prevent runoff of sludge beyond the active application area. Where runoff from the application area is evident, the operator must cease further application until the condition is corrected. The Applicant must also protect the quality of the surface water and the soils in the unsaturated zone. The Applicant is prohibited from applying sludge during rainstorms, during periods in which surface soils are water-saturated, frozen, or snow-covered, and in areas having topographical slopes in excess of eight percent.

TCEQ rules require that sludge be applied at a rate equal to the nitrogen uptake rate of the plants being grown (the agronomic rate), thus ensuring that the nutrients are fully utilized by the plant and none are available for lateral seepage into surface water bodies. The Applicant is required to land apply sludge at rates no greater than the agronomic rates calculated for the specific site. Land application of treated sludge at the appropriate agronomic rates on soils with low permeability and recommended slopes while observing the buffer zones will not adversely affect surface water quality. As with any material used in agriculture, it is likely that small amounts of these materials will be carried off site during major rain events. However, the regulations on the materials and amounts used provide sufficient protection for the surrounding areas, and the large dilution factor from such rain events will prevent any significant contamination of adjacent areas. These materials are no more harmful than other materials commonly used in agriculture.

COMMENT 6:

Mr. Schmidt comments that if the soil cannot retain any of the nutrients and the proposed site has commercial cow/calf operation grazing the area grass, who is to know what the cattle are picking up and ending up in our food chain?

RESPONSE 6:

In the application's technical report, Applicant indicates that the land application areas will grow Bermuda grass and rye grass for haying and grazing. As stated above in Response No. 3, the soils at this site are adequate for nutrient retention. Also, the draft permit prohibits grazing of areas within 30 days after land application of sludge as required by 30 TAC Section 312.82 in order to avoid deleterious effects on cattle grazing in these areas. In the application Technical Report Appendix A, Applicant provides sludge analytical data for metals indicating that sludge metal concentrations do

not exceed the metal loading limits listed in 30 TAC Section 312.43.

COMMENT 7:

Mr. Schmidt expresses concern that there must be more regulations and thought to these land application sites and states that he has yet to see any person on these sites testing or checking paperwork from truck drivers. He also comments that Synagro has land applied the City of Houston's sludge on sites that are not permitted, and has concerns over whether they have been cited and denied at other locations.

RESPONSE 7:

Synagro is responsible for submitting reports on a quarterly and annual basis to both the Central Office and Regional Offices in Houston. The reports must include the following:

1. Amounts of sludge land applied
2. The site vegetation used and # cuttings or grazings
3. The metal concentration, pathogen analysis data and vector attraction certifications of sludge for each source.
4. A list containing the name and permit number of each source of sludge.
5. The date of delivery of each load of sludge land applied.
6. The date of land application of each load of sludge.
7. The cumulative metal loading rates for any metals as listed in Table 2 of 30 TAC Section 312.43(b)
8. The suggested agronomic rate for the sludge.

The above information is provided in computer generated report format for the quarterly reports and is made available for public viewing on the TCEQ website. If improper activities are seen, they should be reported immediately to the TCEQ Region 12 Office in Houston at 713-767-3500, or call toll-free, at 1-888-777-3186. Citizen complaints may also be filed on-line at <http://www.tceq.state.tx.us/compliance/complaints/index.html>. If the facility is found to be out of compliance with the terms or conditions of its permit or with TCEQ regulations, it is subject to enforcement action.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

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

Respectfully submitted,

Texas Commission on Environmental Quality

Mark Vickery
Executive Director

Robert Martinez, Director
Environmental Law Division

Robin Smith, Staff Attorney
Environmental Law Division
State Bar No. 18645600
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-0463
REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

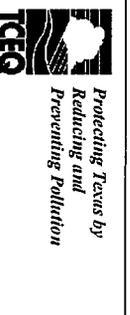
CERTIFICATE OF SERVICE

I certify that on April 7, 2009, the "Executive Director's Response to Public Comment" for Permit No. WQ0004451000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

Robin Smith, Staff Attorney
Environmental Law Division
State Bar No. 18645600

ATTACHMENT D

Synagro
WQ0004451000
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 78711-13087

August 20, 2009

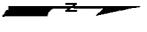


Projection: Texas Statewide Mapping System (TSMSS)
 Scale 1:30,183

Legend
 Permit Site

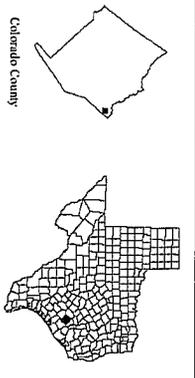
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the requestor information from the applicant. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a one-half meter photograph from the 2008 Texas Orthomageby Project.

- This map depicts the following:
- (1) The approximate location of the site. This is labeled "Permit Site".
 - (2) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
 - (3) Circle and arrow depicting 1/4-mile radius. This is labeled "1/4-Mile Radius".



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This map was not generated by a licensed surveyor, and is intended for illustrative purposes only. No claims are made to the accuracy or completeness of the data or to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-4800.

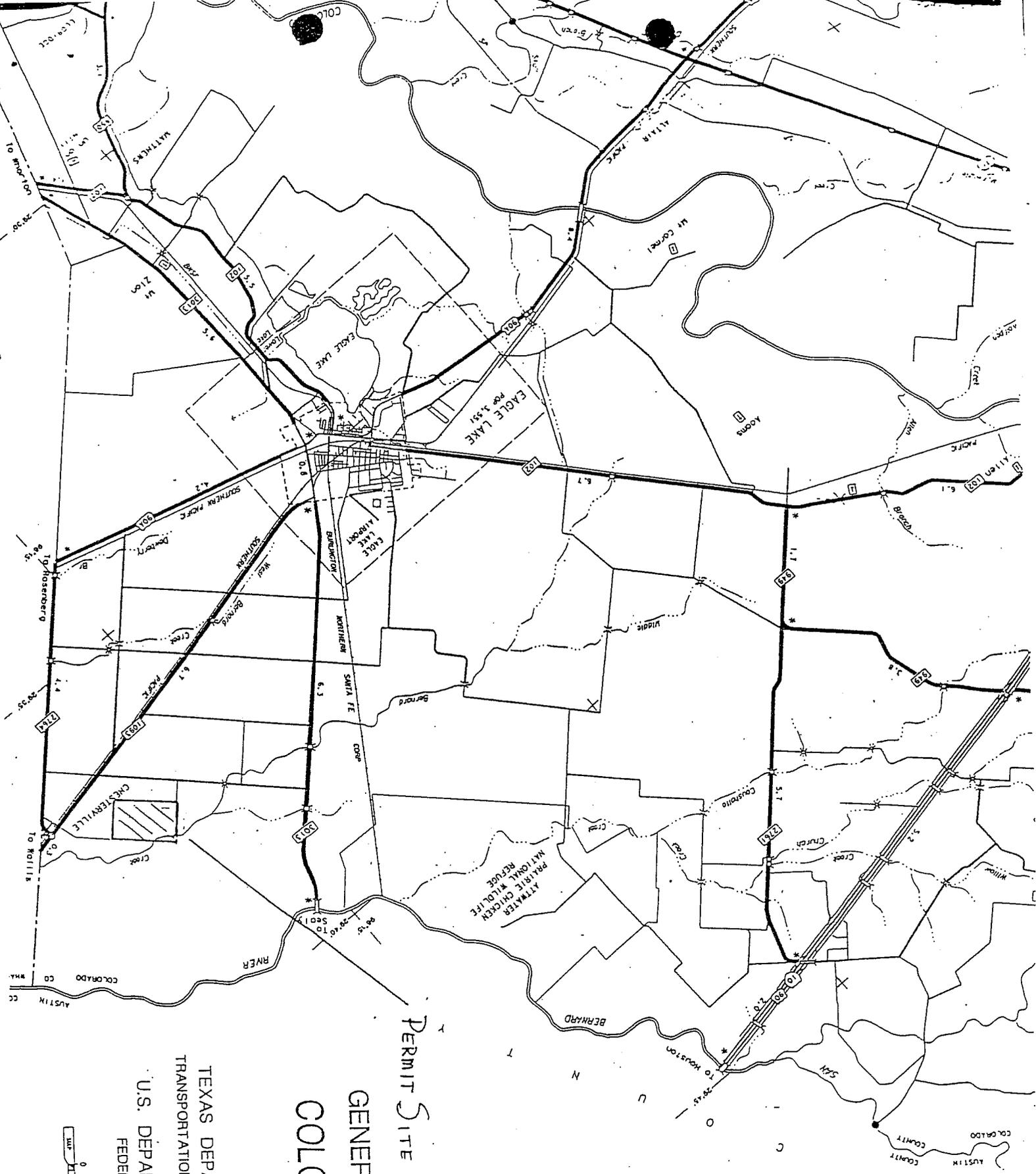
M:\D\mangh CRT-090820068



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

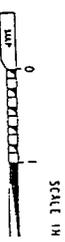
Colorado County

ATTACHMENT E



PERMIT Site 04451
 GENERAL HIGH
 COLORADO

TEX
 PREPARED
 TEXAS DEPARTMENT
 TRANSPORTATION PLANNING
 IN COOPERATION
 U.S. DEPARTMENT OF
 FEDERAL HIGHWAY



TCEQ PERMIT 04451
1/4 MILE RADIUS
LANDOWNERS

NUMBER	ABSTRACT	LANDOWNER
1		SUSAN WALKER P O BOX 232 EAGLE LAKE, TX 77434-0232
2		MARK N ANDERSON P O BOX 8 EAGLE LAKE, TX 77434--008
3		ARTHUR A ANDERSON P O BOX 71 EAGLE LAKE, TX 77434
4		K RAY CAMPBELL 14026 BARNHART HOUSTON, TX 77077
5		CARL O GURECKY P O BOX 993 WALLIS, TX 77485
6		CHARLES KAECEHELE SON & DAUGHTER PARTNERSHIP P O BOX 276 WALLIS, TX 77485
7		K RAY CAMPBELL 14026 BARNHART HOUSTON, TX 77077