

DOCKET NUMBER 2009-1026-MWD

APPLICATION BY LAS LOMAS §
MUNICIPAL UTILITY DISTRICT #4 §
FOR TPDES PERMIT NO. WQ0014803001 §

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

2009 SEP 14 PM 4:40
TCEQ CLERKS OFFICE

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 Request on the application by Las Lomas Municipal Utility District #4 (Applicant) for a new Texas Pollutant Discharge Elimination System (TPDES) permit number WQ0014803001. The following persons were determined to have submitted contested case hearing requests: Andres and Agripina (Rhonda) Benavidez, Pat and James Flewellen, Jack Herring, Zoe Howland, Karen Johnson, Janice and Milowe Jungjohann, Julie and Jonathan McDougal, and Nelda and Steve Timmons.

Attached for Commission consideration are the following:

- Attachment A Satellite Map of Area
- Attachment B Fact Sheet and ED's Preliminary Decision
- Attachment C Draft Permit
- Attachment D Executive Director's Response to Public Comment (RTC)
- Attachment E Compliance History

II. Description Of The Facility

The Applicant originally applied for a new permit to authorize the discharge of treated domestic wastewater at an interim I volume not to exceed a daily average flow of 250,000 gallons per day (gpd), an interim II volume not to exceed a daily average flow of 875,000 gpd and a final volume not to exceed an annual average flow of 1.5 million gpd. Subsequently, ED staff received additional information regarding the receiving stream. Based on that information, it was determined that the maximum permitted flow should be reduced to 500,000 gpd in order to protect instream uses and maintain the minimum dissolved oxygen in the stream. The proposed wastewater treatment facility will serve the Las Lomas development in Kaufman County.

The plant site will be located approximately 2.5 miles southwest of the intersection of State Highway 20 and Farm-to-Market Road 148 at the confluence of Big Brushy Creek and Terry Creek in Kaufman County, Texas. The treated effluent will be discharged to Terry Creek; then to Big Brushy Creek; then to King's Creek; then to Cedar Creek Reservoir in Segment No. 0818 of the Trinity River Basin. The unclassified receiving water uses are limited aquatic life use for Terry

Creek and high aquatic life use for Big Brushy Creek. The designated uses for Segment No. 0818 are contact recreation, public water supply, and high aquatic life use.

III. Procedural Background

The permit application for a new permit was received on May 4, 2007 and declared administratively complete on May 30, 2007. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on June 14, 2007 in the *Terrell Tribune*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on October 4, 2007 in the *Terrell Tribune*. The Applicant published an alternative language NAPD on October 23, 2007 in the *La Prensa Comunidad*. A public meeting request was received from State Representative Betty Brown and a Notice of Public Meeting was published on January 9, 2008 in the *Terrell Tribune*. The public meeting was held on February 21, 2008.

Subsequent to the public meeting, the Applicant discovered they had not properly mailed notice to the required landowners. Therefore, after the Applicant corrected their mailing list, the Office of the Chief Clerk re-noticed a combined NORI/NAPD to those persons on the mailing list on June 25, 2008 and the comment period ended on July 25, 2008. After the close of the comment period, a second public meeting was requested by Rep. Brown on July 31, 2008. Rep. Brown withdrew her request for a second public meeting on January 23, 2009.

Additional processing time was taken due to the lowering of the maximum permitted amount from 1.5 mgd to 500,000 gpd for the Applicant to consider whether it would continue to seek permit coverage based on the lower maximum discharge amount than had originally been sought in the permit application. Once the Applicant decided to proceed, the Response to Comment (RTC) was filed on May 29, 2009. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

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. The application was declared administratively complete on September 14, 2006 and therefore is subject to the HB 801 requirements. The Commission implemented HB 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55.

A. Responses to Requests

“The executive director, the public interest counsel, and the applicant may submit written responses to [hearing] requests” 30 TAC § 55.209(d).

According to 30 TAC § 55.209(e), 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.

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. As noted in 30 TAC § 55.201(c): "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."

According to 30 TAC § 55.201(d), a hearing request must substantially comply with the following:

- (1) give the name, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's 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.

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." The factors to consider in making this determination are found in 30 TAC § 55.203 and are as follows:

- (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.

D. Referral to the State Office of Administrative Hearings

30 TAC § 50.115(b) details how the Commission refers a matter 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(c) further states: "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."

V. Evaluation of Hearing Requests

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

All hearing requestors submitted a timely written CCH request that included relevant contact

information and raised disputed issues. The ED concludes that all CCH requests substantially complies with the requirements of 30 TAC § 55.201.

B. Whether Requestors Meet the Requirements of an Affected Person

1. Andres and Agripina Benavidez

Andres and Agripina Benavidez are adjacent landowners to the Applicant's property where the facility will be located just across Farm-to-Market Road 148, approximately 100 yards from the location of the proposed wastewater treatment plant (WWTP) site location. *See* Attachment A. Considering the factors listed in 30 TAC § 55.203(c) to determine affected person status, the proximity of their residence to the proposed WWTP weigh heavily in their favor that they have a personable justiciable interest not in common with other members of the general public. They also have concerns about nuisance odor, which has potential health and property use implications from a facility proposed to be located approximately 100 yards from their property. Considering these factors and issues, the Andres and Agripina Benavidez have a personal justiciable interest not in common with the general public in regards to this permit application.

The ED recommends that the Commission find that Andres and Agrpina Benavidez are affected persons.

2. Milowe and Janice Jungjohann

According to the adjacent landowner map submitted with the permit application, Milowe Jungjohann owns a large track of land on the northeast boundary of the Applicant's property, approximately 1/3 of a mile from the proposed WWTP, which also contains their residence. *See* Attachment A. Considering the factors listed in 30 TAC § 55.203(c) to determine affected person status, the proximity of his property to the proposed WWTP weigh in his favor that he has a personable justiciable interest not in common with other members of the general public. Milowe and Janice Jungjohann do not raise any specific concerns other than wanting to learn more about the draft permit. However, due to the close proximity of their property and residence to the proposed facility, the ED recommends finding that Milowe and Janice Jungjohann have a personal justiciable interest not in common with the general public in regards to this permit application.

The ED recommends that the Commission find that Milowe and Janice Jungjohann are affected persons.

3. Pat and James Flewellen and Karen and Michael Johnson

The Flewellen and Johnson properties are located on County Road 272, approximately 1.1 miles southeast of the proposed WWTP site. *See* Attachment A. Considering the factors listed in 30 TAC § 55.203(c) to determine affected person status, their distance from the facility do not weigh in their favor as having a personable justiciable interest in the proposed facility. Additionally, they raise no specific concerns, other than requesting a public hearing so they could learn more about the

proposed facility. Based on their location relative to the proposed WWTP and the lack of any specific issue with the proposed facility, the ED would recommend finding that neither the Flewellen's nor the Johnson's have a personal justiciable interest in the permit application because they are unlikely to be impacted differently from other members of the general public.

The ED recommends that the Commission find that Patricia and James Flewellen and Karen and Michael Johnson are not affected persons.

4. Jack Herring and Julie and Jonathan McDougal

Jack Herring and the McDougal's are located approximately 1.5 miles southwest of the proposed WWTP. *See* Attachment A. Considering the factors listed in 30 TAC § 55.203(c) to determine affected person status, their distance from the facility do not weigh in their favor as having a personable justiciable interest in the proposed facility. Their properties are in the general direction of the discharge route, but appear to be no closer than 3 downstream miles at their closest point to the discharge route. Mr. Herring raises concerns about the discharge and potential flooding. Julie and Jonathan McDougal raise general concerns that the facility may negatively impact the community and surrounding environment. However, based on their location relative to the proposed WWTP and their stated concerns, the ED recommends finding that neither the McDougal's nor Jack Herring have a personal justiciable interest in the permit application because they are unlikely to be impacted differently from other members of the general public.

The ED recommends that the Commission find that Jack Herring and Julie and Jonathan McDougal are not affected persons.

5. Zoe Howland and Steve and Nelda Timmons

Zoe Howland gives an address of 2812 Farm-to-Market Road 987 in Kaufman, Texas, approximately 6.2 miles southeast of the proposed facility. Steve and Nelda Timmons give their address as 4226 Bass Pro Drive in Garland, Texas, approximately 16 miles from the proposed facility. *See* Attachment A (these protestants are not shown on the map, but their distances from the proposed WWTP are shown in the white box in the lower left hand corner of the map). Considering the factors listed in 30 TAC § 55.203(c) to determine affected person status, their distance from the facility weigh heavily against a finding that they have a personable justiciable interest in this matter. The distance negates concerns that there is a likely impact of the regulated activity on the health and safety of these individuals, and on the use of their property. Therefore, the ED recommends finding that neither Steve and Nelda Timmons nor Zoe Howland have a personal justiciable interest in the permit application because they are unlikely to be impacted differently from other members of the general public.

The ED recommends that the Commission find that Zoe Howland and Steve and Nelda Timmons are not affected persons.

The ED recommends that the Commission find that Andres and Agrpina Benavidez and Milowe and Janice Jungjohann are affected persons. The ED recommends that the Commission find that Patricia and James Flewellen, Karen and Michael Johnson, Jack Herring, Julie and Jonathan McDougal, Zoe Howland, and Steve and Nelda Timmons are not affected persons.

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

The ED analyzed the issues raised in the CCH requests in accordance with the regulatory criteria and provides the following recommendations regarding whether the issues are referable to SOAH. All of the issues discussed below were raised during the public comment period. None of the issues were withdrawn. All identified issues in the response are considered disputed, unless otherwise noted.

1. Whether the proposed discharge will be protective of downstream uses by complying with the applicable TCEQ rules and regulations. (RTC #1)

This is an issue of fact. If it can be shown that the proposed discharge does not comply with the applicable requirements and will not be protective of downstream uses, including health related concerns, that information would be relevant and material to a decision on the application. The ED recommends referring this issue to SOAH.

2. Whether the Applicant can comply with the nuisance odor requirements in 30 TAC § 309.13(e). (RTC #2)

This is a mixed question of fact and law. For purposes of nuisance odor abatement, 30 TAC § 309.13(e) gives the Applicant three choices for compliance with regards to its wastewater treatment units. Those requirements are:

- 1) Ownership or other sufficient property interest of the buffer zone: 150 feet (aerobic lagoons and other wastewater treatment plant units) or 500 feet (anaerobic lagoons);
- 2) Submission of nuisance odor prevention engineering report for approval; or
- 3) Submission of sufficient evidence of legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the applicant.

The Applicant indicated in the permit application that it owns the required buffer zone. Andres and Agripina Benavidez, adjacent landowners, raised nuisance odor concerns in their hearing requests. Therefore, if evidence was introduced that can show that the Applicant does not own the required buffer zone and is otherwise unable to meet the requirements of 30 TAC § 309.13(e), then that information would be relevant and material to a decision on the application. The ED recommends referring this issue to SOAH.

3. Whether the discharge will cause flooding issues downstream of the facility. (RTC #13)

This is an issue of fact. However, the ED's review of a proposed wastewater discharge is focused on controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. TCEQ does not typically address flooding issues in the wastewater permitting process. The ED's review focuses on whether the discharge will be protective of water quality in the receiving stream. Therefore, the ED would not recommend referring this issue to SOAH because it is not relevant and material to a decision on the application. The ED recommends not referring this issue to SOAH.

4. Whether the facility will be aesthetically pleasing (visual pollution) to area residents. (RTC #15 partial)

This is an issue of fact, but the aesthetic merits (or "visual pollution") of a proposed facility are not considered by the ED as part of his review. The ED's review of a proposed wastewater discharge is focused on controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. Therefore, the ED would not recommend referring this issue to SOAH because it is not relevant and material to a decision on the application. The ED recommends not referring this issue to SOAH.

5. Whether the facility will cause nuisance noise conditions in the area. (RTC #15 partial)

This is an issue of fact, but noise conditions potentially generated by a proposed facility are not addressed by the Texas Water Code or other applicable rules and regulations. Therefore, the ED does not address noise issues when considering whether to recommend issuance of a wastewater discharge permit. The ED's review of a proposed wastewater discharge is focused on controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. Therefore, the ED would not recommend referring this issue to SOAH because it is not relevant and material to a decision on the application. The ED recommends not referring this issue to SOAH.

6. Whether the facility will reduce area property values. (RTC #15 partial)

This is an issue of fact, but the effects of a proposed facility on property values are not considered by the ED as part of his review. The ED's review of a proposed wastewater discharge is focused on controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. Therefore, this issue is not relevant and material to a decision on the application. The ED recommends not referring this issue to SOAH.

The ED recommends referring issues #1-#2 to SOAH.

VI. Duration of the Contested Case Hearing

Should there be a contested case hearing on this permit application, the ED recommends that the duration for a contested case hearing on this matter of six months from the preliminary hearing to the presentation of a proposal for decision before the commission.

VII. Executive Director's Recommendation

The ED recommends the following actions by the Commission:

1. Find that Andres and Agrpina Benavidez and Milowe and Janice Jungjohann are affected persons. Find that Patricia and James Flewellen, Karen and Michael Johnson, Beck Herring, Julie and Jonathan McDougal, Zoe Howland, and Steve and Nelda Timmons are not affected persons.
2. Refer issues #1-#2 to SOAH for a proceeding of six months duration with the time period beginning with the preliminary hearing and concluding with presentation of a proposal for decision before the Commission.

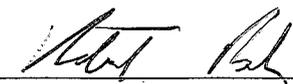
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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 CHIEF CLERK'S OFFICE

Respectfully submitted,

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Robert Martinez, Director
Environmental Law Division

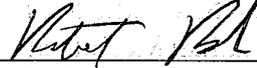
By 
 Robert D. Brush, Staff Attorney
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Representing the Executive Director of the Texas Commission on Environmental Quality

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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2009 the original and seven true and correct copies of the "Executive Director's Response to Hearing Request" relating to the application of Las Lomas MUD #4 for Permit No. WQ0014803001 were filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, or by deposit in the U.S. Mail.



Robert D. Brush, Staff Attorney
Environmental Law Division
State Bar No. 00788772

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2009 SEP 14 PM 4:40

CHIEF CLERKS OFFICE

**MAILING LIST
FOR PERMIT NO. WQ0014803001
Las Lomas Municipal Utility District #4**

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Karen & Michael Johnson
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Terrell, Texas 75160-7525

Janice & Milowe Jungjohann
9601 N. FM 148
Terrell, Texas 75160-6524

Julie & Jonathon McDougal
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Terrell, Texas 75160-6836

Nelda & Steve Timmons
1800 Eastfork Lane
Wylie, Texas 75098-7796

**Las Lomas MUD #4
WQ0014803001**

**Map Requested by TCEQ Office of Legal Services
for Commissioners Agenda**



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

August 5, 2009



Projection: Texas Statewide Mapping System
(TSMS)
Scale 1:26,463

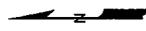
Legend

- Plant Site
- Requestor's Property
- ⊙ Point of Discharge
- Discharge Route
- Applicant's Property

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

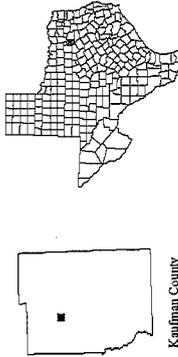
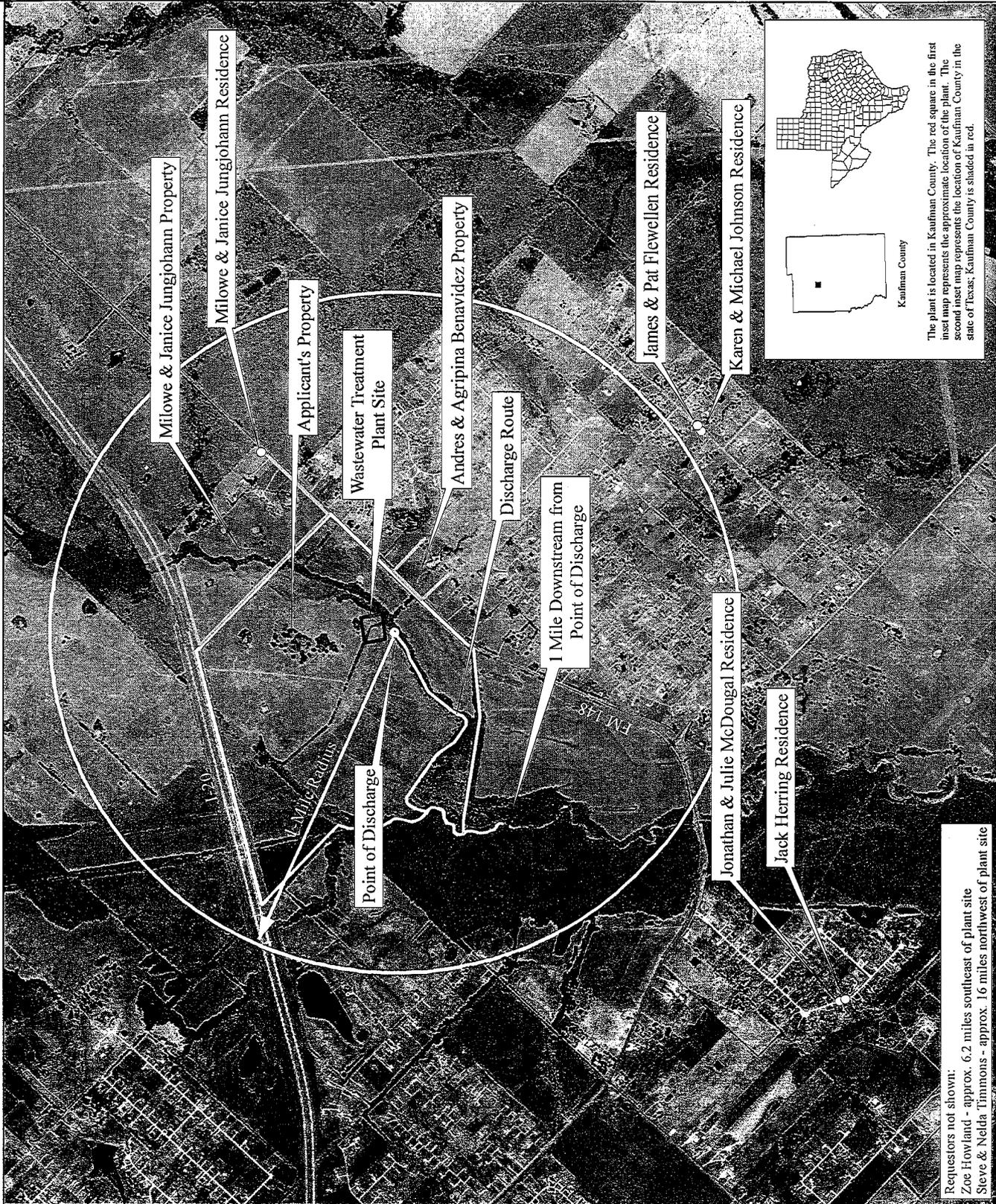
This map depicts the following:

- (1) The approximate location of the WWT/P site. This is labeled "Wastewater Treatment Plant Site".
- (2) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
- (3) Applicant's property. This is labeled "Applicant's property".
- (4) Requestors' properties. These are labeled with the property owners names.
- (5) Discharge route. This is labeled "Discharge Route".
- (6) Point of discharge. This is labeled "Point of Discharge".



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 its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

M. McElroy, CHS-09072099



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

Requestors not shown:
Zoe Howland - approx. 6.2 miles southeast of plant site
Steve & Nelda Timmons - approx. 16 miles northwest of plant site



2nd REVISED FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

For proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014803001, (TX0129623) to discharge to waters in the State.

Issuing Office: Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711

Applicant: Las Lomas Municipal Utility District No. 4 of Kaufman County
5420 LBJ Freeway, Suite 1300
Dallas, Texas 75240-6299

Prepared By: Kent H. Trede
Wastewater Permitting Section (MC 148)
Water Quality Division
(512) 239-1747

Date: September 2, 2009

Permit Action: New Permit

1. 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 December 1, 2012.

2. APPLICANT ACTIVITY

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 an interim I volume not to exceed a daily average flow of 0.25 million gallons per day, an interim II volume not to exceed a daily average flow of 0.875 million gallons per day and a final volume not to exceed an annual average flow of 1.5 million gallons per day.

3. FACILITY AND DISCHARGE LOCATION

The plant site will be located approximately 2.5 miles southwest of the intersection of State Highway 20 and Farm-to-Market Road 148 at the confluence of Big Brushy Creek and Terry Creek in Kaufman County, Texas. The treated effluent will be discharged to Terry Creek; thence to Big Brushy Creek; thence to Kings Creek; thence to Cedar Creek Reservoir in Segment No. 0818 of the Trinity River Basin. The unclassified receiving water uses are limited aquatic life use for Terry Creek and high aquatic life use for Big Brushy Creek. The designated uses for Segment No. 0818 are contact recreation, public water supply and high aquatic life use.

4. TREATMENT PROCESS DESCRIPTION AND SEWAGE SLUDGE DISPOSAL

The Las Lomas wastewater treatment facility will be an activated sludge process plant operated in the conventional aeration mode. Treatment units in all phases include bar screens, aeration basins, final clarifiers, aerobic sludge digesters, chlorine contact chambers and in the final phase dechlorination facilities. The facility has not been constructed.

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

5. INDUSTRIAL WASTE CONTRIBUTION

The draft permit includes pretreatment requirements that are appropriate for a facility of this size and complexity. The facility does not appear to receive significant industrial wastewater contributions.

6. SUMMARY OF SELF-REPORTED EFFLUENT ANALYSES

N/A. This is a new facility.

7. PROPOSED PERMIT CONDITIONS AND MONITORING REQUIREMENTS

The proposed effluent limitations and monitoring requirements for those parameters that are limited in the draft permit are as follows:

A. INTERIM PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The daily average flow of effluent shall not exceed 0.25 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 672 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day Average</u>	<u>Daily Maximum</u>
	mg/l	lbs/day	mg/l	mg/l
CBOD(5-day)	7	15	12	22
TSS	15	31	25	40
NH ₃ -N	2	4.2	5	10
DO (minimum)	4.0	N/A	N/A	N/A

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

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.

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow	Five/week
CBOD	One/week
TSS	One/week
NH ₃ -N	One/week
DO	One/week

B. FINAL PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day Average</u>	<u>Daily Maximum</u>
	mg/l	lbs/day	mg/l	mg/l
CBOD(5-day)	5	21	10	20
TSS	5	21	10	20
NH ₃ -N	1	4.2	2	4
DO (minimum)	6.0	N/A	N/A	N/A

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored twice per month by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

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.

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow	Continuous
CBOD	One/week
TSS	One/week
NH ₃ -N	One/week
DO	One/week

C. SEWAGE SLUDGE REQUIREMENTS

The draft permit authorizes the disposal of sludge only at a TCEQ registered or permitted land application site, commercial land application site or co-disposal landfill. Sludge Provisions are included in the draft permit according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation.

D. PRETREATMENT REQUIREMENTS

Permit requirements for pretreatment are based on TPDES regulations 30 TAC Chapter 315 which references 40 CFR Part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution." The permit includes specific requirements that establish responsibilities of local government, industry and the public to implement the standards to control pollutants which pass through or interfere with treatment processes in publicly owned treatment works or which may contaminate the sewage sludge. These requirements are appropriate for a facility of this size and complexity.

E. WHOLE EFFLUENT TOXICITY (BIOMONITORING) REQUIREMENTS

N/A. Facility is not listed as a major after flow was reduced to 0.5 MGD.

F. BUFFER ZONE REQUIREMENTS

The permittee shall comply with the requirements of 30 TAC Section 309.13 (a) through (d). In addition,

by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC Section 309.13(e).

G. SUMMARY OF CHANGES FROM APPLICATION

The applicant requested 3 phases with flows of 0.25, 0.875 and 1.5 million gallons per day (MGD). However, modeling results allow a maximum of 0.5 MGD to be discharged. The permitted flows included in the draft permit are 0.25 MGD (interim phase) and 0.5 MGD (final phase). The applicant also requested effluent limitations in all phases, based on a 30-day average, of 10 mg/l BOD₅, 15 mg/l TSS, 3 mg/l NH₃-N and 4.0 mg/l minimum dissolved oxygen (DO). However, effluent limitations in the interim phase of the draft permit, based on a 30-day average, are 7 mg/l CBOD₅, 15 mg/l TSS, 2 mg/l NH₃-N, and 4.0 mg/l minimum dissolved oxygen (DO). Effluent limitations in the final phase of the draft permit, based on a 30-day average, are 5 mg/l CBOD₅, 5 mg/l TSS, 1 mg/l NH₃-N, and 6.0 mg/l minimum dissolved oxygen (DO).

H. SUMMARY OF CHANGES FROM EXISTING PERMIT

N/A. This is a new facility.

8. DRAFT PERMIT RATIONALE

A. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

Regulations promulgated in Title 40 of the Code of Federal Regulations (CFR) require technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, and/or on best professional judgment (BPJ) in the absence of guidelines.

Effluent limitations for maximum and minimum pH are in accordance with 40 CFR Part 133.102(c) and 30 TAC Section 309.1(b).

B. WATER QUALITY SUMMARY AND COASTAL MANAGEMENT PLAN

(1) WATER QUALITY SUMMARY

The treated effluent will be discharged to Terry Creek; thence to Big Brushy Creek; thence to King's Creek; thence to Cedar Creek Reservoir in Segment No. 0818 of the Trinity River Basin. The unclassified receiving water uses are limited aquatic life use for Terry Creek and high aquatic life use for Big Brushy Creek. The designated uses for Segment No. 0818 are contact recreation, public water supply and high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Big Brushy Creek, 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. All determinations are preliminary and subject to additional review and/or revisions.

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 0818 is currently listed on the State's inventory of impaired and threatened waters (2004 Clean Water Act Section 303(d) list). The listing is specifically for high pH in Caney Creek cove, Clear Creek cove, the cove off the lower portion of the reservoir adjacent to Clearview Estates, the lower portion of the reservoir east of Key Ranch Estates, the lowermost portion of the reservoir adjacent to the dam, the middle portion of the reservoir downstream of Twin Creeks cove, Twin Creeks cove, the upper portion of the reservoir adjacent to Lacy Fork cove, the upper portion of the reservoir east of Tolosa, and the uppermost portion of the reservoir downstream of Kings Creek. This facility is not operational so the discharge from this facility cannot be screened for pH. However, the permit includes the requirement that pH shall not be less than 6.0 standard units nor greater than 9.0 standard units discharge from this facility and so is not expected to add to the impairment of the segment.

The effluent limitations and/or conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.10, effective April 30, 1997.

(2) CONVENTIONAL PARAMETERS

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 for the segment has not been prepared.

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. Effluent limitations and monitoring requirements have been added to the final phase of the draft permit at the request of the applicant.

(3) COASTAL MANAGEMENT PLAN

The facility is not located in the Coastal Management Program boundary.

C. WATER QUALITY-BASED EFFLUENT LIMITATIONS/CONDITIONS

(1) GENERAL COMMENTS

(3) AQUATIC ORGANISM BIOACCUMULATION CRITERIA

(a) SCREENING

Terry Creek

Water quality-based effluent limitations for the protection of human health are calculated using consumption of freshwater fish tissue criteria found in Table 3 of the Texas Surface Water Quality Standards (30 TAC Chapter 307). The discharge point is to an intermittent stream with perennial pools at a distance greater than three miles from perennial waters. Screening reported analytical data against water quality-based effluent limitations calculated for human health protection using incidental freshwater fish tissue criteria is applicable due to the perennial pools which support incidental freshwater fisheries. TCEQ uses the mass balance equation to estimate dilution in the intermittent stream with perennial pools during average flow conditions. The estimated dilution for human health protection is calculated using the harmonic mean flow of 0.1 cfs for Terry Creek. The following effluent dilution is calculated based on the final permitted flow of 0.5 MGD:

Human Health Mixing Zone: 88.6%

Big Brushy Creek

Water quality-based effluent limitations for the protection of human health are calculated using criteria for the consumption of freshwater fish tissue found in Table 3 of the Texas Surface Water Quality Standards (30 TAC Chapter 307). Freshwater fish tissue bioaccumulation criteria are applied at the edge of the human health mixing zone. The human health mixing zone for this discharge is identical to the aquatic life mixing zone. TCEQ uses the mass balance equation to estimate dilution at the edge of the human health mixing zone during average flow conditions. The estimated dilution at the edge of the human health mixing zone is calculated using the final permitted flow of 0.5 MGD and the harmonic mean flow of 0.36 cfs for Big Brushy Creek. The following critical effluent percentage is being used:

Human Health Effluent %: 68.2%

Water quality-based effluent limitations for human health protection against the consumption of fish tissue are calculated using the same procedure as outlined for calculation of water quality-based effluent limitations for aquatic life protection. A 99th percentile confidence level in the long term average calculation is used with only one long term average value being calculated.

Significant potential is again determined by comparing reported analytical data against 70 percent and 85 percent of the calculated daily average water quality-based effluent limitation.

(b) PERMIT ACTION

No analytical data is available for screening against water quality-based effluent limitations since the facility is not in operation.

(4) DRINKING WATER SUPPLY PROTECTION

(a) SCREENING

Water Quality Segment No. 0818 which receives the discharge from this facility is not designated as a public water supply. Screening reported analytical data of the effluent against water quality-based effluent limitations calculated for the protection of a drinking water supply is not applicable.

(b) PERMIT ACTION

None.

(5) WHOLE EFFLUENT TOXICITY (BIOMONITORING) CRITERIA

(a) SCREENING

This is a proposed new facility so no biomonitoring history exists.

(b) PERMIT ACTION

The draft permit does not include biomonitoring tests since the flow has been reduced to 0.5 MGD.

(6) WHOLE EFFLUENT TOXICITY CRITERIA (24 - HOUR ACUTE)

(a) SCREENING

This is a proposed new facility so no biomonitoring history exists.

(b) PERMIT ACTION

The draft permit does not include 24-hour 100% acute biomonitoring tests since the flow has been reduced to 0.5 MGD.

9. WATER QUALITY VARIANCE REQUESTS

No variance requests have been received.

10. 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 Kent H. Trede at (512) 239-1747.

11. ADMINISTRATIVE RECORD

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

A. APPLICATION

Application received May 4, 2007 and additional information received May 24, 2007.

B. MEMORANDA

Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division.
Interoffice memorandum from the Pretreatment Team of the TCEQ Water Quality Division.

C. MISCELLANEOUS

Federal Clean Water Act, Section 402; Texas Water Code Section 26.027; 30 TAC Chapters 305, 309, 312, 319, 325; Commission policies; and EPA guidelines.

Texas Surface Water Quality Standards, 30 TAC Sections 307.1 -307.10 (21 TexReg 9765, 4/30/97).

"Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.

Texas 2004 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, May 13, 2005; approved by USEPA on May 8, 2006.

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



TPDES PERMIT NO.

00014803001

[For TCEQ Office Use Only:

EPA ID No. TX0129623]

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

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

Las Lomas Municipal Utility District No. 4 of Kaufman County

whose mailing address is

c/o Coats/Rose
5420 LBJ Freeway, Suite 1300
Dallas, Texas 75240-6299

is authorized to treat and dispose of wastes from the Las Lomas Municipal Utility District No. 4 of Kaufman County Wastewater Treatment Facility, SIC Code 4952

located approximately 2.5 miles southwest of the intersection of State Highway 20 and Farm-to-Market Road 148 at the confluence of Big Brushy Creek and Terry Creek in Kaufman County, Texas

to Terry Creek; thence to Big Brushy Creek; thence to Kings Creek; thence to Cedar Creek Reservoir in Segment No. 0818 of the Trinity River Basin

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

This permit shall expire at midnight, **December 1, 2012.**

ISSUED DATE:

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

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

The daily average flow of effluent shall not exceed 0.25 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 672 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u>	
	<u>Daily Avg mg/(lbs/day)</u>	<u>7-day Avg mg/l</u>	<u>Daily Max mg/l</u>	<u>Report Daily Avg. & Max. Single Grab Measurement Frequency</u>	<u>Sample Type</u>
Flow, MGD	Report	N/A	Report	Five/week	Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	7 (15)	12	22	One/week	Grab
Total Suspended Solids	15 (31)	25	40	One/week	Grab
Ammonia Nitrogen	2 (4.2)	5	10	One/week	Grab

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

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of completion of the 0.5 million gallons per day (MGD) and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:
 The daily average flow of effluent shall not exceed 0.5 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 2,352 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. & Daily Max. Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	Continuous	Totalizing meter
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (21)	10	20	One/week	Composite
Total Suspended Solids	5 (21)	10	20	One/week	Composite
Ammonia Nitrogen	1 (4.2)	2	4	One/week	Composite

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 daily 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 twice 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 6.0 mg/l and shall be monitored once per week by grab sample.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

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

1. Flow Measurements

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

2. Concentration Measurements

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

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

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

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

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

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

2. Test Procedures

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

3. Records of Results

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

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

4. Additional Monitoring by Permittee

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

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

7. Noncompliance Notification

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

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

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

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

10. Signatories to Reports

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

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

PERMIT CONDITIONS

1. General

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

2. Compliance

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

3. Inspections and Entry

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

4. Permit Amendment and/or Renewal

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

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

5. Permit Transfer

- a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Water Quality Applications Team (MC 161) of the Registration, Review, and Reporting Division.
- b. A permit may be transferred only according to the provisions of 30 TAC § 305.64 (relating to Transfer of Permits) and 30 TAC § 50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy.

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

OPERATIONAL REQUIREMENTS

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

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

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

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

If in the judgement of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 149) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.
 - b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.

- c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
 10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85 percent, unless otherwise authorized by this permit.
 11. Facilities which generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
 - a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
 - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
 - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Corrective Action 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 Chapter 361 of the Texas Health and Safety Code.

SLUDGE PROVISIONS

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

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION

A. General Requirements

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

B. Testing Requirements

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

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, 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 4) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

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

TABLE 1

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

* Dry weight basis

3. Pathogen Control

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

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

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

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

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

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

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

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

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

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

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

Alternative 1 -

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

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

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

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

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

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

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

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

4. Vector Attraction Reduction Requirements

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

Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38 percent.

Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. Volatile solids must be reduced by less than 17 percent to demonstrate compliance.

Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with a percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. Volatile solids must be reduced by less than 15 percent to demonstrate compliance.

Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.

Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

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

C. Monitoring Requirements

Toxicity Characteristic Leaching Procedure (TCLP) Test	- once during the term of this permit in the Interim I and II phases and annually in the Final phase
PCBs	- once during the term of this permit in the Interim I and II phases and annually in the Final phase

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

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

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

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

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

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

A. Pollutant Limits

Table 2

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

Table 3

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

* Dry weight basis

B. Pathogen Control

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

C. Management Practices

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

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

D. Notification Requirements

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

E. Record keeping Requirements

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

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

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

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

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

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

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

F. Reporting Requirements

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

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

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

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

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

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

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

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, 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 4) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

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

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

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

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

G. Reporting Requirements

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

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

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

OTHER REQUIREMENTS

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

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

2. The facility is not located in the Coastal Management Program boundary.
3. There is no mixing zone established for this discharge to an intermittent stream with perennial pools. Chronic toxic criteria apply at the point of discharge.
4. The permittee is hereby placed on notice that this permit may be reviewed by the Texas Commission on Environmental Quality after the completion of any new intensive water quality survey on Segment No. 0818 of the Trinity River Basin and any subsequent updating of the water quality model for Segment No. 0818, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC Section 305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.
5. The permittee shall comply with the requirements of 30 TAC Section 309.13 (a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC Section 309.13(e).
6. Reporting requirements according to 30 TAC Sections 319.1-319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge, whichever occurs first, from the facility described by this permit. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 4) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first and prior to completion of each additional phase.
7. Prior to construction of each phase 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 Wastewater Treatment Systems. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2 and 2a of the permit.
8. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.

CONTRIBUTING INDUSTRIES AND PRETREATMENT REQUIREMENTS

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

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

TCEQ INTERAGENCY TRANSMITTAL MEMO

2009 MAY 29 PM 1:56

DATE: May 29, 2009

CHIEF CLERKS OFFICE

TO: LaDonna Castañuela
CHIEF CLERK
BUILDING F, MC - 105

FROM: Robert Brush
ENVIRONMENTAL LAW DIVISION
BUILDING A, MC-173

Attached: Executive Director's Response to Comments

Application Information:

Air Permit No.: _____ Name: _____ If known, Docket or CCO Tracking #: _____
 Waste Permit No.: _____ Name: _____ If known, Docket or CCO Tracking #: _____
 Water Permit No.: WQ0014803001 Name: Las Lomas MUD #4 If known, Docket or CCO Tracking #: _____

Action Required (pick one):

Date stamp and return copy to above-referenced ELD staff attorney and do one of the following:

FOR WASTE & WATER:

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

For Waste and Water this would occur in all circumstances when comments have been received

FOR AIR:

Send Response to Comments Letter which solicits hearing requests and requests for reconsideration to those on the attached list AND the mailing list in your files

For Air applications this would occur only when there are pending hearing requests

Place in File - no further action required by OCC

*For Air applications this would occur when the matter is uncontested but comments were received, ED will send a copy with MTO letter
For Waste and Water this would not occur*

Hold until a Commission Agenda date is requested and then enclose with the Agenda Setting Letter

For Air applications this would occur when the executive director's position is that the matter meets TCAA §382.056(g) & (o)

Other Instructions: Please include Kent Trede, MC-148 on the mailing list for this RTC.

TCEQ PROPOSED PERMIT NO. WQ0014803001

2009 MAY 29 PM 1:56

APPLICATION BY §
LAS LOMAS MUNICIPAL §
UTILITY DISTRICT 4 §
TPDES Permit No. WQ0014803001 §

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY
CHIEF CLERK'S OFFICE

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 Las Lomas Municipal Utility District #4 (Applicant) application for a new Texas Pollutant Discharge Elimination System (TPDES) permit number WQ0014803001 and 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 timely received comment letters or comments at the public meeting from the following persons:

James & Kathy Bates, Andres & Rhonda Benavidez, Andres & Agripina Benavidez, James & Pat Flewellen, Jack Herring, Zoe Howland, Karen & Michael Johnson, Milowe & Janice Jungjohann, Julie & Jonathon McDougal, Jeff & Terry Spezkmann, and Steve & Nelda Timmons.

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.

Additional Information

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

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

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

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

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

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

Commission records for this facility are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief

Clerk, for the current application until final action is taken), and at TCEQ's Region 4 Office at 2309 Gravel Drive, Fort Worth, Texas 76118. The Region 4 phone number is (817) 588-5700. The permit application, statement of basis/technical summary, ED's preliminary decision, and the draft permit are available for viewing and copying at the Terrell Public Library, 301 North Rockwall Street, Terrell, Texas.

BACKGROUND

Description of Facility

The Applicant originally applied for a new permit to authorize the discharge of treated domestic wastewater at an interim I volume not to exceed a daily average flow of 250,000 gallons per day (gpd), an interim II volume not to exceed a daily average flow of 875,000 gpd and a final volume not to exceed an annual average flow of 1.5 million gpd. Subsequently, ED staff received additional information regarding the receiving stream. Based on that information, it was determined that the maximum permitted flow should be reduced to 500,000 gpd in order to protect instream uses and maintain the minimum dissolved oxygen in the stream. The proposed wastewater treatment facility will serve the Las Lomas development.

The plant site will be located approximately 2.5 miles southwest of the intersection of State Highway 20 and Farm-to-Market Road 148 at the confluence of Big Brushy Creek and Terry Creek in Kaufman County, Texas. The treated effluent will be discharged to Terry Creek; then to Big Brushy Creek; then to King's Creek; then to Cedar Creek Reservoir in Segment No. 0818 of the Trinity River Basin. The unclassified receiving water uses are limited aquatic life use for Terry Creek and high aquatic life use for Big Brushy Creek. The designated uses for Segment No. 0818 are contact recreation, public water supply, and high aquatic life use.

In accordance with 30 TAC § 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 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 preliminarily determined that no significant degradation of water quality is expected in Big Brushy Creek, which has been identified as having high aquatic life uses. Existing uses should be maintained and protected. The preliminary determination can be further re-examined and modified if additional new information is received.

Procedural Background

The permit application for a new permit was received on May 4, 2007 and declared administratively complete on May 30, 2007. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on June 14, 2007 in the *Terrell Tribune*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on October 4, 2007 in the *Terrell Tribune*. The Applicant published an alternative language NAPD on October 23, 2007 in the *La Prensa Comunidad*. A public meeting request was received from

State Representative District 4 Betty Brown and a Notice of Public Meeting was published on January 9, 2008 in the *Terrell Tribune*. The public meeting was held on February 21, 2008.

Subsequent to the public meeting, the Applicant discovered they had not properly mailed notice to the required landowners. Therefore, after the Applicant corrected their mailing list, the Office of the Chief Clerk re-noticed the NAPD to those persons on the mailing list on June 25, 2008 and the comment period ended on July 25, 2008. After the close of the comment period, a second public meeting was requested by Rep. Brown on July 31, 2008. Rep. Brown withdrew her request for a second public meeting on January 23, 2009. Additional time was taken due to the lowering of the maximum permitted amount from 1.5 mgd to 500,000 gpd for the Applicant to consider whether to continue to seek permit coverage based on the lower maximum discharge amount. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

Andres & Rhonda Benavidez, Andres & Agripina Benavidez, Jack Herring and Steve & Nelda Timmons have concerns regarding the discharge of 1.5 million gallons per day of treated wastewater in their creek and how the proposed discharge may impact human health, livestock, and pets.

RESPONSE 1:

The proposed draft permit includes effluent limitations and monitoring requirements for 5-day Biochemical Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), Ammonia Nitrogen, Dissolved Oxygen (DO), chlorine residual, and pH to ensure that discharges from the proposed wastewater treatment plant meet water quality standards for the protection of surface water, groundwater, and human health in accordance with TCEQ rules and policies. The proposed draft permit includes requirements for the disposal of domestic sludge generated from the wastewater treatment facility based on TCEQ rules. The ED expects that human health and the environment will be protected if the Applicant operates and maintains the facility as permitted and in accordance with TCEQ rules. The ED determined that the proposed draft permit is protective of the environment, water quality, and human health in accordance with TCEQ rules and requirements. Any noncompliance with the terms of the proposed draft permit could result in enforcement action against the Applicant.

The Commission does not have specific water-quality based effluent limitations for livestock. However, the TCEQ Water Quality Assessment Section has determined that the proposed draft permit for the facility meets the requirements of the Texas Surface Water Quality Standards, which are established to protect human health and terrestrial and aquatic life. Aquatic organisms are more sensitive to water quality components than terrestrial organisms. In accordance with 30 TAC § 307.5 and the TCEQ implementation procedures for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. This review

preliminarily determined that no significant degradation of high quality waters is expected and that existing uses will be maintained and protected.

In this case, additional information was received about the receiving stream and additional analysis was done. Based on that information it was determined that the maximum permitted discharge should be reduced from 1.5 mgd to 500,000 gpd in order to protect instream uses and maintain the minimum dissolved oxygen in the stream. At this reduced flow, it is expected that existing uses should be maintained and protected as long as the facility is operated in compliance with the draft permit and applicable rules and regulations.

Additionally, the Applicant is required to take certain operational steps to minimize the possibility of an accidental discharge of untreated wastewater. For example, Operational Requirement No. 4 in the draft permit (page 10) states that the Applicant must maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

Permit Condition No. 2(d) in the draft permit (page 7) requires the Applicant to take all reasonable steps to minimize or prevent any discharge, disposal, or other permit violation that has a reasonable likelihood of adversely affecting human health and the environment. Permit Condition No. 2(g) in the draft permit (page 7) states that must not be any unauthorized discharge of wastewater or any other waste. These permit provisions are designed to help prevent unauthorized discharges of raw sewage. If an unauthorized discharge occurs, the Applicant is required to report it to TCEQ within 24 hours. If the Applicant fails to report the unauthorized discharge to TCEQ within the prescribed time period, the Applicant will be subject to enforcement by TCEQ. At the time of any accidental discharge, TCEQ and other local governmental entities will determine if nearby residents need to be notified of any leak or runoff based on the severity and potential health impact of the discharge.

In addition, the plans and specifications for this wastewater treatment plant must meet the facility design criteria in 30 TAC Chapter 217 and be approved by TCEQ prior to construction.

COMMENT 2:

Andres & Rhonda Benavidez, Andres & Agripina Benavidez, Jack Herring, and James & Kathy Bates, Milowe & Janice Jungjohann, and Steve & Nelda Timmons have concerns that the treatment plant would generate foul odors. James and Kathy Bates ask whether air quality will change with operation of the proposed facility. Milowe & Janice Jungjohann ask how airborne particles be prevented from leaking into the air.

RESPONSE 2:

Buffer zone requirements were implemented as a means of minimizing the impact nuisance odor on surrounding property. According to the permit application, the Applicant owns the buffer zone required by 30 TAC § 309.13(e). In addition, the draft permit requires the treated effluent

to be disinfected by chlorination in accordance with the TCEQ rules. The major benefit of chlorine in wastewater treatment is disinfecting the wastewater, but it is also helpful in controlling nuisance odor. Nuisance odors may be associated with organic matter and the biochemical oxygen demand exerted on the receiving stream. This permit requires advanced secondary treatment, which removed the vast majority of the oxygen demanding constituents and decreases the likelihood of odor.

Wastewater devoid of dissolved oxygen can produce offensive odors. The draft permit requires that the wastewater discharge contain a minimum of 5.0 mg/l dissolved oxygen so that the treated effluent will be adequately oxygenated when it is discharged.

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 odor generation. In fact, aeration basins and aerobic digesters are the primary means of nuisance odor control at treatment plants of any size. In addition, the draft permit contains operational requirements to ensure the facility is properly operated and maintained.

The Commission is authorized under the Texas Clean Air Act to issue permit-by-rule for certain types of facilities that do not significantly contribute air contaminants to the atmosphere. *See* HEALTH & SAFETY CODE § 382.051(b)(4). Section 382.05196(a) states that: "the commission may adopt permits by rule for certain types of facilities if it is found on investigation that the types of facilities will not make a significant contribution of air contaminants to the atmosphere." The Commission's air quality rules prohibit any person from discharging:

...from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." *See* 30 TAC § 101.4.

Municipal wastewater treatment plants are permitted-by-rule in accordance with 30 TAC § 106.532. Wastewater treatment plant units are permitted by rule if the facility performs the functions listed under § 106.532, including but not limited to disinfection, softening, filtration, flocculation, stabilization, taste and odor control, clarification, carbonation, sedimentation, neutralization, chlorine removal, activated sludge treatment, anaerobic treatment, and associated control of gases from these treatments; etc. This facility is not expected to contribute significant contaminants to the atmosphere if operated and maintained in accordance with the Commission rules and the provisions of the draft permit.

Nuisance odor complaints or other air quality issues regarding the facility or suspected incidents of noncompliance with the permit or TCEQ rules may be reported to the TCEQ Region 4 Office

in Dallas/Fort Worth at 817-588-5800 or by calling the Environmental Violations Hotline at 1-888-777-3186. Citizens can also file an environmental complaint online at:

www.tceq.state.tx.us/compliance/complaints/index.html

Citizens may also submit complaints via email to:

cmplaint@tceq.state.tx.us

The Commission will take appropriate action if any violation is documented.

COMMENT 3:

James and Kathy Bates ask whether this facility will be located on a 100-year flood plain and if so, how the facility will function during flooding events. Milowe and Janice Jungjohann state the facility will be on the 100-year flood plain and ask how the facility will be protected during such a flooding event.

RESPONSE 3:

The facility is not proposed to be within the 100-year flood plain. TCEQ rules do not prevent a wastewater treatment facility from being located on a 100-year flood plain, but instead require that if such location is chosen then the Applicant must protect the wastewater treatment units from inundation and damage from a 100-year flood event. See 30 TAC § 309.13(a). The draft permit does include effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding.

COMMENT 4:

James and Kathy Bates ask the age of the topographical and flood plain maps that were used in the permit application.

RESPONSE 4:

The USGS topographic map is dated 1960. The flood plain information is included on page 10, Item 5.a of the Technical Report.

COMMENT 5:

Jeff & Terry Sepzkmann and Milowe & Janice Jungjohann ask what the timeframe is for building the facility from start to finish.

RESPONSE 5:

There is no specific timeframe that an applicant must follow when constructing a wastewater treatment facility. However, Texas Water Code § 26.027(c) prohibits any construction of treatment units prior to a permit being issued, unless authorized by TCEQ. No such authorization has been requested by the Applicant in this case that would allow construction of treatment units prior to actual issuance of the permit.

Page one of the Technical Report indicates the Interim II phase would commence operation in August 2009 and the final phase in August 2011. However, because this permit has not been issued, this timetable can no longer be met with respect to the August 2009 date.

COMMENT 6:

James and Kathy Bates ask whether a water flow evaluation was conducted for both Terry and Brushy Creeks.

RESPONSE 6:

Water flow evaluations were conducted by staff. The immediate receiving stream (Terry Creek) was determined to be intermittent with perennial pools with a low flow of 0.1 cubic feet per second (cfs). Brushy Creek was determined to be perennial with an average flow of 0.36 cfs.

COMMENT 7:

James and Kathy Bates ask how industrial waste will influence Terry Creek, Brushy Creek, Kings Creek, and Cedar Creek Lake.

RESPONSE 7:

The Applicant is neither proposing nor authorized to discharge industrial waste. The permit involves the discharge of treated municipal (human) waste, so no evaluation of industrial wastes were done for these water bodies in regards to evaluating the proposed discharge that would be authorized by the draft permit.

COMMENT 8:

James and Kathy Bates ask whether the proposed Baylor Hospital sewage will be discharged into this wastewater treatment plant. They also ask whether any of the surrounding cities will have sewage treated at the proposed facility.

RESPONSE 8:

The application indicated the facility proposed to serve 4,383 residential units, in the final phase, with 3 residents per unit at 115 gallons per resident. (115 gallons per person per day times 3

persons per connection per day, 4,383 connections = 1,512,000 gpd). However, as noted in Response #1, the maximum discharge authorized by the draft permit was changed to 500,000 gpd. Based on the same estimates of use, the proposed facility could service a maximum of residents (115 gallons times 3 persons per connection per day, 1,449 connections = 499,905 gpd). There is no indication in the application that waste from Baylor Hospital will be accepted at the facility.

Additionally, note that monitoring and reporting Permit Provision 11. of the monitoring and reporting provision of the draft permit requires the Applicant to provide notice to the ED under the following conditions:

- 1) Any new introduction of pollutants into the facility from an indirect discharger which would be subject to section 301 or 306 of the CWA if it were directly discharging those pollutants;
- 2) Any substantial change in the volume or character of pollutants being introduced into that facility by a source introducing pollutants into the facility at the time of issuance of the permit; and
- 3) For the purpose of this section, adequate notice must include information on:
 - a) The quality and quantity of effluent introduced into the treatment works; and
 - b) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the facility.

COMMENT 9:

Milowe & Janice Jungjohann comment that with 6,000 acres to choose from, why the Applicant did not choose an area with no homes.

RESPONSE 9:

TCEQ rules do not allow the ED to determine or mandate a different facility location, different discharge location, alternative means of conveyance and disposal, or different type of wastewater treatment plant than what is proposed by an applicant if the proposed facility complies with the applicable rules and statutes. The ED evaluates the outfalls in the locations proposed by an applicant and determines what effluent limitations are appropriate and whether water quality standards will be maintained. If the Applicant were to request changing the location of the facility, the ED would review the new proposal using the same standards as used to evaluate the proposed location and outfall.

COMMENT 10:

James and Kathy Bates ask if the facility is required to have personnel at the site 24-hours per day.

RESPONSE 10:

The draft permit requires the Applicant to 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.

A maximum discharge of 500,000 gpd makes this a Category C facility. A 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.

COMMENT 11:

James and Kathy Bates ask if the fossil shells, shown in Exhibits 2A and 2B of the permit application have any significance in protecting water quality in Terry Creek.

RESPONSE 11:

If the pH of the treated effluent is maintained within permitted limits and not allowed to become excessively acidic, the fossils will remain and not be dissolved. As far as their significance in protecting water quality in Terry Creek, the Standard Implementation Team does use fish and benthic macroinvertebrates (aquatic bugs) in assessment of water bodies to determine proper aquatic life uses of certain water bodies. While fossilized aquatic creatures have geologic significance, they do not play a role in determining the proper aquatic life uses for streams receiving treated effluent.

COMMENT 12:

James and Kathy Bates ask what provisions are in place in case of an emergency discharge at the facility. They also ask to whom such discharges will be reported, the developer's accountability for such discharges, and what the expectations are that emergency discharges may occur.

RESPONSE 12:

There is no expectation that emergency discharges will occur at the proposed facility. However, if such an emergency discharge were to occur, the draft permit requires the Applicant to 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. Depending upon the actual cause of such emergency discharges, the Applicant would be subject to enforcement actions by TCEQ.

The Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater. For example, Operational Requirement No. 4 (page 10) in the draft permit states that the Applicant must maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, or retention of inadequately treated wastewater. In addition, the plans and specifications for this wastewater treatment plant must be approved by TCEQ. Also, see the second to last paragraph of Response #1 for additional permit requirements that address this comment.

COMMENT 13:

James & Kathy Bates, Andres & Rhonda Benavidez, Andres & Agripina Benavidez, Jack Herring and Steve & Nelda Timmons have concerns regarding flooding during heavy rains.

RESPONSE 13:

TCEQ does not address flooding issues in the wastewater permitting process. However, if a facility is located in the 100-year flood plain, the Applicant will be required to comply with the requirements of 30 TAC § 309.13(a). The permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes and coastal waters. The draft permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. For flooding concerns, please contact the local floodplain administrator for this area. If you need help locating the local floodplain administrator, please call the TCEQ Resource Protection Team at (512) 239-4691.

COMMENT 14:

Milowe and Janice Jungjohann ask if the facility builds up the proposed plant's site with soil would the Applicant also build up their property.

RESPONSE 14:

If the Applicant chose to protect the facility from flooding during storm events through raising their property by building up the soils, there are no TCEQ requirements that would require them to build up nearby properties. However, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT 15:

Comments were also received regarding the following topics:

- 1) The effect the proposed facility may have on property values;
- 2) The facility would impact quality of life issues; and
- 3) The potential noise from machinery at the proposed facility.

RESPONSE 15:

Although the Texas Legislature has given the TCEQ the responsibility to protect water quality, TCEQ does not address these types of issues in the wastewater permitting process. The water quality permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The ED cannot consider property values, quality of life, and noise issues when reviewing wastewater applications and preparing draft permits.

However, the issuance of a permit does not grant to the Applicant the right to use private or public property for conveyance of wastewater along the discharge route. This includes property belonging to any individual, partnership, corporation or other entity. The permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws or regulations. It is the Applicant's responsibility to acquire the necessary property rights to use the discharge route.

Also, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

No changes were made in response to comment, but the maximum discharge allowed in the draft permit was reduced from 1.5 mgd to 500,000 gpd since the end of the public comment period.

Respectfully submitted,

Texas Commission on Environmental Quality
Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

By Robert D. Brush

Robert D. Brush, Staff Attorney

Environmental Law Division

State Bar No. 00788772

Representing the EXECUTIVE DIRECTOR of the
Texas Commission on Environmental Quality

CERTIFICATE OF SERVICE

I certify that on May 29, 2009 the "Executive Director's Response to Public Comments" for Permit No. WQ0014803001 was filed with the Texas Commission on Environmental Quality's Office of Chief Clerk.



Robert D. Brush, Staff Attorney
Environmental Law Division
State Bar No. 00788772

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2009 MAY 29 PM 1:56

CHIEF CLERKS OFFICE

Compliance History Report

Customer/Respondent/Owner-Operator: CN603166927 Los Lomas Municipal Utility District Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105228878 LAS LOMAS WWTP Classification: AVERAGE Site Rating: 3.01
BY DEFAULT

ID Number(s):
Location: 2.5 MI SW OF THE INTERSECTION OF SH 20 AND FM 148
AT THE CONFLUENCE OF BIG BRUSHY CREEK AND
TERRY CREEK

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: July 28, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 30, 2002 to July 28, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Robert Brush Phone: 239 - 5600

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court 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

