

DOCKET NUMBER 2009-0681-SLG

APPLICATION BY  
EAGLE STAR INVESTMENTS  
L.L.P. FOR PROPOSED  
PERMIT NO. WQ0014918001

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION  
ON  
ENVIRONMENTAL QUALITY

CHIEF CLERK'S OFFICE

2009 SEP 14 PM 4: 37

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

---

**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 Eagle Star Investments L.L.P. for a new TPDES Permit No. WQ0014918001 that would authorize the Applicant to discharge treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. One timely hearing request was received by Jesus Gallegos.

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**

Eagle Star Investments, L.L.P. (the Applicant) has applied to the TCEQ for a new TPDES Permit No. WQ0014918001 that would authorize the Applicant to discharge treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The proposed facility is planned to serve a 16.9 Acre Commercial Development in Montgomery County. The treated effluent will be discharged to Bear Branch; then to Bear Branch Reservoir; then to Bear Branch; then to Panther Branch; then to Lake Woodlands;

then to Panther Branch; and then to Spring Creek in Segment No. 1008 of the San Jacinto River Basin. The unclassified receiving water uses are limited aquatic life uses for Bear Branch and high aquatic life uses for Bear Branch Reservoir. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC Section 307.10) for Segment No. 1008 are high aquatic life uses, public water supply and contact recreation. The facility will be located approximately 1,800 feet northeast of the intersection of Woodlands Parkway and Farm-to-Market Road 2978 in Montgomery County, Texas.

### **III. Procedural Background**

The application was received on July 29, 2008, and declared administratively complete on September 4, 2008. The Notice of Receipt of Application and Intent to Obtain Water Quality Permit (NORI) was published on December 31, 2008 in the *Houston Chronicle* in English, and on December 31, 2008 in the *La Voz De Houston* in Spanish. The Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater (NAPD) was published on February 25, 2009 in the *Houston Chronicle* in English, and on February 25, 2009 in the *La Voz De Houston* in Spanish. The public comment period ended on March 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, (76<sup>th</sup> Legislature, 1999). Since this application was administratively complete after September 1, 1999, it is subject to House Bill 801 (76<sup>th</sup> 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 February 11, 2008 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.

### **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).***

Jesus Gallegos submitted a timely hearing request on January 26, 2009 that included relevant contact information raised a disputed issue. This request was also filed as a comment letter.

The ED recommends the Commission find that the hearing request of Jesus Gallegos 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***

Jesus Gallegos states that he lives directly behind the pond on the facility's property. He is concerned about odor from the facility. The Applicant's affected landowner map and legend (Attachment E) does not list Mr. Gallegos, however it does list his property in another name. See ED's Satellite map (Attachment D).

The ED recommends the Commission find that Jesus Gallegos is an affected person under the requirements of 30 TAC § 55.203.

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

The ED has analyzed issues raised in accordance with the regulatory criteria. The issue raised was 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 Applicant can comply with the nuisance odor requirement at 30 TAC § 309.13(e)(2)?

This issue was raised and addressed in the ED's Response to Public Comment (RTC) number 1. Mr. Gallegos lives adjacent to the facility and is concerned about odor. Because the nuisance odor prevention plan engineering report has not been prepared and reviewed, this is a fact issue for the State Office of Administrative Hearings. This issue is relevant and material to the Commission's decision on this application.

**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 grant the hearing request of Jesus Gallegos. We recommend that the Commission refer the following issue to SOAH for a contested case hearing with a duration of nine months:

1. Whether the Applicant can comply with the nuisance odor requirement at 30 TAC § 309.13(e)(2)?

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  
P.O. Box 13087, MC-173  
Austin, Texas 78711-3087  
(512) 239-0463  
(512) 239-0606 (Fax)

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

2009 SEP 14 PM 4:33  
CLERKS OFFICE

**CERTIFICATE OF SERVICE**

I certify that on September 14, 2009, the original and seven copies of the "Executive Director's Response to Hearing Requests" for Eagle Star Investments L.L.P. TCEQ Permit No. WQ00014918001, 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

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2009 SEP 14 PM 4: 37  
CHIEF CLERKS OFFICE



# **ATTACHMENT A**



# Texas Commission on Environmental Quality

## INTEROFFICE MEMORANDUM

To: Firoj Vahora, Team Leader  
Municipal Permits Team, Wastewater Permitting Section

Date: January 2, 2009

From: David Akoma, Municipal Permits Team

APPLICANT: Eagle Star Investments, LLP

PLANT NAME: Eagle Star WWTP

TPDES PERMIT NO: WQ0014918001

EPA ID NO: TX0131725

FILE NAME: I:\WQ\MUNI\David\Permits\14918-001.DOC

Admin Complete Date: 09/04/08

Modeling Memo: 12/10/08

Tech Complete Date: 01/02/09

Standards Memo: 09/26/08

Pretreatment Memo: None.

RFI Letter Date: None.

Critical Condn. Memo: None.

Assign Date: 12/12/08

Response Letter Date: None.

### PERMIT TYPE

- PUBLIC DOMESTIC  
 PRIVATE DOMESTIC

- Discharge (TPDES)  
 Land Application (Irrigation)

- MINOR (< 1 MGD)  
 Water Treatment Plant

### PERMIT ACTION

- New Permit

### PERMIT PACKAGE

- | YES                                 | NO                                  |  |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Transmittal letter to applicant  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Transmittal letter to EPA  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Statement of Basis/Technical Summary and ED Preliminary Decision   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Permit Draft   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Pretreatment Requirements for POTWs  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Authorization to dispose of sewage sludge on property adjacent to WWTP in draft permit:<br>includes appropriate other requirements (including quarterly and annual reporting, soil monitoring,<br>language in notice and fact sheet, attachments: YES/NO |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | EPA REVIEW CHECKLIST   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | FACILITY PROCESS FORM (saved to I:\wq\muni\tracs forms)  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | NOTICE for admin complete on or after 9/1/99   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | CAPTION (also saved in I:\EVERYONEwq\CAPTION)  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | MAJOR/MINOR DETERMINATION if needed  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | LOCATED IN THE COASTAL ZONE (if located in coastal zone, include <b>CMP Threshold Review Sheet</b> )   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | SPELLCHECK: DRAFT PERMIT/TECH SUM/SOB/FACT SHEET/NOTICE/LETTER(S)  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <b>SCHEDULE FOR ERC Part A: All major and minor amendments, new applications and permits in<br/>Edwards Aquifer area are scheduled for ERC</b>   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Located in the Edwards Aquifer area:   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <b>COMPLIANCE HISTORY: (Prepare CH before finalizing draft permit and edit as needed)</b>  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | ENFORCEMENT ORDER(S); ERC Part C on XXXXX.   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | CHANGES TO THE DRAFT PERMIT based on discussion at ERC   |

**COMMENTS:** Eagle Star Investments, LLP has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014918001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The effluent limitations in the draft permit, based on a 30-day average, are 10 mg/l CBOD<sub>5</sub>, 15 mg/l TSS, 3 mg/l NH<sub>3</sub>-N, 126 *E. coli* bacteria colonies per 100 ml, Report mg/l Total Phosphorous and 4.0 mg/l minimum dissolved oxygen (DO).



Ms. Lindsay J. Pierce, P.E.  
Brown & Gay Engineers, Inc.  
10777 Westheimer Road, Suite 400  
Houston, Texas 77042

Re: Eagle Star Investments, LLP - Proposed TPDES Permit No. WQ0014918001, EPA ID No. TX0131725  
(CN603401118; RN105610877)

Dear Ms. Pierce:

Enclosed for your review and comment is a copy of a draft proposed permit and statement of basis/technical summary for the above-referenced operation. This draft permit is subject to further staff review and modification; however, we believe it generally includes the terms and conditions that are appropriate to your discharge. **Please read the entire draft carefully and note the following:**

1. The draft permit will be issued to expire **March 1, 2013**, in accordance with 30 TAC §305.71, Basin Permitting
2. The effluent limitations in the draft permit, based on a 30-day average, are 10 mg/l CBOD<sub>5</sub>, 15 mg/l TSS, 3 mg/l NH<sub>3</sub>-N, 126 *E. coli bacteria* colonies per 100 ml, Report mg/l Total Phosphorous and 4.0 mg/l minimum dissolved oxygen (DO).

Also enclosed for your review and comment is a copy of the draft second notice, the Notice of Application and Preliminary Decision (NAPD), that was prepared for your application. Please review this notice and provide comments if there are any inaccuracies or any information that is not consistent with your application. Please do not publish the notice at this time; after the draft permit is filed with the Office of the Chief Clerk, you will receive instructions for publishing this notice in a newspaper from the Office of the Chief Clerk. Please note that these instructions will not be mailed if the Office of the Chief Clerk has not received the requested proof that the first notice (Notice of Receipt and Intent to Obtain a Permit) has been published. This could cause delays in the processing of your application and the final issuance of the proposed draft permit. When the NAPD notice is received, please publish promptly and submit proof of publication (affidavit and tearsheet) to the Office of the Chief Clerk. Failure to publish notice and submit proof of publication in a timely manner may result in returning of the application and loss of authorization to operate.

Please read the enclosed "Draft Permit Form" and submit your comments prior to the deadline that is indicated on the form. If your comments are not received by the deadline, the draft permit will be transferred to the Office of the Chief Clerk and comments received after this date will not be considered. Please see the enclosed form for further details.

Ms. Lindsay J. Pierce, P.E.  
Page 2

If you have any comments or questions, please contact me at (512) 239-1444 or if by correspondence, include MC 148 in the letterhead address following my name.

Sincerely,

David Akoma, Permit Coordinator  
Municipal Permits Team  
Wastewater Permitting Section (MC 148)  
Water Quality Division  
Texas Commission on Environmental Quality

Enclosures

cc: TCEQ Region 12

**CERTIFIED MAIL**

Ms. Evelyn Rosborough (6WQ-CA)  
U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue  
Dallas, Texas 75202

Re: Eagle Star Investments, LLP  
TPDES Draft Permit No. WQ0014918001, EPA ID No. TX0131725  
(CN603401118; RN105610877)

Dear Ms. Rosborough:

Enclosed is the draft proposed permit, Technical Summary and Executive Director's Preliminary Decision, and application material for the draft TPDES Permit No. WQ0014918001 as required under the TCEQ/EPA Memorandum of Agreement. Please review and provide any written comments, objections (general or interim) or recommendations with respect to the draft permit within forty-five days from the receipt of this draft permit to me.

If you need additional information or have any questions, please call Mr. David Akoma of my staff by telephone at (512) 239-1444, by e-mail at [dakoma@tceq.state.tx.us](mailto:dakoma@tceq.state.tx.us), by fax at 512/239-4430 or if by correspondence, include MC 148 in the letterhead address following his name. Thank you for your cooperation in this matter.

Sincerely,

Firoj Vahora, Team Leader  
Municipal Permits Team  
Wastewater Permitting Section  
Water Quality Division

FV/DUA/mam

Enclosures



ATTACHMENT 1  
 EPA – REGION 6  
 NPDES PERMIT CERTIFICATION CHECKLIST  
 Page 2 of 2

	Yes	No	N/A
8. Does this permit authorize ammonia discharges > 4.0 mg/l at the edge of the mixing zone?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Does this permit require testing for Whole Effluent Toxicity in accordance with the state's standard practices and implementation plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. If this facility has completed and implemented a Toxicity Reduction Evaluation (TRE), has any subsequent toxicity been identified?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
11. Does this permit propose to grant a variance request ( <i>WQS, FDF, etc.</i> ) or does it incorporate a proposed or final approval of a variance request?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12. If a POTW is $\geq 5$ MGD, does it have an approved Pretreatment Program?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
13. Since the last permit issuance, has the POTW had a new Pretreatment Program approved or a Pretreatment Program modification approved?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
14. Does this permit contain authorization for wet weather related peak-flow discharges?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15. Does this permit include a bypass of any treatment unit or authorize overflows in the system?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Does this permit include provisions for effluent trading?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Does this permit contain specific issues on which EPA and the state are not in agreement regarding the permitting approach?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
18. Is this facility subject to a national effluent limitations guideline? Please specify:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Does this permit contain "first-time" implementation of a new federal guideline, policy, regulation, etc.? Please specify:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Is this a new facility or an expansion of an existing facility?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
For an <b>EXISTING</b> facility, if any limits have been removed or are less stringent than those in the previous permit, is it in accordance with the anti-backsliding regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
21. Does this permit incorporate any exceptions to the standards or regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
22. If this is a permit modification/amendment? Please specify:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Name: David Akoma

Date: January 2, 2009

# Texas Commission on Environmental Quality



## NOTICE OF APPLICATION AND PRELIMINARY DECISION FOR TPDES PERMIT FOR MUNICIPAL WASTEWATER NEW

**PROPOSED PERMIT NO. WQ0014918001**

**APPLICATION AND PRELIMINARY DECISION.** Eagle Star Investments, LLP, 14 Crested Pine Court, Houston, Texas 77381, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014918001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. TCEQ received this application on July 29, 2008.

The facility will be located approximately 1,800 feet northeast of the intersection of Woodlands Parkway and Farm-to-Market Road 2978 in Montgomery County, Texas. The treated effluent will be discharged to Bear Branch; thence to Bear Branch Reservoir; thence to Bear Branch; thence to Panther Branch; thence to Lake Woodlands; thence to Panther Branch; and thence to Spring Creek in Segment No. 1008 of the San Jacinto River Basin. The unclassified receiving water uses are limited aquatic life uses for Bear Branch and high aquatic life uses for Bear Branch Reservoir. The designated uses for Segment No. 1008 are high aquatic life uses, public water supply and contact recreation.

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

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the George and Cynthia Woods Mitchell Library, 8125 Ashlane Way, The Woodlands, Texas.

**PUBLIC COMMENT / PUBLIC MEETING.** You may submit public comments or request a public meeting about this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

**OPPORTUNITY FOR A CONTESTED CASE HEARING.** After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application.

If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision. A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

**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.

**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.

**All 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, TX 78711-3087 or electronically at [www.tceq.state.tx.us/about/comments.html](http://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](http://www.TCEQ.state.tx.us).

Further information may also be obtained from Eagle Star Investments, LLP at the address stated above or by calling Ms. Lindsay J. Pierce, P.E., Brown & Gay Engineers, Inc. at (713) 488-8253.

Issuance Date \_\_\_\_\_

Issuance Date \_\_\_\_\_

uance Date \_\_\_\_\_

**AGENDA CAPTION FOR PERMIT NO. WQ0014918001**

Eagle Star Investments, LLP has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014918001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The facility will be located approximately 1,800 feet northeast of the intersection of Woodlands Parkway and Farm-to-Market Road 2978 in Montgomery County, Texas.

# MUNICIPAL EPA REVIEW CHECKLIST

Permittee Name: Eagle Star Investments, LLP  
Permit Number: TPDES Permit No. WQ0014918001, EPA ID No. TX0131725

PLEASE CHECK  ALL THE APPLICABLE BELOW:

Draft permit authorizes:

YES NO

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Discharge from a designated major facility   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Discharge from a POTW with an approved pretreatment program  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Discharge from a facility with a daily/annual average flow >1.0 MGD  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Discharge to a critical concern species watershed that requires EPA review   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Discharge that includes a request for a water quality variance   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Storm water discharge to high priority species watershed   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | Prior to a final TMDL, new permit, or expanded discharge to an impaired listed 303(d) listed segment, and that has the potential to discharge any pollutant that is causing or contributing to the impairment.   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | After a final TMDL, new permit or expanded discharge to an impaired listed 303(d) listed segment where the TMDL does not allocate the loadings described in the draft permit   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | After a final TMDL, a permit with effluent limits that allow loadings in excess of those prescribed by the TMDL for the segment  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | After a final TMDL, a permit that allows <b>more</b> than a 3-year schedule for an existing facility to be in compliance with final effluent limits based on the TMDL allocation (new facilities have to be compliant upon discharge)  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Discharge directly to territorial seas of the United States (from the coastline to 3 miles out but not including Bays and Estuaries)   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Discharge or sewage sludge management that may affect another state or Mexico. For sewage sludge management, "may affect" means, accepts sewage sludge from another state or Mexico. For discharge, it means a discharge within 3 miles of a boundary with another state or Mexico.  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Discharge from a Class I sludge management facility. (A Class I facility is a POTW or combination of POTWs operated by the same authority with a design flow of >5 MGD and that have IUs and are required to have an approved pretreatment program or are subject to pretreatment standards, <b>OR</b> any other treatment works treating domestic sewage sludge classified as a Class I sludge management facility by the Regional Administrator in conjunction with the TCEQ.) |

If any column is marked "YES", EPA must receive a copy of the full permit package.

If all columns are marked "NO", EPA does not need to review the draft permit.

Permit Writer: David Akoma

Date: January 2, 2009

# BACTERIA REVIEW CHECKLIST FOR TPDES PERMITS

Permittee Name: Eagle Star Investments, LLP  
Permit Number: TPDES Permit No.: WQ0014918001; EPA Permit No.: TX0131725  
Segment Number: 1008

Yes No

- Does the facility discharge to a 303(d) listed segment for bacteria impairment?  
  Does the facility discharge to a segment with an approved TMDL for bacteria?

If no to both items, **STOP HERE**. If yes, continue completing checklist.

## 1. BACTERIA MONITORING REQUIREMENTS BASED ON PERMITTED FLOW:

Yes No

- Is the permitted flow of 5 MGD or more?

If no, monitoring requirements are **not** needed in the draft permit based on the above criteria.

If yes, include **monitoring requirements** in the draft permit based on the permitted flow as follows:

<u>Permitted Flow</u>	<u>Monitoring Frequency</u>
≥50 MGD	Five/week
≥20 MGD and < 50 MGD	Three/week
≥ 5 MGD and < 20 MGD	Once/week

## 2. BACTERIA EFFLUENT LIMITS FOR NEW/AMENDMENTS AND OYSTER WATERS:

Yes No

- Is the application for a new permit or a major amendment to increase the permitted flow?  
  Does the facility discharge to waters used for oyster harvest?  
  Does the facility discharge to a segment that is covered by an approved TMDL (approved by both TCEQ and EPA) for bacteria? (Regardless of the TMDL recommendation, which may require monitoring only, include appropriate bacteria effluent limits based on the policy letter dated July 10, 2008.)

If no to all of the above, effluent limits are **not** needed based on the above criteria.

If yes to any of the above, **include appropriate bacteria effluent limits and monitoring requirements** in the draft permit based on the permitted flow as follows:

<u>Permitted Flow</u>	<u>Monitoring Frequency</u>
≥50 MGD	Five/week
≥20 MGD and < 50 MGD	Three/week
< 20 MGD	Once/week

## 3. BACTERIA EFFLUENT LIMITS AND/OR MONITORING REQUIREMENTS BASED ON TMDL REQUIREMENTS:

Yes No

- Does the effluent sample analysis for bacteria submitted with the application exceed 100 colonies per 100 ml?

If no, effluent limits are not needed based on the above criteria.

If yes, include **appropriate bacteria effluent limits** based on the bacteria analysis results:

<u>Monitoring Frequency</u>	<u>Fecal Coliform Analysis, colonies/100 ml</u>
Five/week	> 800
Three/week	> 200 and < 800
Once/week	> 100 and < 200

*NOTE: The draft permit should include the appropriate indicator bacteria based on 30 TAC Section 307.7 (E. coli for freshwater discharges and Enterococci for saltwater discharges, including discharge to oyster waters). If requested by the applicant, the draft permit may include a six-month interim phase for fecal coliform bacteria to allow time to begin testing for E. coli or Enterococci.*

Permit Writer: David Akoma

Date: January 2, 2009

# MUNICIPAL MAJOR/MINOR DETERMINATION

---

**Permittee Name:** Eagle Star Investments, LLP

**Permit Number:** TPDES Permit No. WQ0014918001, EPA ID No. TX0131725

**Type of Application:** New Permit

This facility is designated as a **minor** facility since the permitted flow is less than 1.0 MGD.

The draft permit authorizes a discharge of treated domestic wastewater at a volume not to exceed a daily average flow of 0.10 MGD.

**Permit Writer:** David Akoma

**Date:** January 2, 2009

TRACS FACILITY EXTENSION - TREATMENT PROCESS  
TPDES PERMIT NO. WQ0014918001

PERMITTEE: Eagle Star Investments, LLP

PLANT NAME: Eagle Star WWTP

Application Type: New Permit

Interim I  Interim II  Interim III  Final

WASTEWATER TREATMENT PROCESSES

Primary Treatment

- 01 Pumping raw wastewater
- 02 Preliminary treatment – bar screen
- 03 Preliminary treatment – grit removal
- 04 Preliminary treatment - comminutors
- 05 Preliminary treatment - others
- B1 Imhoff tank
- 06 Scum removal
- 07 Flow equalization basins
- 08 Preaeration
- 09 Primary sedimentation
- D2 Septic tank
- A5 Facultative lagoon

Secondary Treatment

- 10 Trickling filter – rock media
- 11 Trickling filter – plastic media
- 12 Trickling filter – redwood slats
- 13 Trickling filter – other media
- 14 Activate sludge – conventional
- 15 Activate sludge – complete mix
- 16 Activate sludge – contact stabilization
- 17 Activated sludge – extended aeration
- 18 Pure oxygen activate sludge
- 19 Bio-Disc (rotating biological filter)
- 20 Oxidation ditch
- 21 Clarification using tube settlers
- 22 Secondary clarification
- B6 Constructed wetlands
- E5 Natural treatment
- E6 Overland flow

Advanced Treatment - Biological

- 23 Biological nitrification – separate stage
- 24 Biological nitrification - combined
- 25 Biological denitrification
- 26 Post aeration (reaeration)

Advanced Treatment – Physical/Chemical

- 27 Microstrainers – primary
- 28 Microstrainers – secondary
- D1 Dunbar Beds
- 29 Sand filters
- 30 Mix media filters (sand and coal)
- 31 Other filtrations
- B2 Bubble diffuser (compressor)
- 32 Activated carbon – granular
- B3 Mechanical surface aerator
- 33 Activated carbon-powered
- 34 Two stage lime treatment of raw
- 35 Two stage tertiary lime treatment
- 36 Single stage lime treatment of raw Wastewater
- 37 Single stage tertiary lime treatment
- 38 Recarbonation
- 39 Neutralization

- 40 Alum addition to primary
- 41 Alum addition to secondary
- 42 Alum addition to separate state tertiary
- 43 Ferri-chloride addition to primary
- 44 Ferri-chloride addition to secondary
- 45 Ferri-chloride addition to separate stage tertiary
- 46 Other chemical additions
- 47 Ion exchange
- 48 Breakpoint chlorination
- 49 Ammonia stripping
- 50 Dechlorination

Disinfection

- 51 Chlorination for disinfection
- 52 Ozonation for disinfection
- 53 Other disinfection
- D3 Ultra violet light

Land Treatment

- 54 Land treatment of primary effluent
- 55 Land treatment of secondary effluent
- 56 Land treatment of intermediate effluent (less than secondary)

Other Treatment

- 57 Stabilization ponds
- 58 Aerated lagoons
- 59 Outfall pumping
- 60 Outfall diffuser
- 61 Effluent to other plants
- 62 Effluent outfall
- 63 Other treatment
- 64 Evapo-transpiration beds
- 64 Recalcination

Disposal Method

- A7 Irrigation – public access
- A8 Irrigation – agricultural
- B4 Evapo-transpiration beds
- B6 Constructed wetlands
- C1 Irrigation – pastureland
- D4 Pressure dosing system
- D5 Percolation system
- D8 Other reuse method
- E1 Evaporation/plays
- E2 Discharge only
- E3 Discharge and (use other #)
- E4 Injection well(s)

SLUDGE TREATMENT PROCESSES

- 65 Aerobic digestion – air
- 66 Aerobic digestion – oxygen
- 67 Composting
- 68 Anaerobic digestion
- 69 Sludge lagoons
- 70 Heat treatment – dryer
- 71 Chlorine oxidation of sludge

- 72 Lime stabilization
- 73 Wet air oxidation
- 74 Dewatering – sludge drying beds, sand
- F2 Dewatering – sludge drying bed vacuum assted
- 75 Dewatering – mechanical-vacuum filter
- 76 Dewatering – mechanical – centrifuge
- 77 Dewatering – mechanical – filter press
- 78 Dewatering – others
- 79 Gravity thickening
- 80 Air flotation thickening
- D6 Sludge holding tank

Incineration

- 81 Incineration – multiple hearth
- 82 Incineration – fluidized beds
- 83 Incineration – rotary kiln
- 84 Incineration –others
- 85 Pyrolysis
- 86 Co-incineration with solid waste
- 87 Co-pyrolysis with solid waste
- 88 Co-incineration - others

SLUDGE DISPOSAL

- 89 Co-disposal landfill
- D7 Sludge – only monofill
- 90 Land application (permitted)
- 91 Commercial land application (register)
- 92 Trenching
- B5 Transport to another WWTP
- F3 Transport to Regional compost facility
- 94 Other sludge handling
- 95 Digest gas utilization facilities
- E7 Commercial land application (permit)
- F4 Dedicated land disposal
- F5 Marketing and distribution composted
- F6 Marketing and distribution non-composted

MISCELLANEOUS

- 96 Control/lab/maintenance buildings
- 97 Fully automated using digital control -computer
- 98 Fully automated using analog control
- 99 Semi-automated plant
- A1 Manually operated and controlled plant
- A2 Package plant
- A3 Semi-package plant
- A4 Custom built plant
- A7 Irrigation – public access
- A8 Irrigation – agriculture
- A9 Effluent storage ponds (irrigation)
- C1 Irrigation – pastureland
- D8 Other reuse method
- D9 Emergency holding ponds
- E1 Evaporation or plays
- E8 Monitoring wells
- E9 Biomonitoring
- F7 Stormwater (SSO)
- F8 Unconventional

PERMIT WRITER: David Akoma  
Municipal Permits Team  
Water Quality Division Wastewater Permitting Section,

Date: January 2, 2009

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

DESCRIPTION OF APPLICATION

Applicant: Eagle Star Investments, LLP;  
Texas Pollutant Discharge Elimination System (TPDES) Permit No.  
WQ0014918001, TX0131725

Regulated Activity: Domestic Wastewater Permit

Type of Application: New Permit

Request: New Permit

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

EXECUTIVE DIRECTOR RECOMMENDATION

The executive director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The proposed permit includes an expiration date of **March 1, 2013** according to 30 TAC §305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.10 million gallons per day. The proposed wastewater treatment facility will serve a 16.9 Acre Commercial Development in Montgomery County.

PROJECT DESCRIPTION AND LOCATION

The Eagle Star Wastewater Treatment Facility will be an activated sludge process plant operated in the complete mix mode. Treatment units include lift station, aeration basins, final clarifier, aerobic sludge digester and chlorine contact chamber. The facility has not been constructed.

The draft permit also authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The plant site will be located approximately 1,800 feet northeast of the intersection of Woodlands Parkway and Farm-to-Market Road 2978 in Montgomery County, Texas.

The treated effluent will be discharged to Bear Branch; thence to Bear Branch Reservoir; thence to Bear Branch; thence to Panther Branch; thence to Lake Woodlands; thence to Panther Branch; and thence to Spring Creek in Segment No. 1008 of the San Jacinto River Basin. The unclassified receiving water uses are limited aquatic life uses for Bear Branch and high aquatic life uses for Bear Branch Reservoir. The designated uses for Segment No. 1008 are high aquatic life uses, public water supply and contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses.

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

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

The effluent limitations in the draft permit have been reviewed for consistency with the State of Texas Water Quality Management Plan (WQMP). The proposed effluent limitations are not contained in the approved WQMP. However, these limits will be included in the next WQMP update. A Waste Load Evaluation has not been completed for Segment No. 1008.

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

Segment No. 1008 is currently listed on the State's inventory of impaired and threatened waters (2008 Clean Water Act Section 303(d) list). The listing is specifically for depressed dissolved oxygen concentrations from Field Store Road to SH 249 (AU 1008\_02) and for elevated bacteria levels from Field Store Road to the confluence with Lake Houston (AUs 1008\_02, 1008\_03, and 1008\_04). This discharge enters Spring Creek downstream of the dissolved oxygen impaired portion of the segment and will therefore not affect dissolved oxygen levels in the impaired portion. Upper Panther Branch is also currently listed on the 2008 303(d) list. The Upper Panther Branch listing is specifically for elevated bacteria levels from Old Conroe Road downstream to the confluence with Bear Branch (AU 1008B\_01). The facility is designed to provide disinfection by chlorination, and if operated according to permit conditions, should not contribute to the elevated bacteria levels in the impaired portions of Segment 1008 and Panther Branch. The draft permit also includes *E. coli* bacteria limitations to ensure proper disinfection.

#### SUMMARY OF EFFLUENT DATA

Self-reporting data is not available since the facility is not in operation.

#### PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at a volume not to exceed a daily

average flow of 0.10 million gallons per day.

The effluent limitations in the draft permit, based on a 30-day average, are 10 mg/l CBOD<sub>5</sub>, 15 mg/l TSS, 3 mg/l NH<sub>3</sub>-N, 126 *E. coli bacteria* colonies per 100 ml, Report mg/l Total Phosphorous and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

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

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

#### SUMMARY OF CHANGES FROM APPLICATION

The applicant requested effluent limitations, based on a 30-day average, of 10 mg/l BOD<sub>5</sub>, 15 mg/l TSS and 3 mg/l NH<sub>3</sub>-N. However, effluent limitations in the draft permit, based on a 30-day average are 10 mg/l CBOD<sub>5</sub>, 15 mg/l TSS, 3 mg/l NH<sub>3</sub>-N, 126 *E. coli bacteria* colonies per 100 ml, Report mg/l Total Phosphorous and 4.0 mg/l minimum dissolved oxygen (DO).

#### SUMMARY OF CHANGES FROM EXISTING PERMIT

This is a new permit application. The facility has not been constructed.

#### BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application received July 29, 2008 and additional information received December 2, 2008.
2. The effluent limitations and/or conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC §§307.1 - 307.10. The effluent limitations and/or conditions in the draft permit comply with the requirements in Watershed Protection, 30 TAC Chapter 311, Subchapter D: Water Quality Management in the Lake Houston Watershed.
3. The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Domestic Wastewater Effluent Limitations.
4. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division. Interoffice memorandum from the Storm Water & Pretreatment Team of the TCEQ Water Quality Division.
5. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.
6. "Procedures to Implement the Texas Surface Water Quality Standards", Texas Commission on Environmental Quality, January 2003.

7. Texas 2008 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, April 1, 2008; approved by the EPA July 9, 2008.
8. TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits, Document No. 98-001.000-OWR-WQ, May 1998.

#### PROCEDURES FOR FINAL DECISION

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

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

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

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

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

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

For additional information about this application contact David Akoma at (512) 239-1444.

---

David Akoma  
Municipal Permits Team  
Wastewater Permitting Section (MC 148)

---

January 2, 2009

Date



TPDES PERMIT NO. WQ0014918001  
[For TCEQ office use only -  
EPA I.D. No. TX0131725]

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

PERMIT TO DISCHARGE WASTES  
under provisions of  
Section 402 of the Clean Water Act  
and Chapter 26 of the Texas Water Code

Eagle Star Investments, LLP

whose mailing address is

14 Crested Pine Court  
Houston, Texas 77381

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

located approximately 1,800 feet northeast of the intersection of Woodlands Parkway and Farm-to-Market Road 2978 in Montgomery County, Texas

to Bear Branch; thence to Bear Branch Reservoir; thence to Bear Branch; thence to Panther Branch; thence to Lake Woodlands; thence to Panther Branch; and thence to Spring Creek in Segment No. 1008 of the San Jacinto River Basin

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

This permit shall expire at midnight, **March 1, 2013**.

ISSUED DATE:

---

For the Commission



EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTSOutfall Number 001

1. During the period beginning upon the date of issuance and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

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

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u>	
	Daily Avg mg/l(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Report Daily Avg. & Max. Measurement Frequency	Single Grab Sample Type
Flow, MGD	Report	N/A	Report	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (8.3)	15	25	One/week	Grab
Total Suspended Solids	15 (13)	25	40	One/week	Grab
Ammonia Nitrogen	3 (2.5)	6	10	One/week	Grab
<i>E. coli bacteria</i> , colonies per 100 ml	126 (N/A)	N/A	N/A	One/week	Grab
Total Phosphorus	Report (Report)	N/A	N/A	One/week	Grab

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

**DEFINITIONS AND STANDARD PERMIT CONDITIONS**

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

**1. Flow Measurements**

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

**2. Concentration Measurements**

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

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

- e. Bacteria concentration (Fecal coliform, E. coli, or Enterococci) - the number of colonies of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the  $n$ th root of the product of all measurements made in a calendar month, where  $n$  equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
  - f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD  $\times$  Concentration, mg/l  $\times$  8.34).
  - g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.
3. Sample Type
- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (b).
  - b. Grab sample - an individual sample collected in less than 15 minutes.
4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.
6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

## MONITORING AND REPORTING REQUIREMENTS

### 1. Self-Reporting

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

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

### 2. Test Procedures

- a. 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.
- b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

### 3. Records of Results

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

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

### 4. Additional Monitoring by Permittee

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

### 5. Calibration of Instruments

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

### 6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office No. 12 and the Enforcement Division (MC 224).

### 7. Noncompliance Notification

- a. In accordance with 30 TAC §305.125(9) any noncompliance that 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 that exceeds any effluent limitation in the permit.
  - iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.

- c. In addition to the above, any effluent violation that deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
  - d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
8. In accordance with the procedures described in 30 TAC §§35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
9. Changes in Discharges of Toxic Substances

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

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

10. Signatories to Reports

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

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

**PERMIT CONDITIONS**

## 1. General

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

## 2. Compliance

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

### 3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC 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 TWC § 7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

### 4. Permit Amendment and/or Renewal

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

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

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy.

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

## OPERATIONAL REQUIREMENTS

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

2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§319.21 - 319.29 concerning the discharge of certain hazardous metals.
3. Domestic wastewater treatment facilities shall comply with the following provisions:
  - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
  - b. The permittee shall submit a closure plan for review and approval to the 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 TWC §7.302(b)(6).

7. Documentation

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

8. Facilities that 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% 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% 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 that reaches 75% 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 judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 149) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

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

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

## SLUDGE PROVISIONS

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

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

#### A. General Requirements

1. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC Chapter 312 and all other applicable state and federal regulations in a manner that protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that 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 leaseholder 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, that receives the prior approval of the TCEQ for the contaminants listed in Table 1 of 40 CFR §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 12) within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 12) 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 exceeds 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</u> (Milligrams per kilogram)*
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 §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° 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%.

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 (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 (EPA) 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 EPA 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 EPA 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 EPA 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 EPA 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:

- vi. 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.
- vii. 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.
- viii. 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.
- ix. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of sewage sludge.
- x. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.
- xi. Turf grown on land where sewage sludge is applied shall not be harvested for one 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.
- xii. Public access to land with a high potential for public exposure shall be restricted for one year after application of sewage sludge.
- xiii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.
- xiv. Land application of sludge shall be in accordance with the buffer zone requirements found in 30 TAC §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%.
- 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° Celsius (C). Volatile solids must be reduced by less than 17% 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° C. Volatile solids must be reduced by less than 15% 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° C.
- 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° C and the average temperature of the sewage sludge shall be higher than 45° C.

- 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% 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% 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 §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 §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 that complies with the Management Requirements in accordance with 30 TAC §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 §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 §312.82(a) or (b) and the vector attraction reduction requirements in 30 TAC §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 §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 §312.47(a)(4)(A)(ii) or 30 TAC §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 12) 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. that 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 §312.47(a)(4)(A)(ii) or 30 TAC §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 that receives the prior approval of the TCEQ for contaminants listed in Table 1 of 40 CFR §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 12) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 12) 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 12) 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.
10. The above records shall be maintained on-site on a monthly basis and shall be made available to the Texas Commission on Environmental Quality upon request.

**OTHER REQUIREMENTS**

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

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

2. The facility is not located in the Coastal Management Program boundary.
3. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 1008 of the San Jacinto River Basin and any subsequent updating of the water quality model for Segment No. 1008, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC §305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.
4. The permittee shall provide nuisance odor prevention in accordance with 30 TAC Section 309.13(e)(2). Prior to construction of the treatment facility, the permittee shall submit a nuisance odor prevention request for approval by the executive director in care of the TCEQ Wastewater Permitting Section (MC 148). The request for nuisance odor prevention shall be in the form of an engineering report, prepared and sealed by a licensed professional engineer, in support of the request according to the requirements of 30 TAC Section 309.13(e)(2). The permittee shall comply with the requirements of 30 TAC Section 309.13(a) through (d). (See Attachment A.)
5. The permittee shall comply with 30 TAC §311.36, which requires the permittees of all domestic wastewater treatment facilities discharging into the Lake Houston Watershed to install dual-feed chlorination systems capable of automatically changing from one cylinder to another if gaseous chlorination is used for disinfection.
6. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
7. Reporting requirements according to 30 TAC Sections 319.1 – 319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge, whichever occurs first, from the facility described by this permit. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 12) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first.
8. Prior to construction of the treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary submittal letter in accordance with the requirements in 30 TAC Section 217.6(c). If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and a final engineering design report which comply with 30 TAC Chapter 217, Design Criteria for Sewerage Systems.

The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2 of the permit.

9. The permittee is hereby placed on notice that the Executive Director of the TCEQ will be initiating rulemaking and/or changes to procedural documents that may result in bacteria effluent limits and monitoring requirements for this facility.





## CHAPTER 6: MAINTENANCE FOR GROWTH

### 6.1 MAINTENANCE FOR GROWTH DEMONSTRATION

The general elements required for the development of the Maintenance for Growth (MFG) were stated in the Protocol for Early Action Compacts Designed to Achieve and Maintain the 8-Hour Ozone Standard. The protocol states that the MFG must address emissions growth through December 31, 2012, to ensure the area will remain in attainment of the 8-hour ozone standard. The component may include modeling analyses, annual review of growth, or the identification and quantification of federal, state, and local control measures that indicate sufficient emission reduction. A continuing planning process that includes modeling updates and modeling assumption verification must also be included. The modeling should evaluate relevant new point sources, impacts from potential new source growth, and future transportation patterns. If the review of growth indicates that the adopted control measures are inadequate to address growth in emissions, additional measures can be added to the plan.

The SAEAD plans to achieve the 8-hour ozone standard by December, 2007. Maintaining the 8-hour ozone standard five years beyond the attainment date will be achieved through an annual review of growth as required in the EAC protocol.

The MFG analysis performed for the SAER has several stages or components:

**Current Analysis:** The current MFG analysis is an updated and expanded Trend Analysis, first published September 30, 2003, as an EAC milestone. The MFG section (Appendix L) analyzes the emissions inventories from 1996 and 1999 and projects emissions to 2007 and 2012. These future year projections encompass all relevant changes affecting future emissions, including revised or new federal, state, and local rules and any new practices that would result in changes to future year emissions inventories. As a separate document, the Trend Analysis itself is updated annually by September 30.

**Continuing Planning Process:** The assumptions underlying this analysis will be reviewed annually throughout the term of the EAC (through 2007). Changes in assumptions will be incorporated annually into an updated MFG analysis and reported as a component of the Semi-Annual Updates. The current analysis is reported in Appendix L.

**New Strategy Requirements:** In the event the annual analysis of emission trends and control strategies fails to maintain attainment standards, appropriate planning and implementation of additional clean air measures will result.

#### 6.1.1 Current Analysis

As part of the initial analysis of the area's air quality, emission projections were developed. These projections provided insight to future air quality by evaluating increases in population and emission sources along with control strategies that will be implemented by state and federal agencies in the years to come. Table 6.1-4 summarizes emissions from various anthropogenic sources for 1996, 1999, 2007, and 2012.

#### *Methodologies: 2012 projections*

The 2012 emission projections were developed using the same methodologies in the development of 2007 emissions, which are described in Appendix F. Some components in the methodologies, such as emission

Memorandum for the President

Subject: [Illegible]

[Illegible text]

All signatories and implementing agencies will review EAC activities twice year. The semi-annual review will track and document control strategy implementation and results, monitoring data and future plans. AACOG, or its designee, will continue to file reports with the TCEQ and EPA by June 30 and December 31 of each reporting year for the duration of the EAC or until December 2007. Reporting periods will be May 1 to October 31, and November 1 to April 30, to allow for adequate public notice and comment. AACOG has primary responsibility for report generation.



# **ATTACHMENT B**



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603401118	Eaglestar Investments, L.L.P.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105610877	EAGLESTAR WASTEWATER TREATMENT PLANT	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	WASTEWATER	PERMIT	WQ0014918001	
	WASTEWATER	EPA ID	TX0131725	
Location:	APPROXIMATELY 1800 FT NE OF INTERSECTION OF WOODLANDS PKWY AND FM 2978			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	April 30, 2009			
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.			
Compliance Period:	April 01, 2004 to April 01, 2009			

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

Name: David Akoma Phone: 239 - 1444

### Site Compliance History Components

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



2009 MAY 27 PM 4:15

**PROPOSED TPDES PERMIT NO. WQ0014918001**

CHIEF CLERKS OFFICE

APPLICATION BY § BEFORE THE  
§ TEXAS COMMISSION ON  
EAGLE STAR INVESTMENTS, L.L.P. § ENVIRONMENTAL QUALITY

---

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

---

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on Eagle Star Investments, L.L.P.'s (Applicant) application for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014918001, and the ED's preliminary decision. As required by Title 30 of the Texas Administrative Code (30 TAC) Section 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk received timely filed comment letters from Jesus Gallegos and Mollie McLean. This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

**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](http://www.sos.state.tx.us)

TCEQ rules in Title 30 of the Texas Administrative Code:

[www.sos.state.tx.us/tac/](http://www.sos.state.tx.us/tac/) (select TAC Viewer on the right, then Title 30 Environmental Quality)

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

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

Federal rules in Title 40 of the Code of Federal Regulations:

[www.epa.gov/epahome/cfr40.htm](http://www.epa.gov/epahome/cfr40.htm)

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

Commission records for this facility are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1<sup>st</sup> 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 George and Cynthia Woods Mitchell Library, 8125 Ashlane Way, The Woodlands, Texas since publication of the NORI. 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).

## **BACKGROUND**

### Description of Facility

Eagle Star Investments, L.L.P. (the Applicant) has applied to the TCEQ for a new TPDES Permit No. WQ0014918001 that would authorize the Applicant to discharge treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The proposed facility is planned to serve the Fort Bend Municipal Utility District No. 134. The treated effluent will be discharged to Bear Branch; then to Bear Branch Reservoir; then to Bear Branch; then to Panther Branch; then to Lake Woodlands; then to Panther Branch; and then to Spring Creek in Segment No. 1008 of the San Jacinto River Basin. The unclassified receiving water uses are limited aquatic life uses for Bear Branch and high aquatic life uses for Bear Branch Reservoir. The designated uses and dissolved oxygen criterion as stated in Appendix A of the Texas Surface Water Quality Standards (30 TAC Section 307.10) for Segment No. 1008 are high aquatic life uses, public water supply and contact recreation. The facility will be located approximately 1,800 feet northeast of the intersection of Woodlands Parkway and Farm-to-Market Road 2978 in Montgomery County, Texas.

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

### Procedural Background

The application was received on July 29, 2008, and declared administratively complete on September 4, 2008. The Notice of Receipt of Application and Intent to Obtain Water Quality Permit (NORI) was published on December 31, 2008 in the *Houston Chronicle* in English, and on December 31, 2008 in the *La Voz De Houston* in Spanish. The Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater (NAPD) was published on February 25, 2009 in the *Houston Chronicle* in English, and on February 25, 2009 in the *La Voz De Houston* in Spanish. The public comment period ended on March 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, (76<sup>th</sup> Legislature, 1999).

## COMMENTS AND RESPONSES

### COMMENT 1

Jesus Gallegos is requesting a contested case hearing in protest of the proposed permit application to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. He expressed concern about the proximity of the proposed wastewater treatment facility to his property, and the potential for nuisance odor emanating from the wastewater treatment facility, which is planned to be located on Woodlands Parkway and Farm-to-Market Road 2978.

### RESPONSE 1

Under 30 TAC § 55.211, the Commission will decide whether to grant a hearing request unless the matter is directly referred to the State Office of Administrative Hearings. Request for contested case hearings are reviewed under 30 TAC §§ 55.201, 55.203, 55.205, and 55.209. The Commission will consider all relevant factors in the evaluation of whether a request for hearing should be granted, including whether the requestor is an affected person with a "personal justiciable interest related to a legal right, duty, privilege, power, or economic interest" that would be affected by the application. In deciding whether a hearing requestor is an affected person, the Commission will consider whether the interest claimed is one protected by the law under which the application will be considered; distance restrictions or other limitations imposed by law on the affected interest; whether a reasonable relationship exists between the interest claimed and the activity regulated; likely impact of the regulated activity on the health, safety, and use of property of the person, and other applicable conditions. The Commission will make this decision at a public meeting after notice to hearing requestors.

Regarding the proposed location for the wastewater treatment plant, the permit application indicates that the location of the plant will not violate 30 TAC 309.13(a) through (d). That rule requires that a wastewater treatment plant unit may not be located in the 100-year flood plain unless the plant unit is protected from inundation and damage that may occur during that flood event; that a wastewater treatment plant unit may not be located in wetlands, and a wastewater treatment plant unit may not be located closer than 500 feet from public water well nor 250 feet from a private water well.

30 TAC § 309.13(e) requires that the Applicant meet one of three options to abate and control nuisance odor. Those options are: (1) owning the buffer zone area, (2) obtaining restrictive easements from adjacent property owners for any portion of the buffer zone area that the Applicant does not own, or (3) providing odor control.

The draft permit states that permittee shall provide nuisance odor prevention in accordance with 30 TAC Section 309.13(e)(2). Prior to construction of the treatment facility, the permittee shall submit a nuisance odor prevention request for approval by the executive director in care of the TCEQ Wastewater Permitting Section (MC 148). The request for nuisance odor prevention shall be in the form of an engineering report, prepared and sealed by a licensed professional engineer, in support of the request according to the requirements of 30 TAC Section 309.13(e)(2). The permittee shall comply with the requirements of 30 TAC Section 309.13(a) through (d).

Minimizing the generation of nuisance odors from a treatment plant also depends on the design of the plant and the operation and maintenance of the plant. Maintaining an adequate dissolved oxygen concentration in the early stages of treatment helps to minimize nuisance odor generation. In fact, aeration basins and aerobic digesters are the primary means of odor control at treatment plants of any size. The proposed wastewater treatment will be an aerobic biological process. Aerobic biological processes use oxygen from the air to reduce the organic content of the wastewater through biological action. Oxygen turns sulfide compounds (the most common odor-causing compounds) into odorless sulfates. Wastewater without dissolved oxygen has the potential to produce offensive odors. The draft permit requires that the effluent contain a minimum of 4.0 mg/l of dissolved oxygen, which should be adequate for the plant and odor control.

If nearby residents experience nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, such conditions may be reported to TCEQ by calling toll-free 1-888-777-3186 or by calling the TCEQ Region 12 Office in Houston at (713) 767-3500. Citizen complaints may also be filed on-line at <http://www.tceq.state.tx.us/compliance/complaints/index.html>. If the Applicant fails to comply with all requirements of the permit, the facility is subject to administrative enforcement action, fines, and penalties.

## **COMMENT 2**

Mollie McLean is requesting a public meeting regarding the proposed wastewater treatment facility. The commenter claims that the proposed location for the wastewater treatment facility is not on the northeast side of the Woodlands Parkway and FM 2978 but on the northwest side. The commenter expressed concern that the proximity of the proposed wastewater treatment facility to their property line will adversely impact their property values and those of other home owners in the area.

## **RESPONSE 2**

Public meetings are intended to take public comment in environmental permitting matters. See 30 TAC § 55.154. The Executive Director is required to hold a public meeting if he (1) "determines that there is a substantial or significant degree of public interest in an application; (2) a member of the legislature who represents the general area in which the facility is located or proposed to be located requests that a public meeting be held; or (3) when a public meeting is otherwise required by law." The Executive Director has evaluated Ms. McLean's request for a public meeting in this permitting matter. Ms.

McLean's request for a public meeting is denied under Section 55.154(c)(1) of the Commission rules. The level of public interest in this application is not substantial or significant at this point.

It is the responsibility of the Applicant to determine the location of a proposed wastewater treatment facility. A review of the revised aerial map shows that the proposed wastewater treatment facility if approved, will be located on the northeast intersection of Woodlands Parkway and Farm-to-Market Road 2978 as stated in the draft permit. TCEQ does not have the authority to identify, determine or assign the location of the treatment facility or the discharge point (outfall). The Executive Director however, evaluates the proposed location to ensure that an Applicant for TPDES permit complies with the location requirements contained at 30 TAC § 309.13. In accordance with Section 309.13, an Applicant may not locate a wastewater treatment plant unit in the 100-year flood plain unless protective measures are designed to protect the plant against a 100-year flood event; a wastewater treatment plant unit may not be located in wetlands; and the Applicant is required to comply with the buffer zone requirements with respect to water wells and location of wastewater treatment plant units.

The legislature has given the TCEQ the responsibility to protect water quality. However, neither the Texas Water Code nor the applicable TCEQ rules authorize the ED to consider property value when reviewing a TPDES permit application. Therefore, the ED lacks regulatory authority to consider potential impact on property value in the area when reviewing wastewater applications and preparing draft permits.

The issuance of this permit does not limit the ability of nearby landowners to use common law remedies to seek redress for any interference with the use and enjoyment of their property. The issuance of this permit does not grant the permittee the right to use private or public property to convey wastewater along the discharge route described therein. The issuance of this permit does not authorize any invasion of personal rights, or any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire any property rights that may be necessary to use the discharge route.

The TCEQ conducts periodic inspections of wastewater treatment facilities and also conducts investigations based on complaints received from the public. If a permit is issued and the facility is constructed, to report complaints about the facility please contact the TCEQ at 1-888-777-3186 to reach the appropriate TCEQ Regional Office or by e-mail at [complaint@TCEQ.state.tx.us](mailto:complaint@TCEQ.state.tx.us). Citizen complaints may also be filed on-line at <http://www.tceq.state.tx.us/compliance/complaints>. Noncompliance with TCEQ rules or the permit may result in an enforcement action.

#### **CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT**

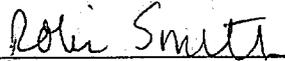
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.  
Executive Director

Robert Martinez, Director  
Environmental Law Division



Robin Smith, Attorney  
Environmental Law Division  
State Bar No. 08645600  
P. O. Box 13087, MC 173  
Austin, Texas 78711-3087  
Phone: (512) 239-0463  
Fax: (512) 239-0606  
REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on May 27, 2009, the "Executive Director's Response to Public Comment" for Permit No. WQ0014918001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

*Robin Smith*

Robin Smith, Attorney  
Environmental Law Division  
State Bar No. 24058069

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2009 MAY 27 PM 4: 15  
CHIEF CLERKS OFFICE



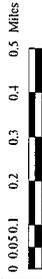
# **ATTACHMENT D**





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

September 10, 2009



Projection: Texas Centric Mapping System  
(TCMS) - Albers  
Scale 1:27,501

**Legend**

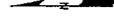
- Hearing Requestor (Tract 4)
- Facility Property Boundary
- 1/4-Mile Radius

Source: This map was requested by TCEQ's Office of Legal Services (OLS). The location of the facility was provided by OLS. The property boundaries depicted were manually digitized and approximated (survey data not available) using paper maps provided by OLS.

Hearing Requestor addresses were provided by OLS and geocoded using Tele Atlas Streets 2009 geodatabase technology.

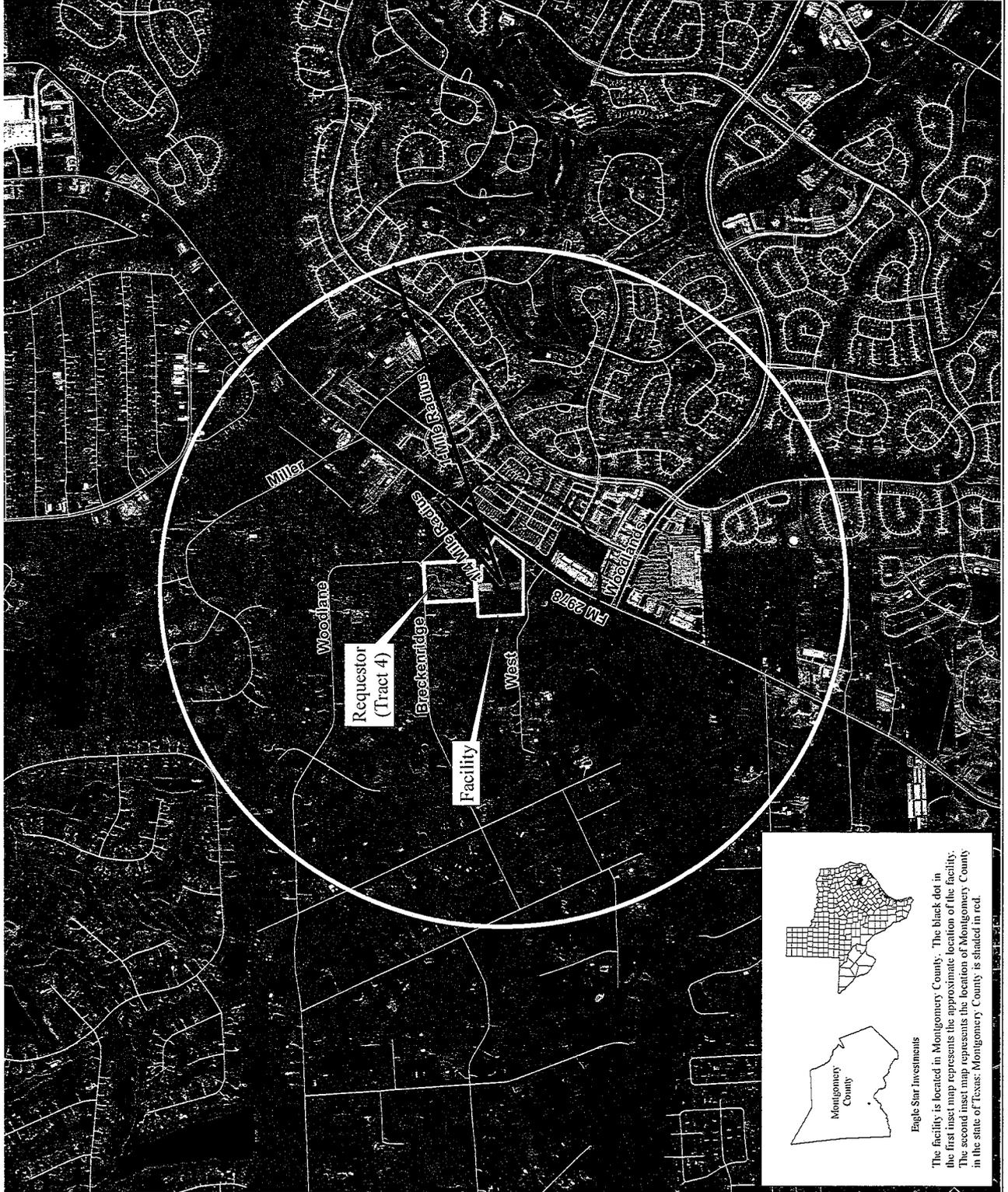
Measurements provided are estimates and have not been measured with precise ground-based instrumentation.

The DOQQ (Digital Orthophoto Quarter Quadrangle) aerial imagery was obtained from the USDA Farm Service Agency's National Agriculture Imagery Program (NAIP). The imagery is from 2009 at one-meter resolution.



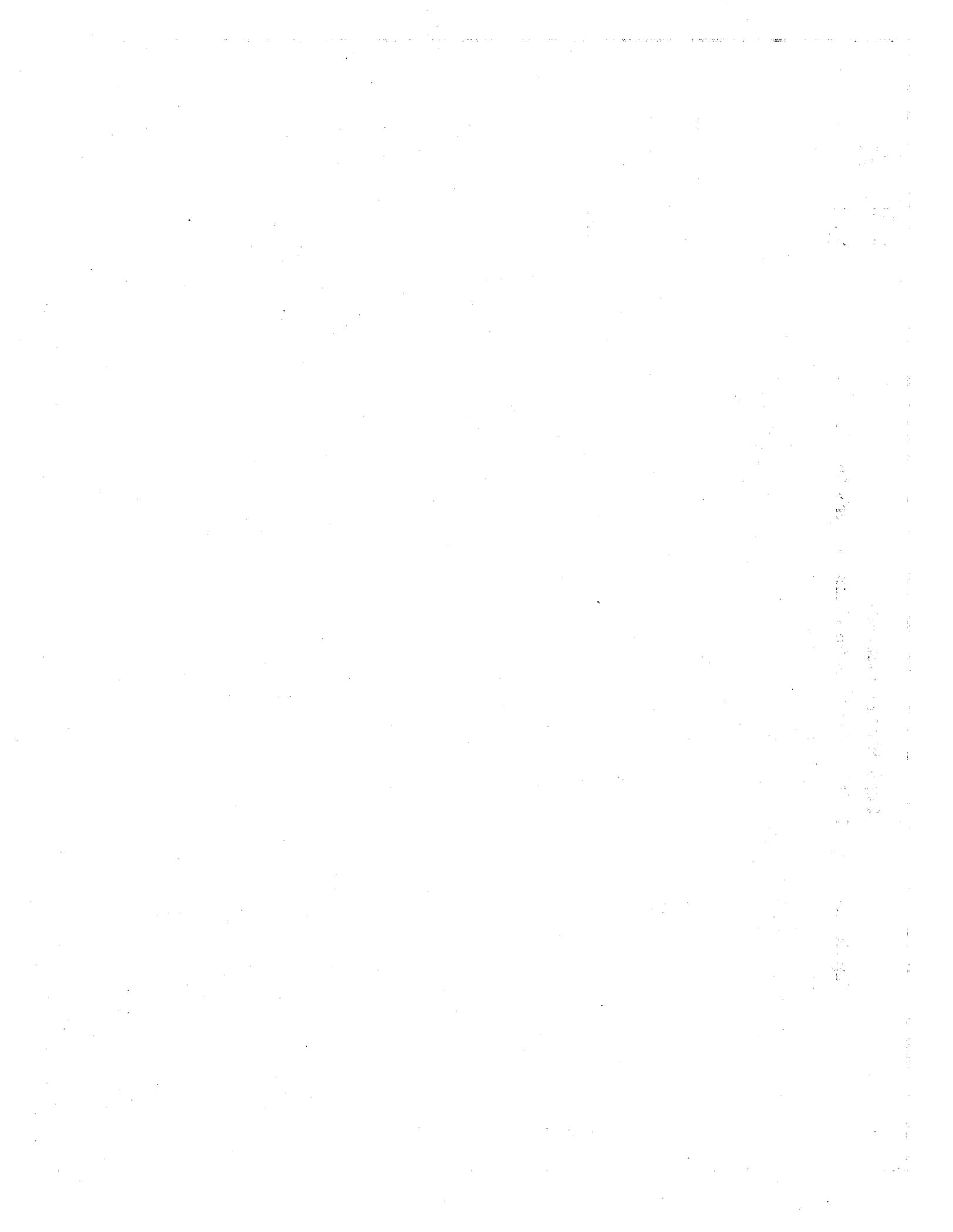
This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This map was not generated by a licensed surveyor, and is intended for illustrative purposes only. No claims are made to the accuracy or completeness of the data or to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-6800.

# Eagle Star Investments Map Requested by TCEQ Legal Services for Commissioner's Agenda



Eagle Star Investments

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



# **ATTACHMENT E**



## Attachment 2 – Downstream Landowners List

Corresponds to Domestic Administrative Report 1.1, Item 1.c, Page 12

- 1 EAGLE STAR INVESTMENTS LLP  
14 CRESTED PINES CT  
THE WOODLANDS, TX 77381-4835
- 2 PERRY, ANDREW & LAURIE FIELDS  
2390 COUNTY RD  
HALLETTSVILLE, TX 77964-5185
- 3 BYRD, RAYMOND D & KAY L  
9103 BRECKENRIDGE DR  
MAGNOLIA, TX 77354-5742
- 4 PENÁ, MARIA TERESA ESPINOSA  
9011 BRECKENRIDGE DR  
MAGNOLIA, TX 77354-5740
- 5 KEELS, JEFF L & MELINDA  
27 TURTLE ROCK CT  
SPRING, TX 77381-4800
- 6 MCNEILL, ROBERT S  
16622 TORRINGTON CT  
SPRING, TX 77379-7544
- 7 HALL, JOHNNY L & ELVA  
13334 NORTHSORE DR  
MONTGOMERY, TX 77356-5329
- 8 BOLIYO LLC  
26207 INTERSTATE 45  
THE WOODLANDS, TX 77380
- 9 LASSITER, KATIE ESTATE OF  
C/O BOBBIE HYDE PO BOX 684  
DRIPPING SPRINGS, TX 78620-0684
- 10 FREEMAN, LUANN MATARELLI-ESTATE OF  
1317 SARAH BROOKS DR  
KELLER, TX 76248-2049
- 11 MCLEAN, DALE J & MOLLIE A  
8626 WEST LN  
MAGNOLIA, TX 77354-5902

12

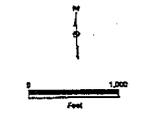
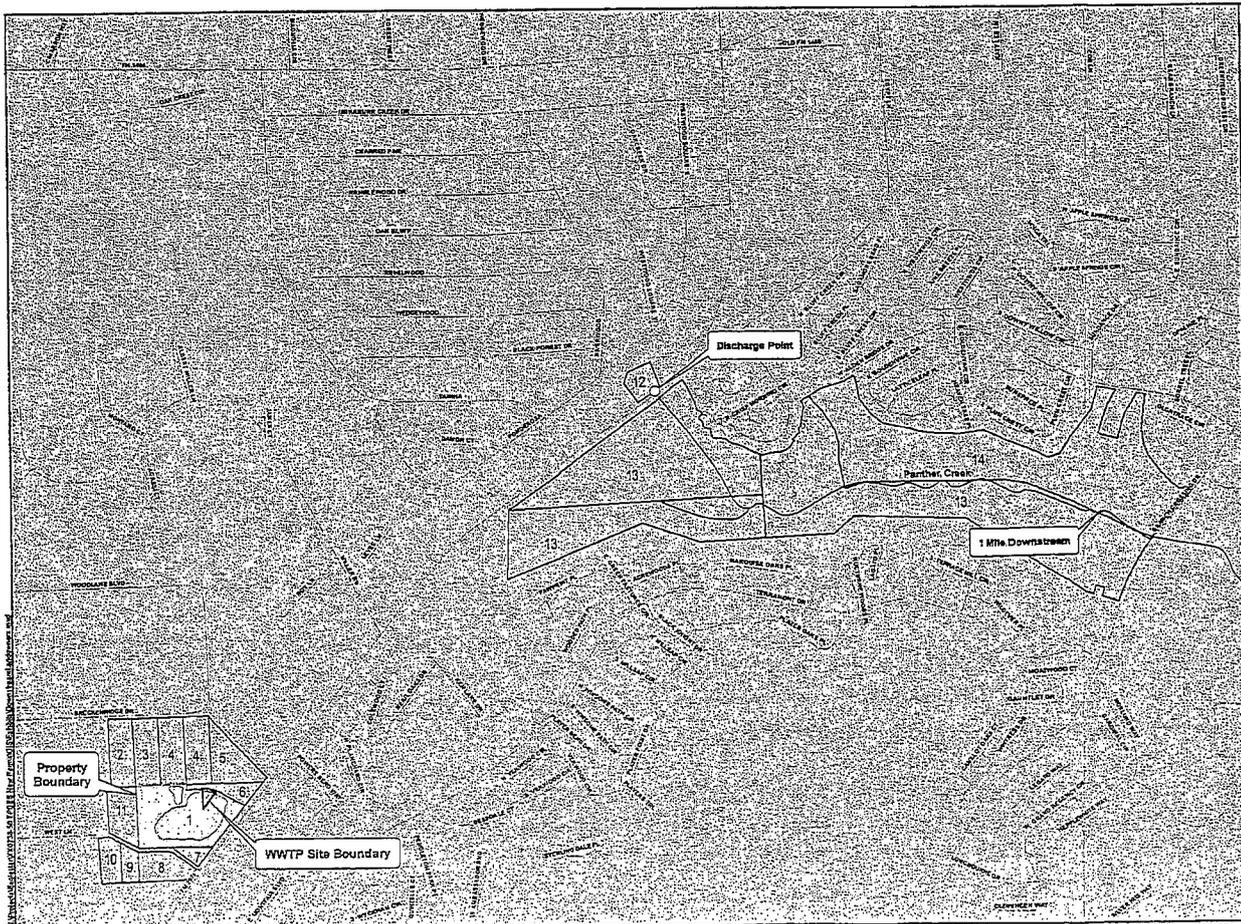
GRACE YOUNG ENTERPRISES, INC.  
514 WILLOW SPRINGS PLACE  
SPRING, TX 77373-8191

13

WOODLANDS LAND DEV LP  
3 GROGANS PARK DR. #220  
SPRING, TX 77380-2192

14

SAN JACINTO RIVER AUTHORITY  
2346 SAWDUST RD  
SPRING, TX 77380-2704



- Discharge Point
- ◇ WWTP Site Boundary
- Property Boundary
- 1 Mile Downstream

EAGLESTAR INVESTMENTS, L.L.C.

**BROWN & GAY**  
 Survey & Site Engineers, Inc.  
 10000 Highway 100, Suite 100  
 Houston, Texas 77036  
 Phone: 281-461-1111  
 Fax: 281-461-1112  
 www.browngay.com

New TPDES Permit Application

Downstream Land Owners Map

DATE: July 2018 PROJECT #: [redacted] SHEET #: 2

