

TCEQ Docket Number 2010-0237-MWD

APPLICATION BY	§	BEFORE THE
CITY OF BULLARD	§	TEXAS COMMISSION ON
FOR TPDES PERMIT NO. WQ0011787001	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests (Response) on the application by the City of Bullard (Applicant) for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0011787001. TCEQ received timely requests for a contested case hearing (CCH) from Scott Rhodes of McGinnis, Lochridge & Kilgore, L.L.P. on behalf of HRC Cherokee Tree Farm, L.P. (HRC) and from Richard Lowerre of Lowerre, Frederick, Perales, Allmon & Rockwell on behalf of the Texas Conservation Alliance (TCA) and Dr. Adrian Van Dellen.

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 City of Bullard has applied to the TCEQ for a major amendment to TPDES Permit No. WQ0011787001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 213,000 gallons per day (gpd) to a daily average flow not to exceed 438,000 gpd. The wastewater treatment facility serves the City of Bullard. The facility is located approximately 2,600 feet southwest of the Bullard School and approximately 3,000 feet west-southwest of the intersection of Farm-to-Market Road 344 and Oak Street in Cherokee County, Texas.

The treated effluent is discharged to an unnamed tributary; then to Flat Creek; then to the Neches River Below Lake Palestine in Segment No. 0604 of the Neches River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary and high aquatic life use for Flat Creek. The designated uses for Segment No. 0604 are high aquatic life use, public water supply and contact recreation.

III. Procedural Background

The permit application was received on April 22, 2009 and declared administratively complete on June 3, 2009. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on July 1, 2009 in the *Tyler Morning Telegraph* and the *Jacksonville Daily Progress*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on October 14, 2009 in the *Jacksonville Daily Progress*. The public comment period ended on November 13, 2009. The ED's Response to Public Comment (RTC) was filed on January 11, 2010, and the period for requesting reconsideration or a contested case hearing ended on February 11, 2010.

IV. The Evaluation Process for Hearing Requests

This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999. House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. The Commission implemented HB 801 by adopting procedural rules in 30 Texas Administrative Code (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.

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

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

30 TAC § 55.205(a).

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 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.

30 TAC § 55.203.

D. Referral to the State Office of Administrative Hearings

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.” 30 TAC § 50.115(b). The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue:

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

30 TAC § 50.115(c).

VI. Evaluation of Hearing Requests

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

The Office of the Chief Clerk (OCC) received a timely hearing request, dated October 29, 2009, from Scott Rhodes of McGinnis, Lochridge & Kilgore, L.L.P. on behalf of HRC Cherokee Tree Farm, L.P. (HRC). OCC also received a timely hearing request, dated October 27, 2009, from Richard Lowerre of Lowerre, Frederick, Perales, Allmon & Rockwell on behalf of the Texas Conservation Alliance (TCA) and Dr. Adrian Van Dellen (who is also a member of TCA). Both request letters included relevant contact information, and raised disputed issues. Mr. Rhodes and Mr. Lowerre both sent follow up letters, after the ED filed his RTC, reasserting their clients' requests for a contested case hearing.

The Executive Director recommends the Commission find that HRC's, TCA's and Dr. Van Dellen's CCH requests **substantially comply** with the requirements of 30 TAC Sections 55.201(c) and (d). However, HRC, TCA and Dr. Van Dellen failed to identify a personal justiciable interest that is or will be affected by the application.

B. Whether Requestors Meet the Requirements of an Affected Person

a. Dr. Adrian Van Dellen

Dr. Adrian Van Dellen states in his request letter that he is a member of TCA and is seeking affected person status for himself as an individual as well as for TCA as a group. Dr. Van Dellen notes that he has taken recreational canoe trips on Flat Creek near the area where the unclassified receiving waters enter Flat Creek and has taken canoes and kayaks on Flat Creek just downstream of this location. Dr. Van Dellen also states that he has guided people on canoe trips on the Neches River and short segments of Flat Creek downstream of the discharge and has taken photographs of wildlife and vegetation along Flat Creek as a part of his profession. Dr. Van Dellen indicates in his letter that he intends to continue these activities and is concerned that the proposed discharge may adversely affect Flat Creek or the Neches River, which may, in turn, adversely impact his economic and recreational interests.

i. Likely Impact of the Regulated Activity

As a preliminary matter, given the distance between the discharge point and some of the locations Dr. Van Dellen visits for recreational and professional purposes—the location where Flat Creek enters the Neches River, for example, is over 9 miles away from the discharge point—it seems unlikely that the proposed discharge will have an impact on Dr. Van Dellen's use of the receiving waters, either recreationally or professionally. 30 TAC § 55.203(c)(5).

ii. Personal Justiciable Interest

Secondly, Dr. Van Dellen has not alleged facts supporting a finding that he has a particularized interest distinct from that of the public at large that may be affected by this permit amendment. As was noted above, in order to be considered an affected person, Dr. Van Dellen must have "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." 30 TAC § 55.203(a).

1. Recreational Interest

With regard to his recreational interests, Dr. Van Dellen has no greater right to take recreational canoe or kayak trips in the receiving waters than do other members of the general public. Accordingly, any impairment to Dr. Van Dellen's recreational interests on Flat Creek and the Neches River is not peculiar to Dr. Van Dellen. The recreational interests identified by Dr. Van Dellen are the same recreational interests any member of the general public has equal right to claim.¹ Dr. Van

¹ See e.g. *San Antonio Conservation Society v. City of San Antonio*, 250 S.W.2d 259 (Tex. Civ. App.—Austin 1952,

Dellen has not alleged that he has any other interest, such as riparian rights, tied to his recreational uses of the receiving waters, and thus there is no particularized, legally protected interest at stake, as there is nothing to distinguish Dr. Van Dellen's recreational interests from those of the public in general.² While the Executive Director is not prepared to argue that riparian interests are the only additional interests that may support finding that an individual qualifies as an affected person based on recreational use of state waters, a demonstration of some personal justiciable interest more than just enjoying kayaking or canoeing in publicly accessible waters is required.

There is a common misconception that federal courts have established recreational use (by itself) as an absolute basis for standing in environmental cases. As the following cases demonstrate, an interested person has to do more than show that they recreate in a receiving waterbody. They must also show harm to their recreational interest or how their recreational use is affected in ways not common to the general public.

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

In *Lujan*, the Court recognized that "the desire to use or observe an animal species, even for purely aesthetic purposes, is undeniably a cognizable interest for purpose of standing." *Id.* at 562–63. The Court further explained, however, that "the 'injury in fact' test requires more than an injury to a cognizable interest. It requires that the party seeking review be himself among the injured." *Id.* at 563 (citing *Sierra Club v. Morton*, 405 U.S. 727, 734–35 (1972)). Accordingly, for purposes of determining associational standing, the Court in *Lujan* required that the association's members be directly affected apart from their special interest in the subject. *Lujan*, 504 U.S. at 563. The following excerpts from *Sierra Club v. Morton* further illustrate the interpretation of recreational use interests in environmental permitting cases:

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

writ ref'd); *Persons v. City of Fort Worth*, 790 S.W.2d 865 (Tex. App.—Fort Worth 1990, no writ).

² See e.g. *Save Our Springs Alliance, Inc. v. City of Dripping Springs*, --- S.W.3d ---, 2010 WL 521027 (Tex. App.—Austin 2010, rehearing denied)(noting that it had not identified any Texas case in which an alleged injury to a plaintiff's environmental, scientific, or recreational interests conferred standing in the absence of allegations that the plaintiff has an interest in property affected by the defendants' actions); *Texas Rivers Protection Association v. Texas Natural Resource Conservation Comm'n*, 910 S.W.2d 147 (Tex. App.—Austin 1995, writ denied)(finding that protestants' "riparian ownership alone sufficiently distinguish[ed] their injury from that of the public at large").

Morton, 405 U.S. at 734-35.

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

Id. at 739 (internal citations omitted).

The requirement that a party seeking review must allege facts showing that he is himself adversely affected does not insulate executive action from judicial review, nor does it prevent any public interests from being protected through the judicial process. It does, however, serve as at least a rough attempt to put the decision as to whether review will be sought in the hands of those who have a direct stake in the outcome. That goal would be undermined were we to construe the APA to authorize judicial review at the behest of organizations or individuals who seek to do no more than vindicate their own value preferences through the judicial process.

Id. at 740.

In a recent Texas case, *Save Our Springs Alliance, Inc. v. City of Dripping Springs*, involving a challenge to development agreements between the city and private developers, a Texas court of appeals looked at whether the injuries alleged by an environmental organization—“injury to its members’ environmental, scientific, and recreational interests generally”—were sufficient to establish standing in a suit for a declaratory judgment. --- S.W.3d ---, 2010 WL 521027 (Tex. App.-Austin 2010, rehearing denied). The court concluded that:

There is no Texas authority for the proposition that the type of injury alleged by SOS Alliance in this case—injury to its members’ environmental, scientific, and recreational interests generally and without any interest in or connection to the real property involved—is the type of interference with a legally protected interest or injury that confers standing as a matter of state law. SOS Alliance must show a particularized, legally protected interest that is actually or imminently affected by the alleged harm.

Id. at 6. In coming to this conclusion, the court reviewed Texas case law and federal case law regarding standing based on recreational use. The court observed that:

In sum, [it did] not find any Texas case in which an alleged injury to a plaintiff’s environmental, scientific, or recreational interests conferred standing in the absence of allegations that the plaintiff has an interest in property affected by the defendants’ actions.

Id. at 5. The court noted that in the case before it, SOS Alliance had not alleged either an environmental interest provided for or protected by statute, nor a property interest subject to recreational or environmental harm, and concluded that:

Absent such allegations, there is no particularized, legally protected interest at stake in this context, as there is nothing to distinguish the environmental, scientific, or recreational concerns of SOS Alliance's members from the same concerns experienced by the public in general. Based on the existing state and federal case law, to find standing under the circumstances here would, we think, be to expand Texas's standing jurisprudence, and it is not our proper role as an intermediate appellate court to do so.

Id. at 6. Thus, the court "decline[d] to conclude that the environmental, scientific, and recreational interests asserted by SOS Alliance result[ed] in a 'concrete and particularized' injury in fact, as is necessary to establish standing under Texas law." *Id.*

Texas courts have long used similar principles to determine standing based on recreational-type interests. In *San Antonio Conservation Society v. City of San Antonio*, 250 S.W.2d 259 (Tex. Civ. App.—Austin 1952, writ ref'd), in determining whether certain appellants had standing to challenge the construction of a bridge near the San Antonio River based in part on their right to enjoy the river and the parks along it, the court held that:

The reason that appellants have no justiciable interest in this controversy is that any right which they have to enjoy the charm and beauty of the San Antonio River and its banks within the City of San Antonio is a right shared in common with all the people of San Antonio and with the public in general and any impairment of this right is an injury or damage sustained by appellants in common with the general public. *Only lawfully constituted guardians of the public interest may maintain actions for the redress of such character of injuries.*

Id. at 263 (emphasis added). The court further clarified that "[t]he interests [the appellants] seek to protect are the same whether they are used or enjoyed much or little or none," and "common to those who avail themselves of the privilege as well as to those who do not or cannot." *Id.* at 263-264.

In *Persons v. City of Fort Worth*, 790 S.W.2d 865 (Tex. App.—Fort Worth 1990, no writ), a case in which a private citizen brought an action to enjoin a city from continuing with the planned alteration of a city zoo and city park area, the court determined that the private citizen had not shown "that his uses of the park [we]re unique or peculiar to him as compared to the park uses by the public at large," and determined "that he d[id] not have a greater right to use the park than any other citizen of the City." *Id.* at 870. The court specifically held that the private citizen "ha[d] not shown that he has been damaged or injured as a result of the City's actions other than as a member of the general public," and thus lacked standing to maintain his action. *Id.*

In *Texas Rivers Protection Association v. Texas Natural Resource Conservation Commission*, 910 S.W.2d 147 (Tex. App.—Austin 1995, writ denied), the court held that an association member and another individual protesting a permitting action both had standing as "aggrieved" parties with a

personal justiciable interest in the matter being considered. Both individuals owned land fronting the affected area of the river and conducted canoeing trips for others on the affected area of the river. In its standing analysis, the court noted that, “[a]n injury need not affect ‘vested’ property rights to confer standing; the harm may be economic, recreational, or environmental.” *Id.* at 151-52. The court concluded, however, that the appellants in this case had standing because their “riparian ownership alone sufficiently distinguish[ed] their injury from that of the public at large.” *Id.* Thus, as the court in *Save Our Springs Alliance* noted:

The *Texas Rivers* case... does not stand for the proposition that an allegation of any type of recreational or environmental impact, by itself, constitutes an injury in fact sufficient to confer standing. Instead, this court in *Texas Rivers* concluded that while environmental harm may be a cognizable injury for purposes of standing, it was the harm to the plaintiff’s riparian interests that made the injury sufficiently particularized so as to distinguish the harm from that experienced by the general public.

Save Our Springs Alliance, Inc. v. City of Dripping Springs, 2010 WL 521027, 4-5 (Tex.App.-Austin 2010).

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

As these cases illustrate, recreational use by itself is not enough to confer standing. Likewise, a person seeking affected person status must distinguish their recreational interest from that of the general public. Dr. Van Dellen’s description of his recreational interest does not meet this standard.

2. Economic Interest

With regard to Dr. Van Dellen’s concerns about injury to his professional interests—his intention to continue guiding people on canoe trips on the Neches River and Flat Creek and photographing wildlife and vegetation along Flat Creek—his concerns are likewise not sufficiently particularized and are too speculative to support a conclusion that Dr. Van Dellen is an “affected person.” As was noted above, many of Dr. Van Dellen’s activities appear to take place some distance from the discharge point, and thus are unlikely to be impacted by the proposed discharge. Furthermore, Dr. Van Dellen has not shown that his concerns about impacts to his economic interests are distinct from those of the public at large. Any general economic impacts to tourism-type activities (e.g. guided kayaking or canoeing) or professional photography resulting from impacts to Flat Creek or the Neches River are impacts that Dr. Van Dellen would share with the general public.³ Dr. Van Dellen has no vested property right in the wildlife⁴ and has alleged no property interest in the vegetation he

³ See e.g. *Stop the Ordinances Please v. City of New Braunfels*, --- S.W.3d ---, 2010 WL 567003 (Tex.App.-Austin, 2010).

⁴ Tex. Parks & Wildlife Code Ann. § 1.011(a) (Vernon 2002)(“[a]ll wild animals, fur-bearing animals, wild birds, and wild fowl inside the borders of this state...[and] [a]ll fish and other aquatic animal life contained in the freshwater rivers,

photographs. Dr. Van Dellen likewise has not alleged riparian ownership or any other property interest tied to his guided tours. While it is not necessary for Dr. Van Dellen to show that he was deprived of a “vested right” in order to show that he is “affected,” Dr. Van Dellen must show that he has some legally cognizable interest that is sufficiently unique to him.⁵ Dr. Van Dellen has failed to allege facts sufficient to show that he is likely to suffer economic injury; he has also failed to distinguish his economic interests from those of the general public.

In a fairly recent case, *Stop the Ordinances Please v. City of New Braunfels*, the court evaluated the issue of standing for several tubing-related businesses that claimed their economic interests were adversely impacted by certain ordinances adopted by the City of New Braunfels. --- S.W.3d ----, 2010 WL 567003 (Tex.App.-Austin 2010). In its analysis of standing, the court focused on the issue of whether the appellants in the case had alleged an injury to themselves that was sufficiently particularized and distinct from the public at large. With regard to standing, generally, the court explained that:

Standing, at least in a constitutional sense, is a component of the trial court’s subject-matter jurisdiction. The general test for constitutional standing in Texas courts is whether there is a “real” (i.e., justiciable) controversy between the parties that will actually be determined by the judicial declaration sought. Constitutional standing is thus concerned not only with whether a justiciable controversy exists, but whether the particular plaintiff has a sufficient personal stake in the controversy to assure the presence of an actual controversy that the judicial declaration sought would resolve. The requirement thereby serves to safeguard the separation of powers by ensuring that the judiciary does not encroach upon the executive branch by rendering advisory opinions, decisions on abstract questions of law that do not bind the parties.

Id. at 4-5 (internal citations omitted). The court further explained that:

For a party to have standing to challenge a governmental action, as a general rule, it must demonstrate a particularized interest in a conflict distinct from that sustained by the public at large... It is an established rule... that... sufficiency of a plaintiff’s interest (to maintain a lawsuit) comes into question when he intervenes in public affairs. *When the plaintiff, as a private citizen, asserts a public, as distinguished from a private, right, and his complaint fails to show that the matters in dispute affect him differently from other citizens, he does not establish a justiciable interest.*

Id. (internal citations and quotation marks omitted, emphasis added). With regard to the issues in the

creeks, and streams and in lakes or sloughs subject to overflow from rivers or other streams within the borders of this state are the property of the people of this state.”); *see also Hollywood Park Humane Soc. v. Town of Hollywood Park*, 261 S.W.3d 135, 140 (Tex.App.-San Antonio, 2008) (“The phrase ‘property of the people of this state’ has been interpreted by this court to mean that ownership of wild animals is in ‘the state’ or belongs to ‘the state.’” Common law also provides that “wild animals, or ‘animals *ferae naturae* [,] belong to the state and no individual property rights exist as long as the animal remains wild, unconfined, and undomesticated.”).

⁵ *Stop the Ordinances Please v. City of New Braunfels*, --- S.W.3d ----, 2010 WL 567003 (Tex.App.-Austin, 2010) (observing that when “[a] plaintiff, as a private citizen, asserts a public, as distinguished from a private, right, and his complaint fails to show that the matters in dispute affect him differently from other citizens, he does not establish a justiciable interest.”)

case in front of it, the court stated that a “broad allegation that the ordinances collectively ‘discourage tourists from visiting the Comal and Guadalupe Rivers,’” was not enough to support a claim of standing because “[t]he general economic impact from a decrease in tourism would be one that the [the plaintiffs] would share with other New Braunfels citizens...[and s]uch an injury is not sufficiently particularized and distinct from the public at large to confer standing.” *Id.* at 9. The court did find, however, that the appellants had standing where their economic injuries were directly tied to their property rights:

[T]he Outfitter Plaintiffs allege they had invested in ice chests with larger capacities for purposes of renting them to tubers and that the Cooler & Container Ordinance subsequently banned those coolers from...portions of the Comal and Guadalupe...By alleging that the [Ordinance] restricted the use of their property, caused them to incur additional expenses, and damaged or destroyed their market for larger cooler rentals within the City limits, the Outfitter Plaintiffs have demonstrated the required actual, concrete, and particularized infringement of their legally protected interests necessary for standing.

Id. at 6.

Texas courts generally require a demonstration that a party’s economic interests are unique to them for purposes of determining standing based on harms to economic interests. In *Walker v. City of Georgetown*, 86 S.W.3d 249, 253 (Tex.App.-Austin 2002, pet. denied), for example, the court identified an economic injury that was sufficiently particularized for purposes of standing. In this case, the Walkers alleged that “they incurred...start-up and construction expenses” related to development of their batting cage facility and argued that, “as competitors of a facility unlawfully approved and subsidized by the City, they [suffered] an injury peculiar to themselves. They assert[ed] that [their] project was no longer economically viable because they could not compete with a company that enjoyed the benefit of a lease of city property at below market rates.” *Id.* at 253. The court concluded this sort of economic injury constituted an injury that was sufficiently particularized to confer standing.

Likewise, in *Lake Medina Conservation Society v. Texas Natural Resources Conservation Commission*, 980 S.W.2d 511 (Tex.App.-Austin 1998, pet. denied), an organization sued for review of an order authorizing a water control and improvement district to divert water from a lake. The court held that:

The members of LAMCOS have shown various interests in the lake, including ownership interest in lakefront property, that will be affected by the amendment. *The impact of lower lake levels on owners of waterfront property, waterfront businesses, and private wells in the area constitutes a sufficiently particularized injury to distinguish the members' injury from that of the public at large.*

Id. at 516 (emphasis added).

In all three of these cases, the courts required a showing that the party’s economic interests were sufficiently distinguished from those of the general public. Likewise, in all three cases,

property interests—e.g. monetary investments associated with the purchase of ice chests for purposes of resale, costs associated with the construction and development of a batting cage facility, and ownership of waterfront property and businesses—formed the basis for the court’s determination that the individual’s economic interest was sufficiently particularized. Dr. Van Dellen, however, has not alleged any property interest or other interest that sufficiently distinguishes his economic interests from those shared by the general public.

b. The Texas Conservation Alliance (TCA)

TCA does not appear to meet all of the requirements, codified in 30 TAC § 55.205(a), for a group to request a contested case hearing. As was previously noted, a group or association may request a contested case hearing only if the group or association meets all of the following requirements: (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right; (2) the interests the group or association seeks to protect are germane to the organization’s purpose; and (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case. TCA states in its hearing request that it is a non-profit corporation with goals that include protection of the water resources of the state and representing its members in state proceedings that affect the natural resources of its members. According to its letter, TCA has members that will be affected by this proposed permit amendment, including Dr. Adrian Van Dellen (discussed above). However, if Dr. Van Dellen does not qualify as an affected person in his own right, TCA can not base its right to a hearing on Dr. Van Dellen. Since TCA has failed to identify a group member who would otherwise have standing to request a hearing in his or her own right, TCA has not demonstrated that it meets the group requirements to request a hearing on this application. 30 TAC § 55.205(a)(1).

The Executive Director recommends finding that neither Dr. Van Dellen nor TCA is an affected person under 30 TAC Chapter 55.

c. HRC Cherokee Tree Farm, L.P.

The distance between HRC’s property and the proposed discharge point makes it unlikely that the proposed discharge will have an adverse impact on HRC’s interests. 30 TAC §55.203(c)(4)-(c)(5). HRC states in its request letter that it owns approximately 7,000 acres of land in Cherokee County, Texas, located approximately 2.9 miles downstream of the proposed effluent discharge point. HRC also notes that it holds a water use permit permitting it to construct and maintain two reservoirs on Flat Creek for recreational purposes, which HRC intends to construct at some point in the future. According to HRC, these future reservoirs will be located over 3 miles downstream from the discharge point. HRC’s letter also indicates that it has four groundwater wells on its property that are used for irrigation and maintaining lake levels. HRC expressed concern that the proposed discharge may “threaten the health and safety and use and enjoyment of HRC’s property both now and once the permitted reservoirs are constructed.” To the extent that HRC’s concerns are based on potential impacts to nonexistent waterbodies, they are not relevant to this permit application because only impacts to existing waterbodies are considered during agency review of a wastewater permit application. With regard to HRC’s concerns as they relate to its existing property and wells, it appears that, given the distance between the property and the proposed discharge point, the effluent is unlikely to have an adverse impact on HRC’s property or wells.

The Executive Director recommends finding that HRC is not an affected person under 30 TAC § 55.203.

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

The Executive Director 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 identified issues in the response are considered disputed, unless otherwise noted. All issues were raised during the comment period and were not withdrawn prior to the ED filing his RTC.

ISSUE 1: Whether the Applicant's compliance history requires denial of the permit or imposition of additional terms or conditions in the permit. (RTC#1)

This issue is within TCEQ's jurisdiction, and involves a question of fact. Therefore, this issue is relevant and material to a decision on the permit application. The Executive Director recommends referral to SOAH.

ISSUE 2: Whether there has been proper notice of the application. (RTC#2)

This issue is within TCEQ's jurisdiction, and involves a question of fact. Therefore, this issue is relevant and material to a decision on the permit application. The Executive Director recommends referral to SOAH.

ISSUE 3: Whether the application is adequate and whether it has been properly verified or sealed by a person qualified to file such information. (RTC#2, #4, #10 & #12)

This issue is within TCEQ's jurisdiction, and involves a question of fact. Therefore, this issue is relevant and material to a decision on the permit application. The Executive Director recommends referral to SOAH.

ISSUE 4: Whether the draft permit complies with all applicable state regulations relating to protection of surface water quality codified in 30 TAC § 307. (RTC#3)

This issue is within TCEQ's jurisdiction, and involves a question of fact. Therefore, this issue is relevant and material to a decision on the permit application. The Executive Director recommends referral to SOAH.

ISSUE 5: Whether the draft permit complies with the location standards codified in 30 TAC § 309, Subchapter B. (RTC#6, #7 & #8)

This issue is within TCEQ's jurisdiction, and involves a question of fact. Therefore, this issue is relevant and material to a decision on the permit application. The Executive Director recommends referral to SOAH.

ISSUE 6: Whether the draft permit is protective of groundwater. (RTC#5)

This issue is within TCEQ's jurisdiction, and involves a question of fact. Therefore, this issue is relevant and material to a decision on the permit application. The Executive Director recommends referral to SOAH.

ISSUE 7: Whether the discharge will adversely affect wetland areas. (RTC#8)

This issue is within TCEQ's jurisdiction, and involves a question of fact. Therefore, this issue is relevant and material to a decision on the permit application. The Executive Director recommends referral to SOAH.

ISSUE 8: Whether the draft permit complies with TCEQ's regionalization policy. (RTC#9)

This issue is within TCEQ's jurisdiction, and involves a question of fact. Therefore, this issue is relevant and material to a decision on the permit application. The Executive Director recommends referral to SOAH.

ISSUE 9: Whether the draft permit's terms are adequate to protect health and safety and the environment. (RTC#12)

This issue is within TCEQ's jurisdiction, and involves a question of fact. Therefore, this issue is relevant and material to a decision on the permit application. The Executive Director recommends referral to SOAH.

ISSUE 10: Whether the application demonstrates that best available technologies are being used. (RTC#11)

This is an issue of fact; however, neither the Texas Water Code nor other applicable rules and regulations require that best available technologies be used to determine effluent limits for municipal wastewater permits. Therefore, the issue of whether the application demonstrates that best available technologies are being used is not relevant and material to the decision to grant a wastewater discharge permit application. The ED recommends **not referring** this issue to SOAH.

ISSUE 11: Whether the applicant has demonstrated that it will be able to adequately remove pharmaceutical or other contaminants from its discharge. (RTC#13)

This is an issue of fact; however, the removal of "emerging contaminants" such as pharmaceuticals from wastewater discharges is currently not addressed by the Texas Water Code or TCEQ rules. Accordingly, the removal of pharmaceuticals is not considered by the ED as part of his

review. Thus, 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.

VII. Duration of the Contested Case Hearing

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

IX. Executive Director's Recommendation

The ED recommends the following actions by the Commission:

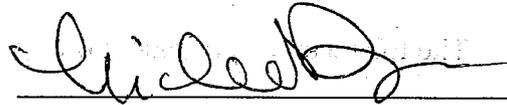
1. Deny all hearing requests.
2. If a contested case hearing is granted, refer issues #1 through 9 to SOAH for a proceeding of nine months duration with the time period beginning with the preliminary hearing and concluding with presentation of a proposal for decision before the Commission.
3. Do not refer issues 10 or 11.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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

Robert Martinez, Director
Environmental Law Division

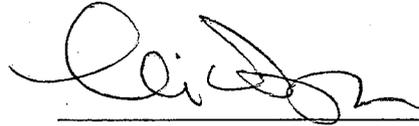


Michelle Bacon, Staff Attorney
Environmental Law Division
State Bar No. 24045436
P. O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone: (512) 239-0645
Fax: (512) 239-0606

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on April 5, 2010, the original and seven copies of the "Executive Director's Response to Hearing Requests" for TPDES Permit No. WQ0011787001 were filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was mailed to all persons on the mailing list.



Michelle Bacon, Staff Attorney
Environmental Law Division
State Bar No. 24045436

MAILING LIST
CITY OF BULLARD
DOCKET NO. 2010-0237-MWD; PERMIT NO. WQ0011787001

FOR THE APPLICANT:

Larry Morgan, City Manager
Mark Barker
City of Bullard
P.O. Box 107
Bullard, Texas 75757
Tel: (903) 894-7233
Fax: (903) 894-8163

Scott Wetzel
BWR Corporation
810 Hesters Crossing Rd., Ste. 225
Round Rock, Texas 78681-7838
Tel: (512) 826-0076
Fax: (512) 826-0077

FOR THE EXECUTIVE DIRECTOR:

Michelle Bacon, Staff Attorney
Texas Commission on Environmental
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Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-0600
Fax: (512) 239-0606

Phillip Urbany, Technical Staff
Texas Commission on Environmental
Quality
Water Quality Division, MC-148
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-4521
Fax: (512) 239-4430

FOR PUBLIC INTEREST COUNSEL:

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

FOR OFFICE OF PUBLIC ASSISTANCE:

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

FOR ALTERNATIVE DISPUTE
RESOLUTION:

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

FOR THE CHIEF CLERK:

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

REQUESTER(S):

Scott Rhodes
Mcginis, Lochridge, Kilgore, L.L.P.
600 Congress Avenue, Ste. 2100
Austin, Texas 78711

Axum Teferra
Lowerre, Frederick, Perales, Allmon &
Rockwell
707 Rio Grande St., Ste. 200
Austin, Texas 78701

INTERESTED PERSONS:

Eric Allmon
Lowerre, Frederick, Perales, Allmon &
Rockwell
707 Rio Grande St., Ste. 200
Austin, Texas 78701

James L. Machin, P.E.
TRC Environmental Corporation
505 E. Huntland Dr., Ste. 250
Austin, Texas 78752

Bill McMahan
Crow Holdings
3819 Maple Avenue
Dallas, Texas 75219

ATTACHMENT A
Satellite Map of Area

City of Bullard
WQ0011787001
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

February 8, 2010

0 0.5 1 2 Miles

Projection: Texas Statewide Mapping System (TSMS)
 Scale: 1:85,000

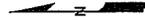
Legend

- Facility Property Boundary
- Discharge Point

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. 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 Orthoimagery Project.

This map depicts the following:

- (1) A circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
- (2) The discharge point. This is labeled "Discharge Point".
- (3) The discharge route. This is labeled "Discharge Route".

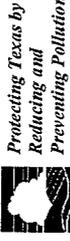


This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This map was not generated by a licensed surveyor, and is intended for illustrative purposes only. No claims are made to the accuracy or completeness of the data or to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

McDermott, CKF-100200174



City of Bullard
WQ0011787001
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 78711-5087
 February 8, 2010

0 0.1 0.2 0.4 Miles
 Projection: Texas Statewide Mapping System (TSM5)
 Scale 1:20,671

- Legend**
- Facility Property Boundary
 - Discharge Point

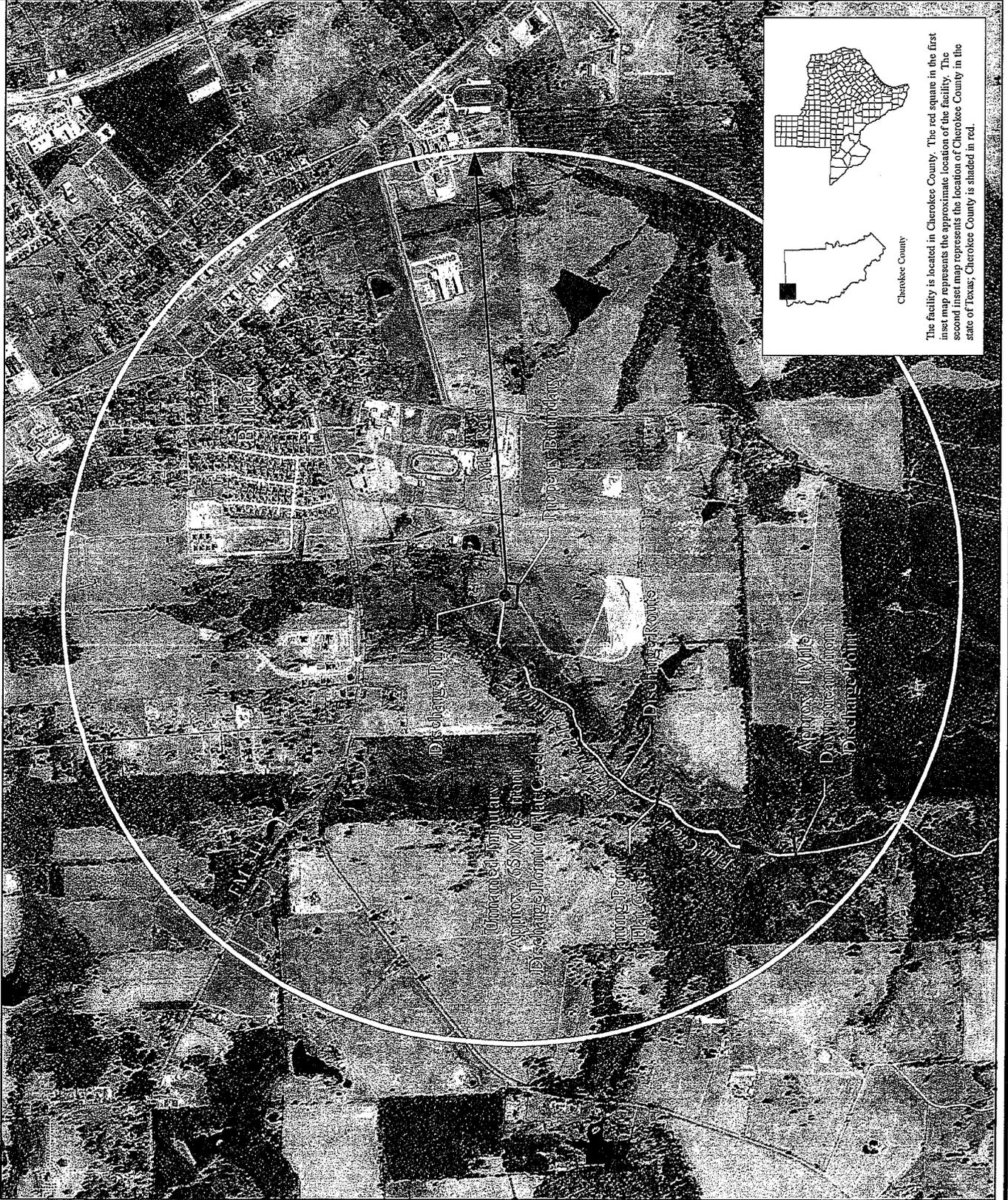
Sources: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this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

This map depicts the following:

- (1) The approximate location of the facility boundary. This is labeled "Property Boundary".
- (2) A circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
- (3) The discharge point. This is labeled "Discharge Point".
- (4) The discharge route. This is labeled "Discharge Route".

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This map was not generated by a licensed surveyor, and is intended for illustrative purposes only. No claims are made to the accuracy or completeness of the data or to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

IV MCD00000001 CRF-100200017



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

ATTACHMENT B
Fact Sheet and Executive Director's Preliminary Decision

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

DESCRIPTION OF APPLICATION

Applicant: City of Bullard;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0011787001, TX0071188

Regulated Activity: Domestic Wastewater Permit

Type of Application: Major Amendment

Request: Major Amendment for Increase in Flow

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

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The proposed permit includes an expiration date of **August 1, 2014** according to 30 TAC § 305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment of the existing permit to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 0.213 million gallons per day to a daily average flow not to exceed 0.438 million gallons per day. The existing wastewater treatment facility serves the City of Bullard.

PROJECT DESCRIPTION AND LOCATION

The interim phase wastewater treatment facility is an activated sludge process plant operated in the extended aeration mode. Treatment units include an influent lift station, oxidation ditch aeration basin, final clarifiers, sludge filter box and a chlorine contact chamber. In the final phase a sequencing batch reactor package plant and chlorine contact chamber will be added to operate in parallel with the interim phase facility. The facility is operating in the interim phase.

Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ authorized composting facility, Angelina & Neches River Authority Composting Facility, Permit No. 42011, in Cherokee County. The draft permit also authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The plant site is located approximately 2,600 feet southwest of the Bullard School and approximately 3,000 feet west-southwest of the intersection of Farm-to-Market Road 344 and Oak Street in Cherokee County, Texas 75757.

The treated effluent is discharged to an unnamed tributary; thence to Flat Creek; thence to the Neches River Below Lake Palestine in Segment No. 0604 of the Neches River Basin. The unclassified receiving

water uses are no significant aquatic life use for the unnamed tributary and high aquatic life use for Flat Creek. The designated uses for Segment No. 0604 are high aquatic life use, public water supply and contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Flat Creek, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

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

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

Segment 0604 is currently listed on the State's inventory of impaired and threatened waters (the 2008 Clean Water Act Section 303(d) list). The listing is specifically for lead in water from SH 21 to US 84 (AU 0604_04). This is an application for a public domestic wastewater treatment facility; the facility does not receive significant industrial wastewater contributions, therefore the effluent from this facility should not contribute to the impairment of this segment for lead.

SUMMARY OF EFFLUENT DATA

The following is a summary of the applicant's Monthly Effluent Report data for the period April 2004 through March 2009. The average of Daily Avg value is computed by averaging of all 30-day average values for the reporting period for each parameter.

<u>Parameter</u>	<u>Average of Daily Avg</u>
Flow, MGD	0.182
BOD ₅ , mg/l	6.1
TSS, mg/l	11.8

The permittee has been notified that the average of daily average flows exceeded 90 percent of the permitted flow for three consecutive months on multiple occasions since January 2007 (January 2007 to July 2007, February 2008 to May 2008, October 2008 to March 2009).

PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at an interim volume not to exceed a daily average flow of 0.213 million gallons per day and a final volume not to exceed a daily average flow of 0.438 million gallons per day.

The effluent limitations in the interim phase of the draft permit, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS and 6.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The effluent limitations in the final phase of the draft permit, based on a 30-day average, are 10 mg/l CBOD₅, 15 mg/l TSS, 3 mg/l NH₃-N and 6.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

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

The facility does not appear to receive significant industrial wastewater contributions. Permit requirements for pretreatment are based on TPDES regulations contained in 30 TAC Chapter 315 which references 40 CFR Part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution." [*rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798*] 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. This permit has appropriate pretreatment language for a facility of this size and complexity.

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ authorized composting facility, Angelina & Neches River Authority Composting Facility, Permit No. 42011, in Cherokee County. The draft permit also authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

SUMMARY OF CHANGES FROM APPLICATION

The applicant requested effluent limitations, based on a 30-day average, of 10 mg/l BOD₅, 15 mg/l TSS and 6.0 mg/l minimum dissolved oxygen (DO). However, effluent limitations in the final phase of the draft permit, based on a 30-day average, are 10 mg/l CBOD₅, 15 mg/l TSS, 3 mg/l NH₃-N and 6.0 mg/l minimum dissolved oxygen (DO).

See the next section for additional changes based on the existing permit.

SUMMARY OF CHANGES FROM EXISTING PERMIT

Effluent limitations and monitoring requirements in the interim phase of the draft permit remain the same as the existing permit requirements. A final phase with a daily average flow of 0.438 MGD was included in the draft permit.

The Standard Permit Conditions, Sludge Provisions, Pretreatment Requirements and Other Requirements sections of the draft permit have been updated.

A final phase of 0.438 MGD has been added to the draft permit. The existing phase of the current permit has become the interim phase in the draft permit, which authorizes discharge at the existing effluent set. The final phase will begin upon completion of the proposed 0.438 mgd treatment facility. The effluent limitations in the interim phase of the draft permit, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS and 6.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow. The effluent limitations in the final phase of the draft permit, based on a 30-day average, are 10 mg/l CBOD₅, 15 mg/l TSS, 3 mg/l NH₃-N and 6.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

Based on recommendations from TCEQ Water Quality Assessment staff, effluent limits and monitoring requirements for ammonia (NH₃-N) have been added to the final phase of the draft permit. Questions regarding this requirement can be directed to Karen Holligan, Water Quality Standards Team, at (512) 239-4589.

Other Requirement No. 4 has been revised in the draft permit to include the use of restrictive easements to meet the buffer zone requirements.

Other Requirement No. 6 has been revised the draft permit to refer to 30 TAC Chapter 217.

Other Requirement No. 7 has been added to the draft permit to require submission of a summary submittal letter prior to construction of the final phase facilities.

Other Requirement No. 8 has been added to the draft permit to require submittal of a notice of completion of the final phase facilities.

Other Requirement No. 10 regarding notification of upcoming rulemaking and/or changes to procedural documents that may result in bacteria effluent limits and monitoring requirements has been added to the draft permit.

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application received April 22, 2009 and additional information received May 29, 2009 and June 24, 2009.
2. TPDES Permit No. WQ0011787001 issued August 24, 2006.
3. The effluent limitations and/or conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC §§ 307.1 - 307.10, effective August 17, 2000.

4. 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.
5. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division. Interoffice memorandum from the Storm Water & Pretreatment Team of the TCEQ Water Quality Division.
6. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.
7. "Procedures to Implement the Texas Surface Water Quality Standards", Texas Commission on Environmental Quality, January 2003.
8. Texas 2008 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, April 1, 2008; approved by the EPA July 9, 2008.
9. TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits, Document No. 98-001.000-OWR-WQ, May 1998.

PROCEDURES FOR FINAL DECISION

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

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

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

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

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

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

For additional information about this application contact Tom Y. Harrigan, P.E. at (512) 239-4521.



Tom Y. Harrigan, P.E.
Municipal Permits Team
Wastewater Permitting Section (MC
148)

7/21/2009

Date

ATTACHMENT C
Draft Permit

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

Mr. Larry Morgan, City Manager
City of Bullard
P.O. Box 107
Bullard, Texas 75757-0107

Re: City of Bullard, TPDES Permit No. WQ0011787001
(RN600667026; CN101720639)

Dear Mr. Morgan:

Enclosed is a copy of the above referenced permit for a wastewater treatment facility issued on behalf of the Executive Director pursuant to Chapter 26 of the Texas Water Code.

If you are receiving a Texas Pollutant Discharge Elimination System (TPDES) discharge permit and your system is a new facility or an existing facility that has been reporting to the Texas Commission on Environmental Quality (TCEQ), you may comply with self-reporting requirements by submitting discharge monitoring reports (DMR) electronically over the Web through STEERS (see enclosed flyer). Information about the electronic DMR (eDMR) system is available at www.tceq.state.tx.us/goto/eDMR. We encourage electronic reporting. Discharge facilities that do not use the eDMR system will receive paper DMR forms and instructions from the TCEQ Enforcement Division or from the U.S. Environmental Protection Agency (EPA) if the facility has been submitting DMRs to EPA.

If you are receiving a land application (no discharge) permit and are required to report monitoring results, self-reporting forms and instructions will be forwarded to you by the TCEQ Enforcement Division.

Enclosed is a "Notification of Completion of Wastewater Treatment Facilities" form. Use this form when the facility begins to operate or goes into a new phase. The form notifies the agency when the proposed facility is completed or when it is placed in operation. This notification complies with the special provision incorporated into the permit. When the agency receives this form, the appropriate permit requirements will be activated in the compliance system database so that accurate monitoring and reporting can occur.

Mr. Larry Morgan, City Manager
Page 2

Should you have any questions, please contact Mr. Thomas Harrigan, P.E. of the TCEQ's Wastewater Permitting Section at (512) 239-4671 or if by correspondence, include MC 148 in the letterhead address at the bottom of the previous page.

Sincerely,

Charles W. Maguire, Director
Water Quality Division
Texas Commission on Environmental Quality

CWM/TH/sp

Enclosures

ccs: TCEQ, Region 5
Mr. Scott Wetzal, P.E., BWR Corporation, 810 Hesters Crossing, Suite 225, Round Rock,
Texas 78681



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

TPDES PERMIT NO. WQ0011787001
[For TCEQ office use only -
EPA I.D. No. TX0071188]

This amendment supersedes and replaces
TPDES Permit No. WQ0011787001 issued
August 24, 2006.

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

City of Bullard

whose mailing address is

P.O. Box 107
Bullard, Texas 75757-0107

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

located approximately 2,600 feet southwest of the Bullard School and approximately 3,000 feet west-southwest of the intersection of Farm-to-Market Road 344 and Oak Street in Cherokee County, Texas 75757

to an unnamed tributary; thence to Flat Creek; thence to the Neches River Below Lake Palestine in Segment No. 0604 of the Neches 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, **August 1, 2014**.

ISSUED DATE:

For the Commission

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through completion of the 0.438 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 0.213 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 323 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u>			
	<u>Daily Avg</u> mg/(lbs/day)	<u>7-day Avg</u> mg/l	<u>Daily Max</u> mg/l	<u>Report Daily Avg. & Max.</u>	<u>Single Grab</u> mg/l	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow, MGD	Report	N/A	Report	N/A	N/A	Five/week	Instantaneous
Biochemical Oxygen Demand (5-day)	10 (18)	15	25	35		One/week	Grab
Total Suspended Solids	15 (27)	25	40	60		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 6.0 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 completion of the 0.438 million gallons per day (MGD) facilities and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.438 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,110 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Minimum Self-Monitoring Requirements</u>	
	Daily Avg mg/(lbs/day)	7-day Avg mg/l	Daily Max mg/l	Report Daily Avg. & Max. Single Grab	Measurement Frequency Sample Type
Flow, MGD	Report	N/A	Report	N/A	Five/week Instantaneous
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (36)	15	25	35	One/week Grab
Total Suspended Solids	15 (55)	25	40	60	One/week Grab
Ammonia Nitrogen	3 (11)	6	10	15	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 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 (TWC) §§ 5.103 and 5.105, and the Texas Health and Safety Code (THSC) §§ 361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in TWC § 26.001 and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

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

2. Concentration Measurements

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

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

- e. Bacteria concentration (Fecal coliform, *E. coli*, or Enterococci) - the number of colonies of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the n th root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
- f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD 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 that have not been classified as hazardous waste separated from wastewater by unit processes.
 - 6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, a monthly effluent report shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge 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 (CWA); TWC §§ 26, 27, and 28; and THSC § 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

2. Test Procedures

- a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§ 319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.
- b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC § 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

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

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

4. Additional Monitoring by Permittee

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

5. Calibration of Instruments

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

6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office 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 that exceeds any effluent limitation in the permit.
 - iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.

- c. In addition to the above, any effluent violation 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 CWA § 301 or § 306 if it were directly discharging those pollutants;
 - b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
 - c. For the purpose of this paragraph, adequate notice shall include information on:
 - i. The quality and quantity of effluent introduced into the POTW; and
 - ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

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

2. Compliance

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

3. Inspections and Entry

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

4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
 - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC § 305.534 (relating to New Sources and New Dischargers); or
 - ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9;
 - 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 TWC § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA § 307(a) for a toxic pollutant 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 CWA § 307(a) for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy.

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

OPERATIONAL REQUIREMENTS

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

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

7. Documentation

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

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

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

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

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

SLUDGE PROVISIONS

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

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION

A. General Requirements

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

B. Testing Requirements

1. Sewage sludge shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method that receives the prior approval of the TCEQ for the contaminants listed in 40 CFR Part 261.24, Table 1. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division and the Regional Director (MC Region 5) within seven (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 5) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

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

TABLE 1

<u>Pollutant</u>	<u>Ceiling Concentration</u> <u>(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 § 312.82(a)(2)(A) for specific information.

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

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

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

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

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

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

Alternative 6 (PFRP Equivalent) - Sewage sludge that is used or disposed of shall be treated in a process that has been approved by the U. S. Environmental Protection Agency 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 § 312.44.

4. Vector Attraction Reduction Requirements

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following Alternatives 1 through 10 for vector attraction reduction.

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

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

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

Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° 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° Celsius and the average temperature of the sewage sludge shall be higher than 45° 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% based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- Alternative 9 -
 - i. Sewage sludge shall be injected below the surface of the land.
 - ii. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.
 - iii. When sewage sludge that is injected below the surface of the land is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.
- Alternative 10-
 - i. Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.
 - ii. When sewage sludge that is incorporated into the soil is Class A with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

C. Monitoring Requirements

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

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

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

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

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

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

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

A. Pollutant Limits

Table 2

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

Table 3

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

*Dry weight basis

B. Pathogen Control

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

C. Management Practices

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

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

D. Notification Requirements

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

E. Record keeping Requirements

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

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

“I certify, under penalty of law, that the applicable pathogen requirements in 30 TAC § 312.82(a) or (b) and the vector attraction reduction requirements in 30 TAC § 312.83(b) have been met for each site on which bulk sewage sludge is applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices have been met. I am aware that there are significant penalties for false certification including fine and imprisonment.”
6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained. The person who applies bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply:

- a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii), as applicable, and to the permittee's specific sludge treatment activities.
- b. The location, by street address, and specific latitude and longitude, of each site on which sludge is applied.
- c. The number of acres in each site on which bulk sludge is applied.
- d. The date and time sludge is applied to each site.
- e. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.
- f. 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 5) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 1 of each year the following information:

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

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

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

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

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

Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division and the Regional Director (MC Region 5) 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 5) 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 5) 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 § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.
6. Identity of hauler(s) and transporter registration number.
7. Owner of disposal site(s).
8. Location of disposal site(s).
9. Date(s) of disposal.

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

OTHER REQUIREMENTS

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

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

2. The facility is not located in the Coastal Management Program boundary.
3. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 0604 of the Neches River Basin and any subsequent updating of the water quality model for Segment No. 0604, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC § 305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.
4. The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, prior to construction of the final phase, the permittee shall submit sufficient evidence of legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the permittee according to 30 TAC § 309.13(e)(3). The evidence of legal restrictions shall be submitted to the Executive Director in care of the TCEQ Wastewater Permitting Section (MC 148). See Attachment A, Buffer Zone Map.
5. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
6. Within sixty (60) days of the issuance date of the permit, the permittee shall submit to the TCEQ Wastewater Permits Section (MC 148) a copy of the approval letter from TCEQ for the plans and specifications for the existing facility. If the permittee does not have a copy of an approval letter, the permittee shall submit a summary submittal letter in accordance with the requirements in 30 TAC Section 217.6(c). If requested by the Wastewater Permits 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 permitted effluent limitations and flow required on Page 2 of the permit.
7. Prior to construction of the final phase 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 2a of the permit.

8. The permittee shall notify the TCEQ Regional Office (MC Region 5) and the Applications Review and Processing Team (MC 148) of the Water Quality Division in writing at least forty-five (45) days prior to the completion of the new facilities.
9. The permittee is authorized to haul sludge from the wastewater treatment facility, by a licensed hauler, to the Angelina & Neches River Composting Facility (ANRA), Permit No. 42011. The permittee shall keep records of all sludge removed from the wastewater treatment plant site and these records shall include the following information:
 - a. The volume of sludge hauled;
 - b. The date(s) that sludge was hauled;
 - c. The identity of haulers; and
 - d. The permittee, TCEQ permit number, and location of the wastewater treatment plant to which the sludge is hauled.

These records shall be maintained on a monthly basis and shall be reported to the TCEQ Regional Office (MC Region 5) and the TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

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

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, waste streams 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, non-biodegradable 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[*rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798*].
3. The permittee shall provide adequate notification to the Executive Director 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.

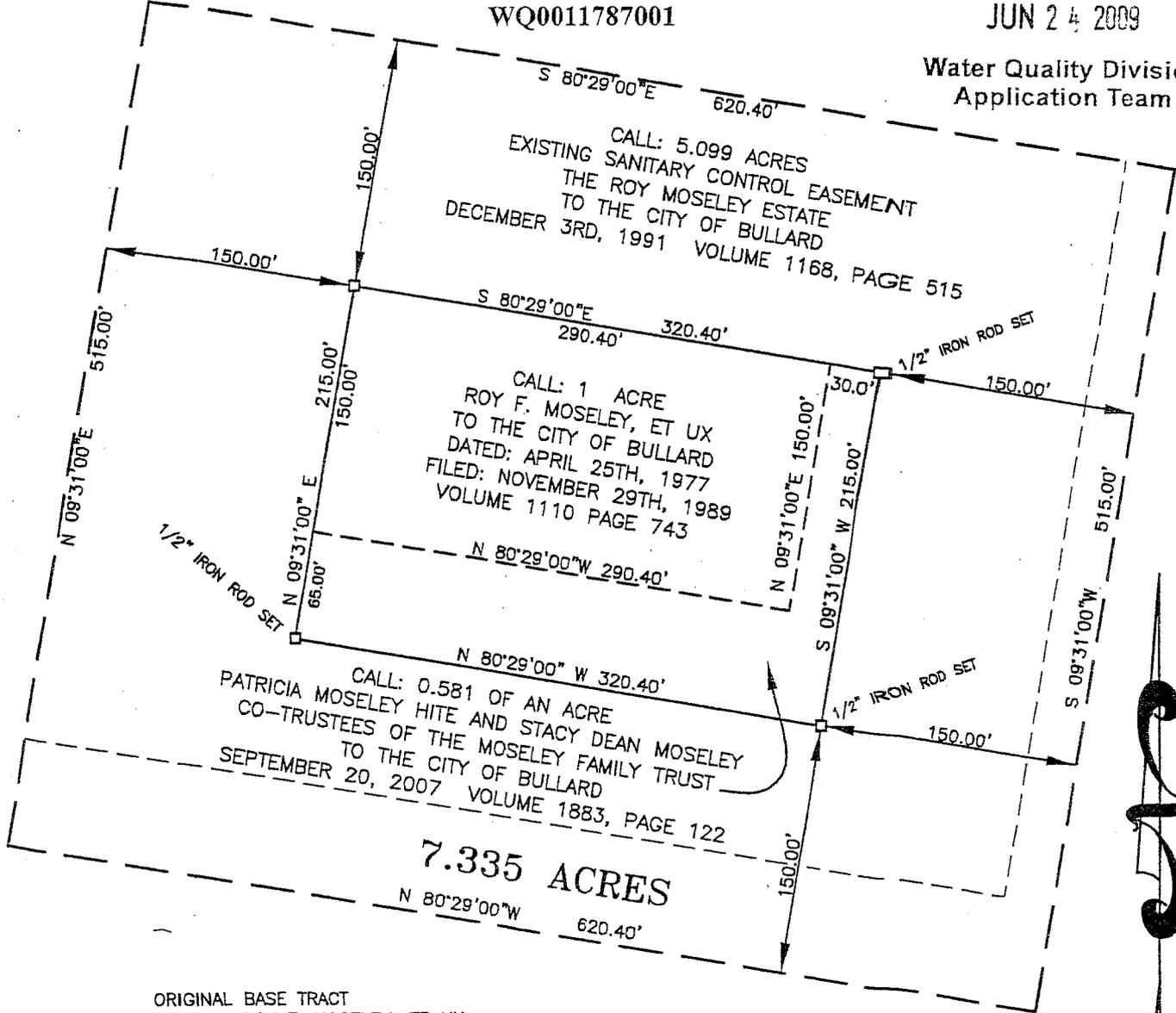
Revised July 2007

ATTACHMENT "A"
SANITARY CONTROL EASEMENT
FOR THE CITY OF BULLARD
PART OF THE WM H. STEELE SURVEY A-49
CHEROKEE COUNTY, TEXAS **RECEIVED**

CITY OF BULLARD
WQ0011787001

JUN 24 2009

Water Quality Division
Application Team

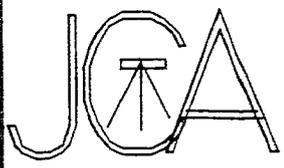


ORIGINAL BASE TRACT
J. L. VANDERVER TO ROY F. MOSELEY, ET UX
VOLUME 442, PAGE 390
DEED RECORDS OF SMITH COUNTY, TEXAS

BEARINGS ARE ORIENTED TO THE CALLED 1 ACRE TRACT
RECORDED IN VOLUME 1110, PAGE 743 OF THE DEED
RECORDS OF CHEROKEE COUNTY, TEXAS.

ACCESS EASEMENT
STANLEY MOSELEY, EXECUTOR OF ROY F. MOSELEY ESTATE
TO THE CITY OF BULLARD
MARCH 29TH, 1993 VOLUME 1207, PAGE 444 D.R.C.C.T.

A WRITTEN DESCRIPTION ACCOMPANIES THIS PLAT.



JOHN COWAN & ASSOCIATES, INC.

2012 ANTHONY DRIVE - TYLER, TEXAS 75701
TELEPHONE: (903) 581-2238 FAX: 561-0600
e-mail: johncowaninc@jcowaninc.com

DRAWN BY: M. ELLIS	CHECKED BY: B. CAPPS
DATE: JUNE 18TH, 2009	FLD. BOOK: ****
SCALE: 1" = 100.0 FT.	JOB NO.: 09-182

ATTACHMENT D
Executive Director's Response to Public Comment (RTC)

TCEQ PERMIT NO. WQ0011787001

2010 JAN 11 PM 2: 32

APPLICATION BY

THE CITY OF BULLARD

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the City of Bullard's (Applicant) application and Executive Director's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk received timely filed comment letters from the following persons: Richard Lowerre of Lowerre, Frederick, Perales, Allmon & Rockwell, Attorneys at Law, representing the Texas Conservation Alliance (TCA) and Dr. Adrian Van Dellen, and Scott Rhodes of McGinnis, Lochridge & Kilgore, L.L.P., representing HRC Cherokee Tree Farm, L.P. (HRC). This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

The City of Bullard has applied to the TCEQ for a major amendment to TPDES Permit No. WQ0011787001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 213,000 gallons per day (gpd) to a daily average flow not to exceed 438,000 gpd. The wastewater treatment facility serves the City of Bullard. The facility is located approximately 2,600 feet southwest of the Bullard School and approximately 3,000 feet west-southwest of the intersection of Farm-to-Market Road 344 and Oak Street in Cherokee County, Texas.

The treated effluent is discharged to an unnamed tributary; then to Flat Creek; then to the Neches River Below Lake Palestine in Segment No. 0604 of the Neches River Basin. The unclassified receiving water uses are no significant aquatic life use for the unnamed tributary and high aquatic life use for Flat Creek. The designated uses for Segment No. 0604 are high aquatic life use, public water supply and contact recreation. The effluent limitations in the draft permit will

maintain and protect the existing instream uses. In accordance with 30 TAC § 307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards (TSWQS), 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 Flat Creek, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. Degradation means "a lowering of water quality by more than a de minimis extent, but not to the extent that an existing use is impaired." 30 TAC § 307.5(b)(2). The preliminary determination can be reexamined and may be modified if new information is received.

Segment 0604 is currently listed on the State's inventory of impaired and threatened waters (the 2008 Clean Water Act 303(d) list). The listing is specifically for lead in water from SH 21 to US 84. This is an application for a public domestic wastewater treatment facility; the facility does not receive significant industrial wastewater contributions, therefore the effluent from this facility should not contribute to the impairment of this segment for lead.

Procedural Background

The permit application was received on April 22, 2009 and declared administratively complete on June 3, 2009. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on July 1, 2009 in the *Tyler Morning Telegraph* and the *Jacksonville Daily Progress*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on October 14, 2009 in the *Jacksonville Daily Progress*. The public comment period ended on November 13, 2009. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

TCA and Dr. Van Dellen state that the Applicant's compliance history requires either: (1) denial of the application, or (2) additional conditions and terms in the permit, such as increased monitoring and reporting requirements to minimize the likelihood of future violations. HRC comments that, due to the Applicant's compliance history, the Applicant will not be able to demonstrate that it can or will be able to comply with the permit for which it has now applied and should be required to demonstrate that it has the financial, managerial and operational ability to operate the wastewater treatment plant in compliance with state requirements.

RESPONSE 1:

The Applicant is required to operate in compliance with the Texas Water Code, TCEQ's rules and the terms of the permit. TCEQ may issue a permit if the application meets all administrative and technical requirements to protect water quality.

Section 5.753(e) of the Texas Water Code requires the TCEQ to use a facility's compliance

history when making decisions relating to the renewal of a permit. The compliance history for the customer/owner and the regulated entity (site) is reviewed for the five-year period prior to the date the permit application was received by the Executive Director. The Applicant's company and site have been rated and classified pursuant to 30 TAC Chapter 60. A customer/owner and site may have one of the following classifications and ratings:

- High: rating < 0.10 (above-average compliance record)
- Average by Default: rating = 3.01 (these are for sites which have never been investigated)
- Average: 0.10 < rating < 45 (generally complies with environmental regulations)
- Poor: 45 < rating (performs below average)

The Applicant's compliance history ratings for 9/1/2009—a customer rating of 2.23 and a site rating of 2.23—are both within the average classification range. The compliance history report indicates no final enforcement orders, court judgments, consent decrees or criminal convictions from the State of Texas or the federal government. Input from TCEQ Region 5 indicates that the maintenance of the facility is fair, though the facility needs additional treatment capacity.

The compliance history for a facility is always available to the public. The compliance history may be viewed on the TCEQ website at <http://www.tceq.state.tx.us/occe/ch/>. For copies of more detailed investigation reports, you may contact the TCEQ Office of Administrative Services, Customer Service Center, at 512-239-3282 to submit an open records request.

Title 30 Texas Administrative Code Section 305.126(a) and the operational requirements of the existing permit specify that whenever flow measurements for any domestic sewage treatment facility reach 75 percent of the permitted daily average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading the domestic wastewater treatment and/or collection facilities, and that whenever flows reach 90 percent of the permitted daily 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. The Applicant has been notified that flows at the plant have exceeded 90 percent of the permitted daily flow for three consecutive months during 2007, 2008 and 2009. The subject application is for a major amendment to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 213,000 gpd to a daily average flow not to exceed 438,000 gpd.

The Applicant is responsible for operating the facility; however, the Applicant may contract with an individual operator, company, and other entity to operate the facility. Anyone who operates a domestic wastewater facility is required to hold a current wastewater operator registration issued by the TCEQ. TCEQ rules, codified at 30 TAC Chapter 30, require the facility to be operated by a licensed wastewater operator who must hold a specific level of license based on the type of treatment and permitted daily average flow. The draft permit requires that this Category C facility must be operated by a chief operator or an operator holding a Category C license or higher. The rules state that the chief operator or operator with the required level of license or higher must be present at the facility five days per week and available by phone or pager seven days per week. The amount of time per day that the operator is required to be onsite is not stipulated in the rules.

The Applicant is required to analyze the treated effluent prior to discharge and to provide monthly reports to the TCEQ that include the results of the analyses. The Applicant may collect and analyze the effluent samples itself, or it may contract with a third party for either or both the sampling and analysis. However, all samples must be collected and analyzed according to 30 TAC Chapter 319, Subchapter A, Monitoring and Reporting System. Effective July 1, 2008, all laboratory tests performed must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification. The Applicant is required to notify the agency if the effluent does not meet the permit limits according to the requirements in the permit. In addition, the TCEQ regional staff may sample the effluent during routine inspections or in response to a complaint.

The Applicant is required to report any unauthorized discharge to TCEQ within 24 hours. If the Applicant fails to report the unauthorized discharge or bypass to TCEQ within the prescribed time period, the Applicant may be subject to enforcement action. TCEQ conducts periodic inspections of wastewater facilities and also conducts investigations based on complaints received from the public. To report complaints about the facility, please contact the Tyler Regional Office at (903) 535-5100, or call the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. Citizen complaints may also be filed on-line at www.tceq.state.tx.us/compliance/complaints/index.html. If the facility is found to be out of compliance with the terms or conditions of its permit or with TCEQ regulations, it may be subject to enforcement.

COMMENT 2:

TCA and Dr. Van Dellen comment that the application does not include a complete list of all names and addresses of persons affected by the application. TCA and Dr. Van Dellen comment that there has not been proper notice of the application.

RESPONSE 2:

The applicant for a major amendment to a wastewater discharge permit is required to include the following information in the permit application:

a topographic map, ownership map, county highway map, or a map prepared by a Texas licensed professional engineer, Texas licensed professional geoscientist, or a registered surveyor which shows the facility and each of its intake and discharge structures and any other structure or location regarding the regulated facility and associated activities. Maps must be of material suitable for a permanent record, and shall be on sheets 8-1/2 inches by 14 inches or folded to that size, and shall be on a scale of not less than one inch equals one mile. *The map shall depict the approximate boundaries of the tract of land owned or to be used by the applicant and shall extend at least one mile beyond the tract boundaries . . .*

30 TAC § 305.45(a)(6), emphasis added.

If the application is for the disposal of any waste into or adjacent to a watercourse, the application shall show the ownership of the tracts of land adjacent to the

treatment facility and *for a reasonable distance along the watercourse from the proposed point of discharge*. The applicant shall list on a map, or in a separate sheet attached to a map, the names and addresses of the owners of such tracts of land as can be determined from the current county tax rolls or other reliable sources. The application shall state the source of the information.

30 TAC § 305.48(a)(2), emphasis added. The applicant is required to certify that the submitted application is accurate. The TCEQ mails notice of the application to the affected landowners and others on the mailing list for the application, which is maintained by the Office of the Chief Clerk.

Additionally, for major amendments to wastewater discharge permits, the agency prepares two public notices: the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) and the Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD). The Applicant is required to publish these notices in a local newspaper and to provide a copy of the application, draft permit and Executive Director's Preliminary Decision in a public place for viewing and copying. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on July 1, 2009 in the *Tyler Morning Telegraph* and the *Jacksonville Daily Progress*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on October 14, 2009 in the *Jacksonville Daily Progress*. A review of the application indicates that the Applicant complied with all applicable water quality permitting and notice requirements. The commenters did not provide information to the Executive Director that would lead him to conclude that notice was deficient in this case.

COMMENT 3:

TCA and Dr. Van Dellen comment that the application does not show how the operations will prevent significant degradation of water quality in the receiving waters. TCA and Dr. Van Dellen comment that the application does not show how water quality standards will be met. TCA and Dr. Van Dellen comment that the discharge will result in violations of water quality standards and degradation of the water quality in the receiving waters. HRC comments that the applicant has failed to demonstrate that the application will not result in the violation of State water quality standards for the receiving stream. HRC comments that the level of treatment proposed in the draft permit may result in degradation of the water quality of Flat Creek and HRC's proposed reservoirs. HRC also comments that, due to intermittent flows in Flat Creek, the discharge could have an adverse impact on recreational reservoirs that HRC intends to develop on Flat Creek downstream of the discharge point.

RESPONSE 3:

As part of the permit application process, the ED determines the uses of the receiving water and sets effluent limits that are protective of those uses. In this case, the unclassified receiving water uses are no significant aquatic life use for the unnamed tributary and high aquatic life use for Flat Creek. The designated uses for Segment No. 0604 are high aquatic life use, public water supply and contact recreation. These designated uses and the associated criteria contained in Appendix A of the TSWQS for Segment 0604 of the Neches River Basin were used to evaluate this permit application.

The draft permit includes effluent limitations and monitoring requirements to ensure that the proposed discharge will not violate the Texas Surface Water Quality Standards for the protection of surface water, groundwater, aquatic and terrestrial life, and human health. It also includes additional requirements for the wastewater treatment system to ensure the protection of water quality and human health; and for the disposal of domestic sludge generated from the wastewater treatment facility. Based on modeling results for the proposed effluent flow of 438,000 gpd, effluent limits of 10 mg/L 5-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), 15 mg/L Total Suspended Solids (TSS), 3 mg/L Ammonia Nitrogen (NH₃-N), and 6 mg/L Dissolved Oxygen (DO) are predicted to be necessary to ensure that stream receiving water standards are met.

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 Flat Creek, which has been identified as having a high aquatic life use. Degradation means "a lowering of water quality by more than a de minimis extent, but not to the extent that an existing use is impaired." 30 TAC § 307.5(b)(2). Existing uses should be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

With regard to the planned reservoirs, only existing waterbodies are evaluated for purposes of determining potential impacts to receiving waters. If reservoirs are developed after issuance of this permit, impacts to such reservoirs may be evaluated when the permit comes up for renewal, depending on the nature and location of the reservoirs.

COMMENT 4:

TCA and Dr. Van Dellen comment that the application does not contain adequate facility designs and specifications.

RESPONSE 4:

The final design of the facility is not required as part of the wastewater permit application; however, the draft permit requires the Applicant to meet the design criteria requirements for domestic wastewater treatment plants prior to construction of the facility. The rules in 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems, provide for permit issuance before final design of the facility. Other Requirements No. 6 and No. 7 of the draft permit require the Applicant to clearly show how the treatment system will meet the permitted effluent limitations required for each phase of the draft permit. The draft permit requires the Applicant to submit to the TCEQ Wastewater Permitting Section a summary submittal letter for the design criteria, meeting the requirements of 30 TAC Section 217.6(c), prior to construction of the final phase of the wastewater treatment facilities. The summary letter must be signed and sealed by a licensed professional engineer. If requested by the Wastewater Permitting Section, the permittee must submit plans, specifications, and a final engineering design report that comply with the rules. In addition, a licensed professional engineer must certify that the wastewater treatment facility was constructed according to the plans and specifications.

COMMENT 5:

TCA and Dr. Van Dellen comment that the application does not address groundwater contamination, and HRC comments that the applicant has not demonstrated that the application and draft permit will not adversely affect the groundwater used by HRC.

RESPONSE 5:

The draft permit was prepared in accordance with the Texas Surface Water Quality Standards, which are designed to be protective of aquatic life, human health and the environment. The review process for surface water quality is conducted by the Standards Implementation Team and Water Quality Assessment Team. According to the Texas Groundwater Protection Strategy, AS-188 (February 2003), if the surface water quality is protected, then the groundwater quality in the vicinity will likewise be protected.

COMMENT 6:

TCA and Dr. Van Dellen comment that the facility will not provide for needed odor controls and has not demonstrated adequate buffer zones. TCA and Dr. Van Dellen also comment that the facility will not provide controls for other nuisance conditions, including noise, light and dust.

RESPONSE 6:

TCEQ rules require domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odors according to 30 TAC Section 309.13(e). These rules provide three options for applicants to use to satisfy the nuisance odor abatement and control requirement. The Applicant can meet this requirement by owning the buffer zone area, by obtaining a restrictive easement from the adjacent property owner(s) for any part of the buffer zone not owned by the Applicant, or by providing odor control. The draft permit requires the applicant to meet the buffer zone requirements by ownership and legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the permittee.

Texas Water Code Section 26.121 authorizes discharges into water in the state, provided the discharger obtains a permit from the Commission. The TCEQ reviews permit applications to determine if the proposed discharge will violate the Texas Surface Water Quality Standards (TSWQS), codified in 30 TAC Chapter 307. Pursuant to 30 TAC Chapter 309, Subchapter B, the TCEQ has the authority to condition the issuance of a wastewater permit on the selection of a site that minimizes impacts on ground and surface waters, and to minimize certain nuisance conditions. The Commission does not have the authority to address concerns about noise, light and dust when determining whether to issue a wastewater permit. The scope of the Agency's regulatory jurisdiction does not affect or limit the ability of a landowner to seek relief from a court in response to activities that interfere with the landowner's use and enjoyment of their property.

COMMENT 7:

TCA and Dr. Van Dellen comment that the application does not provide for meeting other location requirements.

RESPONSE 7:

The Applicant has indicated in the application that the facility complies with the unsuitable site

characteristics found in 30 TAC 309.13(a) through (d). (Subpart 30 TAC 309.13(e) is discussed above, and Subpart 30 TAC 309.13(b) is discussed further below.)

COMMENT 8:

TCA and Dr. Van Dellen comment that the application does not provide for the protection of wetlands. TCA and Dr. Van Dellen comment that the location of the facilities, including the outfall and the discharge, will adversely affect wetland areas.

RESPONSE 8:

According to 30 TAC § 309.13(b), a wastewater treatment plant unit cannot be located in wetlands. However, this prohibition does not apply to manmade constructed wetlands. The Applicant has indicated that no wetland or part of a wetland will be affected by this facility. The commenters did not provide any information to indicate that the facility is located on naturally occurring wetlands.

The United States Army Corps of Engineers (Corps) regulates certain activities occurring in waters of the United States, including wetlands, under Section 404 of the Clean Water Act and Section 10 of the River and Harbors Act of 1899. A Corps permit is required for the discharge of dredged or fill material into waters of the U.S., including wetlands. It is the responsibility of the Applicant to obtain all necessary authorizations, including a Federal Clean Water Act Chapter 404 Dredge and Fill permit, if required.

As was discussed in Response No. 3, the draft permit contains effluent limitations and monitoring requirements that are designed to be protective of surface water, groundwater, aquatic and terrestrial life, and human health. The effluent limits should likewise be protective of wetland water quality functions.

COMMENT 9:

TCA and Dr. Van Dellen and HRC comment that the Applicant has not demonstrated that it has complied with TCEQ's regionalization policy.

RESPONSE 9:

Texas Water Code, Section 26.0282 provides that in considering the issuance, amendment, or renewal of a permit to discharge waste, the Commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed area wide or regional waste collection, treatment, and disposal systems not designated as area wide or regional disposal systems by Commission Order. This section is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater. According to Section 26.081 of the Texas Water Code, TCEQ has been mandated to "encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state."

The Domestic Wastewater Permit Application Technical Report requires information concerning regionalization of wastewater treatment plants. The Applicant is required to review a three-mile

area surrounding the facility to determine if there is a wastewater treatment plant or sewage collection lines within the area that the permittee can use. The Applicant has indicated in the application that the service area is not located inside another utility's CCN, and that there are not any domestic permitted wastewater treatment facilities and/or collection systems located within a three mile radius of the facility. Finally, Operational Requirements, No 8(c) in the draft permits reads:

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.

COMMENT 10:

TCA and Dr. Van Dellen comment that the information is not properly verified or sealed by a person qualified to file such information.

RESPONSE 10:

The Applicant certified under penalty of law that the application document and all attachments were prepared under the Applicant's direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

COMMENT 11:

TCA and Dr. Van Dellen comment that the application does not demonstrate that best available technologies are being used.

RESPONSE 11:

Secondary treatment standards are defined in 30 TAC Chapter 309. In addition, the State of Texas has established a state water quality management program and a continuing planning process which sets forth the strategy and procedures for accomplishing the management program's objectives. Essential elements of the program include updates of basin plans, total maximum daily loads and wasteload evaluations by basin segments. In order to achieve compliance with water quality standards within certain segments, more stringent effluent quality limitations other than basic secondary treatment may be required to protect water quality. Best available technology, however, is not used to determine effluent limits for municipal wastewater discharges.

COMMENT 12:

TCA and Dr. Van Dellen comment that the draft permit is inadequate in that it fails to provide

the character of the discharge, flow limitations and adequate monitoring and reporting requirements. TCA and Dr. Van Dellen comment that the application does not provide for adequate monitoring of the receiving waters.

RESPONSE 12:

The draft permit includes effluent limitations and monitoring requirements for CBOD₅, TSS, NH₃-N, DO, chlorine residual and pH to ensure that the proposed wastewater treatment plant meets water quality standards for the protection of surface water quality, groundwater, and human health according to TCEQ rules and policies. The draft permit includes additional requirements for the wastewater treatment system to ensure the protection of water quality and human health. The draft permit includes requirements for the disposal of domestic sludge generated from the wastewater treatment facility based on TCEQ rules. The Executive Director has determined that the draft permit is protective of the environment, water quality, and human health and that it meets TCEQ rules and requirements. To report complaints about the facility, please contact the TCEQ at 1-888-777-3186 to reach the TCEQ region office in your area. Noncompliance with the permit or TCEQ rules may result in enforcement action against the permittee.

COMMENT 13:

HRC comments that the applicant has not demonstrated that it will be able to adequately remove pharmaceutical or other contaminants from its discharge.

RESPONSE 13:

The TCEQ appreciates the public comment on this issue; however, the TCEQ and the EPA currently have no rules or policies in place to address what are known as "emerging contaminants." Both agencies are reviewing the issue and expect to be able to address the problem with appropriate controls sometime in the future. However, this issue is currently outside the scope of existing TCEQ regulations.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

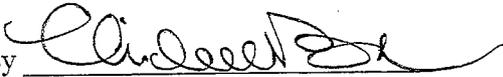
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

By 

Michelle L. Bacon, Staff Attorney
Environmental Law Division
State Bar No. 24045436
P. O. Box 13087

Austin, Texas 78711-3087
Telephone No. (512) 239-0645
Facsimile No. (512) 239-0606

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

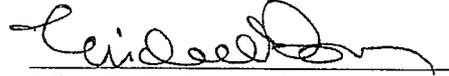
CERTIFICATE OF SERVICE

I certify that on January 11, 2010, the "Executive Director's Response to Public Comment" for Permit No. WQ0011787001 was filed with the Texas Commission on Environmental Quality's Office of Chief Clerk.

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2010 JAN 11 PM 2:33

CHIEF CLERKS OFFICE



Michelle L. Bacon, Staff Attorney
Environmental Law Division
State Bar No. 24045436

TCEQ INTRA-AGENCY TRANSMITTAL MEMO

DATE: 1/11/2010

TO: FINAL DOCUMENTS TEAM LEADER
OFFICE OF THE CHIEF CLERK
BUILDING F, MC-105

FROM: Michelle Bacon
ENVIRONMENTAL LAW DIVISION
BUILDING A, MC-173

Attached: Executive Director's Response to Comments

Application Information

Program Area (Air, Water or Waste): Water
Permit No. WQ0011787001 Name: City of Bullard
Docket/CID Item # (if known): 68620

OCC Action Required (check applicable boxes)

Date stamp and return copy to above-noted ELD Staff Attorney and:

FOR ALL PROGRAM AREAS: (required only when changes needed to official agency mailing list)

- Update the mailing list in your file with the attached contact names and addresses
Include corrected or additional names and addresses for mailing list

FOR WASTE & WATER:

- Send Response to Comments Letter which solicits hearing requests and requests for reconsideration to the mailing list in your files
For Waste and Water this would occur in all circumstances when comments have been received for 801 applications
Or
- Send Response to Comments Letter and Motion to Overturn Letter which solicits motions to overturn to the mailing list in your files
For Waste and Water this may occur when all comments have been withdrawn for 801 applications or when comments are received for applications that will not be set for agenda.

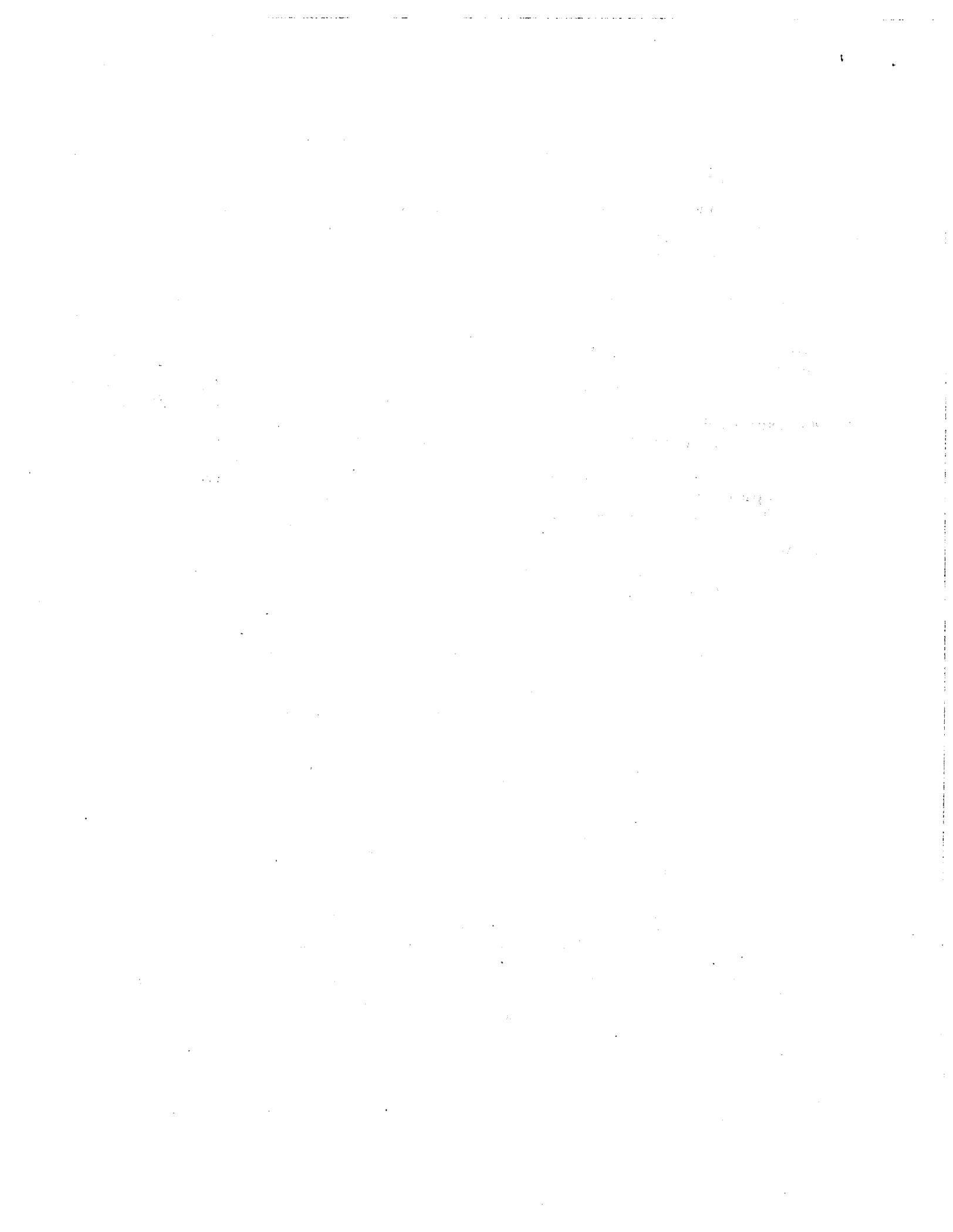
FOR AIR (NSR only):

- Send RTC with response to comments letter which solicits contested case hearing requests and requests for reconsideration to the mailing list in your files
For Air NSR applications this would occur only when there are pending contested case hearing requests (except no-increase renewals)
- Set for commission agenda and send RTC with agenda setting letter
This would occur when there are pending contested case hearing requests on a no-increase renewal and technical review is complete.
- Hold until a commission agenda date is requested and then send RTC with the Agenda Setting Letter
For Air applications this would occur when there are pending hearing requests on a no-increase renewal; but technical review is NOT complete.
If this box is checked, ED staff must call the OCC Agenda Team Leader to arrange a specific agenda date.
- Place RTC in File - no further action required by OCC
For Air NSR applications this would occur when the matter is uncontested but comments were received, APD will send a copy with MTO letter
- Other Instructions: _____

CHIEF CLERKS OFFICE

2010 JAN 11 PM 2:32

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



ATTACHMENT E
Compliance History

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600667026 City of Bullard	Classification: AVERAGE	Rating: 2.23
Regulated Entity:	RN101720639 CITY OF BULLARD WWTP	Classification: AVERAGE	Site Rating: 2.23
ID Number(s):	WASTEWATER PERMIT	WQ0011787001	
	WASTEWATER PERMIT	TPDES0071188	
	WASTEWATER PERMIT	TX0071188	
	WASTEWATER LICENSING LICENSE	WQ0011787001	
Location:	FM 344, BULLARD, TX, 75757		
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	April 01, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 22, 2004 to April 01, 2010		

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

Name: Staff Name Phone: 239 - 1000

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: 9/1/2009 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.)

- | | | |
|----|------------|----------|
| 1 | 05/21/2004 | (312049) |
| 2 | 06/20/2004 | (358884) |
| 3 | 07/20/2004 | (358885) |
| 4 | 08/19/2004 | (358886) |
| 5 | 09/21/2004 | (358887) |
| 6 | 10/14/2004 | (358888) |
| 7 | 11/19/2004 | (358889) |
| 8 | 12/06/2004 | (343057) |
| 9 | 12/16/2004 | (385606) |
| 10 | 12/16/2004 | (584098) |
| 11 | 03/10/2005 | (385604) |
| 12 | 03/21/2005 | (385605) |
| 13 | 04/14/2005 | (377737) |
| 14 | 04/25/2005 | (423603) |
| 15 | 05/16/2005 | (379399) |
| 16 | 05/25/2005 | (423604) |
| 17 | 07/25/2005 | (423605) |
| 18 | 08/15/2005 | (444404) |

19 08/15/2005 (444405)
 20 09/23/2005 (444406)
 21 10/26/2005 (584092)
 22 11/17/2005 (584094)
 23 12/19/2005 (584096)
 24 01/17/2006 (584099)
 25 02/21/2006 (584079)
 26 03/24/2006 (584081)
 27 04/20/2006 (584083)
 28 05/16/2006 (466344)
 29 05/22/2006 (584085)
 30 06/23/2006 (584087)
 31 07/20/2006 (584089)
 32 08/14/2006 (584090)
 33 09/20/2006 (584091)
 34 10/13/2006 (584093)
 35 11/16/2006 (584095)
 36 12/14/2006 (584097)
 37 01/22/2007 (584100)
 38 02/08/2007 (584080)
 39 03/16/2007 (584082)
 40 04/16/2007 (584084)
 41 05/21/2007 (584086)
 42 06/15/2007 (584088)
 43 07/18/2007 (608437)
 44 08/08/2007 (608438)
 45 08/22/2007 (572934)
 46 08/22/2007 (573183)
 47 09/21/2007 (608439)
 48 10/11/2007 (623100)
 49 11/15/2007 (623101)
 50 12/17/2007 (623102)
 51 01/07/2008 (674505)
 52 02/04/2008 (616736)
 53 02/18/2008 (674503)
 54 03/21/2008 (674504)
 55 04/14/2008 (692836)
 56 05/13/2008 (692837)
 57 07/14/2008 (714001)
 58 07/28/2008 (714000)
 59 08/20/2008 (714002)
 60 09/10/2008 (714003)
 61 09/24/2008 (720849)
 62 10/16/2008 (730038)
 63 10/27/2008 (706091)
 64 11/14/2008 (730039)
 65 12/12/2008 (730040)
 66 01/14/2009 (753214)
 67 02/24/2009 (753212)
 68 03/30/2009 (753213)
 69 04/02/2009 (741288)
 70 04/16/2009 (770742)

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

Date: 01/31/2005 (385604) CN600667026
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2005 (385605) CN600667026

Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2005 (423603)	CN600667026	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2005 (423604)	CN600667026	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	05/17/2005 (379399)	CN600667026	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(b)(1)		
Description:	Failure to maintain bar screen.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(d)		
Description:	Failure to properly operate and maintain clarifiers.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.1		
Description:	Failure to maintain sludge pumps.		
Date:	05/31/2005 (444404)	CN600667026	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2005 (444406)	CN600667026	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2005 (584092)	CN600667026	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2005 (584094)	CN600667026	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2005 (584096)	CN600667026	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2005 (584099)	CN600667026	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2006 (584079)	CN600667026	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2006 (584083)	CN600667026	

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2006 (584085) CN600667026

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/16/2006 (466344) CN600667026

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(b)(1)
 Description: Failure to maintain bar screen.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(d)
 Description: Failure to properly operate and maintain clarifiers.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.1
 Description: Failure to maintain sludge pumps.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(b)(1)
 Description: Failure to maintain bar screen.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.5(e)(1)
 Description: Failure to properly maintain sludge drying beds.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain DO, BOD, and TSS within permitted limits.
 Date: 05/31/2006 (584087) CN600667026

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2006 (584090) CN600667026

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2007 (584080) CN600667026

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2007 (584082) CN600667026

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2007 (584086) CN600667026

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2007 (584088) CN600667026

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2007 (608437) CN600667026

Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2007 (608438) CN600667026

Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/28/2007 (573183) CN600667026

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.3(c)(1)
 30 TAC Chapter 317 317.3(c)(2)
 30 TAC Chapter 317 317.3(c)(3)
 30 TAC Chapter 317 317.3(c)(4)
 30 TAC Chapter 317 317.3(c)(5)
 30 TAC Chapter 317 317.3(c)(6)
 30 TAC Chapter 317 317.3(c)(7)
 Description: Failure to have two operational pumps at the Courtney Drive lift station.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.3(a)
 30 TAC Chapter 317 317.3(e)(4)(C)
 Description: Failure to provide intruder resistance for the dentist office lift station.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.3(d)(5)
 Description: Failure to provide adequate hydraulic capacity for the discharge piping at the park lift station.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.2(a)(1)
 Description: Failure to maintain the wastewater collection system in a manner to minimize inflow in infiltration during rain events.

Self Report? NO Classification: Minor
 Citation: 11787-001 PERMIT
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain lift station maintenance and inspection documentation.
 Date: 08/28/2007 (572934) CN600667026

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to comply with the 75/90 rule in this permit. This plant must be operated within the permitted effluent flow parameters.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
 Description: Failure to comply with the 75/90 rule in this permit.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.4(a)(8)
 30 TAC Chapter 317 317.7(i)
 Description: Failure to perform the annual calibration on the Reduced Pressure Zone (RPZ) backflow preventer and to have the RPZ unit properly installed. The RPZ is installed below grade and the unit was under water.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(b)(1)
 Description: Failure to prevent plastics, rubber and other materials from entering the wastewater treatment units.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(g)
 Description: Failure to maintain the aeration basin in good condition. The walls were observed to be leaking partially treated sludge onto the ground and grass is growing in the unit.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.5(e)(1)
 Description: Failure to maintain the sludge drying beds in good condition. The drying beds are full of weeds and grass.

Date: 02/29/2008 (674504) CN600667026
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2008 (692836) CN600667026
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2008 (692837) CN600667026
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2008 (714000) CN600667026
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/24/2008 (720849) CN600667026
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 10/29/2008 (706091) CN600667026
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 Description: Failure to properly prevent an unauthorized discharge as specified in the Texas
 Water Code §26.121(a).
 Date: 10/31/2008 (730039) CN600667026
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2008 (730040) CN600667026
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2008 (753214) CN600667026
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2009 (753212) CN600667026
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2009 (753213) CN600667026
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2009 (770742) CN600667026
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/07/2009 (741288) CN600667026
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)

Description: Failure to meet the daily average flow permit limit as specified in TAC 305.126(a).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.6(b)(1)
 30 TAC Chapter 317 317.6(b)(1)(A)
 30 TAC Chapter 317 317.6(b)(1)(B)
 30 TAC Chapter 317 317.6(b)(1)(C)
 30 TAC Chapter 317 317.6(b)(1)(D)
 30 TAC Chapter 317 317.6(b)(1)(E)
 30 TAC Chapter 317 317.6(b)(1)(F)
 30 TAC Chapter 317 317.6(b)(1)(G)

Description: Failure to have an operational exhaust fan in the chlorine room.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to prevent debris from entering all of the treatment units.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to properly install flow measuring devices.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to maintain calibration records for chlorine meters.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to conduct sludge analysis for metals and fecal coliform/or Salmonella sp. in 2008.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to maintain a minimum DO of 6.0 mg/L as required by the City's permit.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to maintain a minimum chlorine residual of 1.0 mg/L for twenty minutes as required by the City's permit.
 Date: 12/07/2009 (783612) CN600667026
 Self Report? NO Classification: Moderate
 Citation: TWC Chapter 26 26.121
 Description: Failure to prevent unauthorized discharge of waste water from the Courtney Drive lift station.

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

