

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*

October 26, 2010

VIA HAND DELIVERY

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

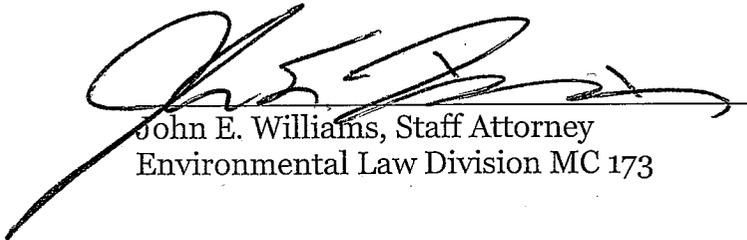
RE: United States Department of the Army  
TPDES Permit No. WQ0012074001  
TCEQ Docket No. 2010-1602-MWD

Dear Ms. Castañuela:

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

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

Sincerely,

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

Enclosures

**TCEQ Docket No. 2010-1602-MWD**

Application by the	§	Before the
<b>UNITED STATES DEPARTMENT</b>	§	<b>TEXAS COMMISSION ON</b>
<b>OF THE ARMY for</b>	§	<b>ENVIRONMENTAL QUALITY</b>
<b>TPDES Permit No. WQ0012074001</b>	§	

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**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS**

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**I. Introduction**

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests on the application by the United States Department of the Army for renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0012074001. The Commission received twenty-nine requests for a contested case hearing from the following individuals.

Ted Bowen,  
Jeanette & Richard Brace,  
David Brown,  
Joy Buckels,  
Edith & John Coble,  
Norman Cooper,  
Belinda & Ron Frisk,  
Kenneth Fuller,  
James Gansle,  
Steve Hart,  
David Hayes,  
Paul Holm,  
Don Johnson,  
Milo Johonnet,  
Charles & Xena Jones,

the Honorable Jan Kennady, County  
Commissioner of Comal County,  
Kris Kilmer,  
Paul Klein,  
Diana Melancon,  
Tony Overman,  
Judy & Rose Pizzitola,  
Jeff Quinn,  
Lois & Patrick Ricci,  
Joanne & Marvin Serr,  
Frances & Phillip Strickland,  
Larry & Sandi Taylor,  
Douglas & Therese Wagner,  
Frank Walsh, and  
Robert Wickman.

Attached for Commission consideration are the following:

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

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

## **II. Description of the Facility**

The United States Department of the Army has applied to the TCEQ for renewal of its TPDES permit that would authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 12,500 gallons per day. TCEQ received this application on July 23, 2009. The Canyon Lake Wastewater Treatment Facility is an activated sludge process plant operated in the extended aeration mode. Treatment units include a lift pump, a bar screen, an aeration basin, a final clarifier, and a chlorine contact chamber. The facility is in operation.

The effluent limitations in the draft permit, based on a 30-day average, are 10 milligrams per liter (mg/l) 5-day biochemical oxygen demand, 15 mg/l total suspended solids, and 4.0 mg/l minimum dissolved oxygen. The effluent must 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 treated effluent is discharged directly to Canyon Lake in Segment No. 1805 of the Guadalupe River Basin. The designated uses for Segment No. 1805 are aquifer protection, exceptional aquatic life use, public water supply and contact recreation.

The facility is located approximately 3,300 feet east of Farm-to-Market Road 306 and 2,500 feet north of Jacob Creek Park Road in Comal County, Texas 78133.

## **III. Procedural Background**

The application was received on July 23, 2009, and declared administratively complete on September 10, 2009. Notice of Receipt of Application and Intent to Obtain a Water Quality Permit Renewal (NORI) was published October 9, 2009, in the *New Braunfels Herald-Zeitung* and in Spanish on October 4, 2009, in *La Prensa de San Antonio*. The TCEQ Executive Director completed the technical review of the application on October 6, 2009, and prepared a draft permit. Notice of Application and Preliminary Decision for a TPDES Permit for Municipal Wastewater Renewal (NAPD) was published January 20, 2010, in the *New Braunfels Herald-Zeitung* and in Spanish on January 17, 2010, in *La Prensa de San Antonio*. A public meeting was held in New Braunfels on June 24, 2010, and the comment period closed at the public meeting. The Executive Director's Response to Public Comments was filed August 25, 2010, and the deadline for requesting reconsideration or a contested case hearing was September 27, 2010. This application was administratively complete on or after September 1, 1999;

therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76<sup>th</sup> Legislature, 1999).

#### **IV. The Evaluation Process for Contested Case Hearing Requests**

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The application was declared administratively complete on September 10, 2009, and therefore is subject to the HB 801 requirements. The Commission implemented HB 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55.

##### **1. Processing Contested Case Hearing Requests**

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

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

30 TAC § 55.209(e).

## **2. Contested Case Hearings Requests**

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements. The regulations governing requests for contested case hearings are found at 30 TAC Chapter 55.

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

30 TAC § 55.201(c).

### ***A. Whether there is a right to a contested case hearing***

There is no right to a Contested Case Hearing for an application, under Texas Water Code, Chapter 26, to renew or amend a permit if:

(A) the applicant is not applying to:

- (i) increase significantly the quantity of waste authorized to be discharged; or
- (ii) change materially the pattern or place of discharge;

(B) the activity to be authorized by the renewal or amended permit will maintain or improve the quality of waste authorized to be discharged;

(C) any required opportunity for public meeting has been given;

(D) consultation and response to all timely received and significant public comment has been given; and

(E) the applicant's compliance history for the previous five years raises no issues regarding the applicant's ability to comply with a material term of the permit;

30 TAC § 55.201(i)(5).

### ***B. Requirements for a contested case hearing request***

A contested case 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.

30 TAC § 55.201(d).

***C. Requestor must be an "affected person"***

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

- (a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- (b) Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
  - (1) whether the interest claimed is one protected by the law under which the application will be considered;

- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203.

***D. Additional requirements if requestor is a group or association***

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.

***E. Referral to the State Office of Administrative Hearings***

30 TAC § 50.115(b) details how the Commission refers a matter to the State Office of Administrative Hearings. "When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing." 30 TAC § 50.115(c) further states that the "commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: (1) involves a disputed question of fact; (2) was raised during the public comment period; and (3) is relevant and material to the decision on the application."

## **V. Analysis of the Hearing Requests**

### ***A. Whether there is a right to a contested case hearing under 30 TAC § 55.201(i)(5).***

Because this is an application for a renewal of a discharge permit under Chapter 26 of the Texas Water Code, the Commission must determine first whether there is a right to a contested case hearing.

The U.S. Department of the Army is not applying to increase the quantity of waste authorized to be discharged or change the pattern or place of discharge. *See* 30 TAC § 55.201(i)(5)(A).

The activity to be authorized by the renewal permit will improve the quality of waste authorized to be discharged. *See id.* § 55.201(i)(5)(B). Effluent limits for bacteria were added to this permit in accordance with recent amendments to 30 TAC §§ 309.3(h) and 319.9(b). This additional effluent limit makes the renewal permit more stringent than the previous permit and the quality of the waste authorized to be discharged by the renewal permit will be improved.

The public had the opportunity to request a public meeting and one was held in New Braunfels on June 24, 2010. *See id.* § 55.201(i)(5)(C).

The Executive Director considered and responded to all timely received public comment and the Executive Director's Response to Public Comments was filed August 25, 2010. *See id.* § 55.201(i)(5)(D).

The U.S. Department of the Army's compliance history classification is average with a rating of 2.74, and the facility's classification is average with a rating of 0.15. The U.S. Department of the Army's compliance history for the previous five years raises no issues regarding its ability to comply with any term of the permit. *See id.* § 55.2301(i)(5)(E).

All the provisions of 30 TAC § 55.201(i)(5) having been met, the Executive Director concludes that there is no right to a contested case hearing on this permit.

## **VI. Executive Director's Recommendation**

The Executive Director recommends the following action by the Commission:

1. Find that there is no right to a contested case hearing under 30 TAC § 55.201(i)(5); and
2. Deny the hearing requests of all requestors.

Respectfully submitted,

Texas Commission on Environmental  
Quality

Mark R. Vickery, P.G.  
Executive Director

Robert Martinez, Director  
Environmental Law Division

By 

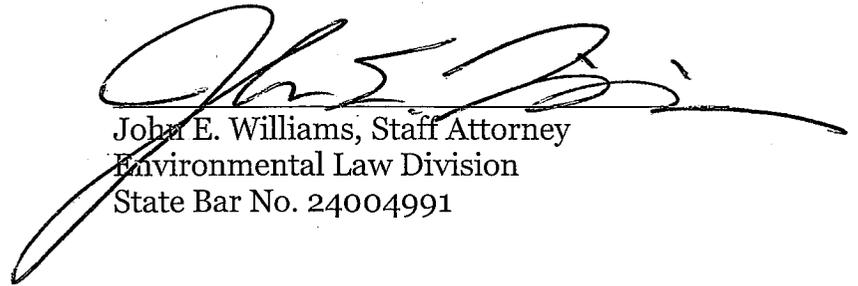
John E. Williams, Staff Attorney  
Environmental Law Division  
State Bar No. 24004991  
P.O. Box 13087, MC 173  
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512-239 0455

Stefanie Skogen, Staff Attorney  
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512-239-0575

Representing the Executive Director of the  
Texas Commission on Environmental  
Quality

**CERTIFICATE OF SERVICE**

I certify that on October 26, 2010, an original and seven copies of the "Executive Director's Response to Public Hearing Requests" for Permit No. WQ0012074001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk and a copy was mailed to all persons on the attached mailing list.



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

**EXECUTIVE DIRECTOR'S MAILING LIST**

Application by U.S. Department of the Army for TPDES Permit No. WQ0012074001  
TCEQ Docket No. 2010-1602-MWD

**FOR THE APPLICANT**

Kelly Kane  
U.S. Department of the Army  
2202 15<sup>th</sup> Street, Suite 7  
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**FOR THE OFFICE OF PUBLIC  
INTEREST COUNSEL**

Garrett Arthur, Attorney  
Texas Commission on Environmental  
Quality  
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via electronic mail

**FOR THE OFFICE OF PUBLIC  
ASSISTANCE**

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Texas Commission on Environmental  
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via electronic mail

**FOR ALTERNATIVE DISPUTE  
RESOLUTION**

Kyle Lucas  
Texas Commission on Environmental  
Quality  
Alternative Dispute Resolution, MC-222  
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via electronic mail

**FOR THE OFFICE OF THE CHIEF  
CLERK**

LaDonna Castañuela, Chief Clerk  
Texas Commission on Environmental  
Quality  
Office of the Chief Clerk, MC-105  
P.O. Box 13087  
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via electronic filing

**FOR INTERESTED PUBLIC  
OFFICIAL**

the Hon. Doug Miller  
State Representative, Texas House of  
Representatives District 73  
P.O. Box 2910  
Austin, TX 78768-2910

**FOR REQUESTORS**

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Jeanette & Richard Brace  
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Victoria, TX 77904-1102

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Commissioner, Comal County Pct. 4  
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New Braunfels, TX 78130-5134

Kris Kilmer  
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Diana Melancon  
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Tony Overman  
330 Edge Hill Drive  
Canyon Lake, TX 78133

Judy & Rose Pizzitola  
1290 Stagecoach Drive  
Canyon Lake, TX 78133-4055

Jeff Quinn  
1834 FM 2673  
Canyon Lake, TX 78133-4756

Lois & Patrick Ricci  
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Canyon Lake, TX 78133-4056

Joanne & Marvin Serr  
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Canyon Lake, TX 78133-2120

Frances & Phillip Strickland  
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Canyon Lake, TX 78133-4015

Larry & Sandi Taylor  
8421 Laurelhurst  
San Antonio, TX 78209-2015

Douglas & Therese Wagner  
1381 Stagecoach Drive  
Canyon Lake, TX 78133-4062

Frank Walsh  
840 Gallagher Drive  
Canyon Lake, TX 78133-6443

Robert Wickman  
1260 Trailridge Drive  
Canyon Lake, TX 78133-4454

## LIST OF ATTACHMENTS

Application by U.S. Department of the Army for TCEQ Permit No. WQ0012074001  
TCEQ Docket No. 2010-1602-MWD

- Attachment A — Satellite Map of the Proposed Facility Site of U.S. Department of the Army, Canyon Lake Recreation Area Wastewater Treatment Facility, Draft Permit No. WQ0012074001, and surrounding area
- Attachment B — Statement of Basis / Technical Summary and Executive Director's Preliminary Decision, Draft Permit No. WQ0012074001, U.S. Department of the Army
- Attachment C — Draft Permit No. WQ0012074001, U.S. Department of the Army
- Attachment D — Executive Director's Response to Public Comment, Application by the U.S. Department of the Army, Draft Permit No. WQ0012074001
- Attachment E — Compliance Summary, Draft Permit No. WQ0012074001, U.S. Department of the Army

**Attachment A**

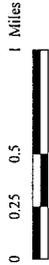
Satellite Map of the Proposed Facility Site of U.S. Department of the Army  
Canyon Lake Recreation Area Wastewater Treatment Facility,  
Draft Permit No. WQ0012074001  
and surrounding area

# U.S. Department of the Army Canyon Lake Recreation Area - WQ0012074001 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

September 27, 2010



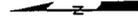
Projection: Texas Statewide Mapping System  
(TSMSS)  
Scale 1:57,735

### Legend

- Facility
- Requestor's Property
- Discharge Point

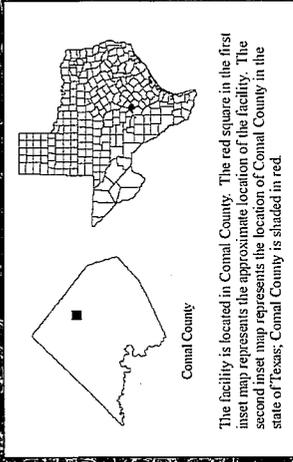
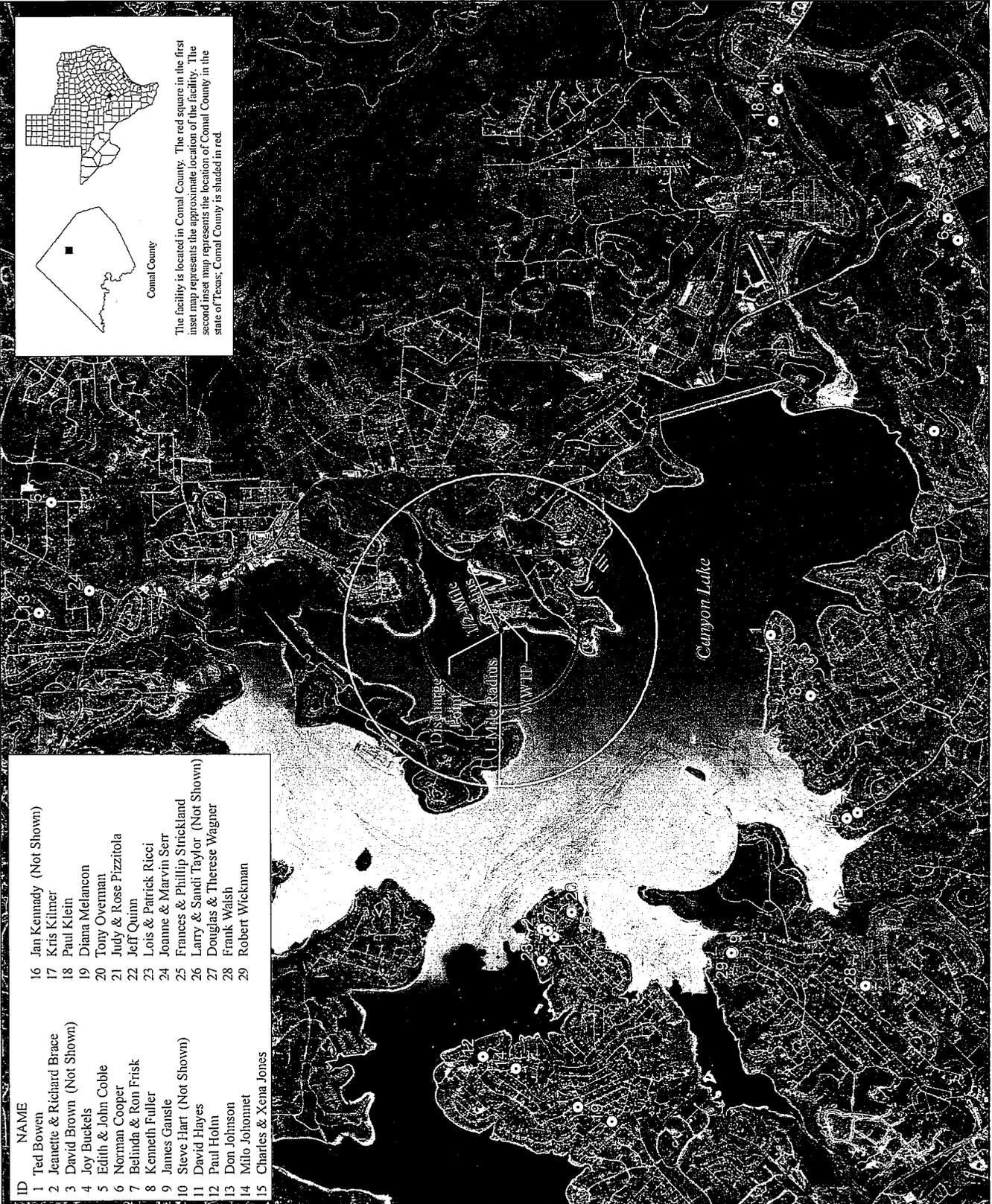
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requester information from the requester. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this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

This map depicts the following:  
 (1) The approximate location of the facility. This is labeled "WVTP".  
 (2) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".  
 (3) Circle and arrow depicting 1/2-mile radius. This is labeled "1/2-Mile Radius".  
 (4) Points representing the approximate locations of the hearing requestors.  
 (5) Point representing the approximate location of the discharge point. This is labeled "Discharge Point".



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

MAP NUMBER: CTR-3313A



ID	NAME
1	Ted Bowen
2	Jeanette & Richard Brace
3	David Brown (Not Shown)
4	Joy Buckels
5	Edith & John Coble
6	Norman Cooper
7	Belinda & Ron Frisk
8	Kenneth Fuller
9	James Gansele
10	Steve Hart (Not Shown)
11	David Hayes
12	Paul Holm
13	Don Johnson
14	Milo Johannet
15	Charles & Xena Jones
16	Jan Kennedy (Not Shown)
17	Kris Kilmer
18	Paul Klehn
19	Diana Melancon
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24	Joanne & Marvin Serr
25	Frances & Phillip Strickland
26	Larry & Sandi Taylor (Not Shown)
27	Douglas & Therese Wagner
28	Frank Walsh
29	Robert Wickman

**Attachment B**

Statement of Basis / Technical Summary and Executive Director's Preliminary Decision  
Draft Permit No. WQ0012074001  
U.S. Department of the Army

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

DESCRIPTION OF APPLICATION

Applicant: U.S. Department of the Army  
Texas Pollutant Discharge Elimination System (TPDES) Permit No.  
WQ0012074001, EPA ID No. TX0031232

Regulated Activity: Domestic Wastewater Permit

Type of Application: Renewal

Request: Renewal with no changes

Authority: Federal CWA § 402; 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 February 1, 2015 according to 30 TAC § 305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of the existing permit that authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 0.0125 million gallons day. The existing wastewater treatment facility serves Canyon Lake Recreation Area, 698 Jacobs Lake Creek Park Road, Canyon Lake, Texas.

PROJECT DESCRIPTION AND LOCATION

The Canyon Lake Wastewater Treatment Facility is an activated sludge process plant operated in the extended aeration mode. Treatment units include a lift pump, a bar screen, an aeration basin, a final clarifier, and a chlorine contact chamber. The facility is in operation.

Sludge generated from the treatment facility is hauled by a registered transporter to Bridgewood Hills or City of LaCoste Wastewater Treatment Facility, Permit No. WQ0014376001 or WQ0010889 to be digested dewatered and then disposed of with the bulk of the sludge from the plant accepting the sludge. 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 3,300 feet east of Farm-to-Market Road 306 and 2,500 feet north of Jacob Creek Park Road in Comal County, Texas 78133.

The treated effluent is discharged directly to Canyon Lake in Segment No. 1805 of the Guadalupe River Basin. The designated uses for Segment No. 1805 are aquifer protection, exceptional aquatic life use, public water supply and contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and/or revisions.

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 contained in the approved WQMP. A Waste Load Evaluation has not been completed for the segment 1805.

No priority watershed of critical concern, has been identified in Segment 1805. However, the facility associated with this permit action is located within the Edwards Aquifer Contributing Zone. Thus, Texas Wild Rice (*Zizania texana*), Peck's Cave Amphipod (*Stygobromus pecki*), Comal Springs dryopid Beetle (*Stygoparnus comalensis*), Comal Springs Riffle Beetle (*Heterelmis comalensis*), Fountain Darter (*Etheostoma fonticola*), San Marcos Gambusia (*Gambusia georgei*), Texas Blind Salamander (*Eurycea rathbuni*), and the San Marcos Springs Salamander (*Eurycea nana*), all potentially occur within the watershed of this permit action due to recharge features of the Edwards Aquifer. 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 consider 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 presence of these endangered and threatened aquatic dependent species, requires EPA review and, if appropriate, consultation with USFWS.

Segment 1805 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 elevated levels of mercury in edible tissue (AUs 1805\_01, 1805\_02, 1805\_03, 1805\_04). This facility is a minor domestic wastewater treatment plant serving with no industrial contributions or mercury expected to be present in the treated effluent.

#### SUMMARY OF EFFLUENT DATA

The following is a summary of the applicant's Monthly Effluent Report data for the period February 2003 through March 2009. The average of Daily Average 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 Average</u>
Flow, MGD	0.004
BOD <sub>5</sub> , mg/l	.2.2
TSS, mg/l	7.7

#### PROPOSED PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at a volume not to exceed a daily average flow of 0.0125 million gallons per day.

The effluent limitations in the draft permit, based on a 30-day average, are 10 mg/l BOD<sub>5</sub>, 15 mg/l TSS and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The draft permit includes 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 to Bridgewood Hills or City of LaCoste Wastewater Treatment Facility, Permit No. WQ0014376001 or WQ0010889 to be digested dewatered and then disposed of with the bulk of the sludge from the plant accepting the sludge. 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

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 draft permit remain the same as the existing permit requirements.

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

Item 5 on page 23 of the Other Requirements Section has been added to the draft permit to notify the applicant about the intention of the Executive Director of the TCEQ to initiate rulemaking and or change to procedural documents that may result in bacteria effluent limits and monitoring requirements for this facility.

#### BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application received July 23, 2009 and additional information received September 7, 2009.
2. TPDES Permit No. WQ0012074001 issued June 24, 2005.
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.
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.

U.S. Department of the Army

TPDES Permit No. WQ0012074001

Statement of Basis/Technical Summary and Executive Director's Preliminary Decision

For additional information about this application, contact Sonia Bhuiya at (512) 239-1205.

Sonia Bhuiya

Sonia Bhuiya

Municipal Permits Team

Wastewater Permitting Section (MC 148)

11/4/09

Date

**Attachment C**

Draft Permit No. WQ0012074001  
U.S. Department of the Army



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

TPDES PERMIT NO. WQ0012074001  
[For TCEQ office use only - EPA I.D.  
No. TX0031232]

This is a renewal that replaces TPDES  
Permit No. WQ0012074001 issued  
June 24, 2005.

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

U.S. Department of the Army

whose mailing address is

2202 15<sup>th</sup> Street, Suite 7  
Fort Sam Houston, Texas 78234

is authorized to treat and discharge wastes from the Canyon Lake Wastewater Treatment Facility, SIC Code 7999  
located approximately 3,300 feet east of Farm-to-Market Road 306 and 2,500 feet north of Jacob Creek Park  
Road in Comal County, Texas 78133

directly to Canyon Lake in Segment No. 1805 of the Guadalupe 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, **February 1, 2015**.

ISSUED DATE:

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For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

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

The daily average flow of effluent shall not exceed 0.0125 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 21 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	Five/week	Instantaneous
Biochemical Oxygen Demand (5-day)	10 (1.0)	15	25	One/week	Grab
Total Suspended Solids	15 (1.6)	25	40	One/week	Grab
<i>E. coli</i> , CFU or MPH/100 ml	126	N/A	N/A	One/quarter	Grab

2. The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.

4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.

6. The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored once per week by grab sample.

**DEFINITIONS AND STANDARD PERMIT CONDITIONS**

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

**1. Flow Measurements**

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

**2. Concentration Measurements**

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

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

- e. Bacteria concentration (Fecal coliform, *E. coli*, or Enterococci) - the number of colonies of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the  $n$ th root of the product of all measurements made in a calendar month, where  $n$  equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
  - f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD 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 20<sup>th</sup> 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 13) 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 13) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 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 13) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30 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 13) 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 13) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 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 13) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 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 D facility must be operated by a chief operator or an operator holding a Category D license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift which does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.

2. The facility is not located in the Coastal Management Program boundary.
3. 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. 1805 of the Guadalupe River Basin and any subsequent updating of the water quality model for Segment No. 1805, 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 effluent which is discharged into Canyon Lake shall be discharged into the main body of the lake at a point not less than 10 feet below the surface (at normal elevation) and not less than 50 feet from the shoreline.
5. 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.
6. In addition, the permittee is also authorized to haul sludge from the wastewater treatment facility, by a licensed hauler, to the Bridgewood Hills or City of LaCoste Wastewater treatment facility, TPDES Permit No. WQ0014376001 or WQ0010889, to be digested, blended, dewatered and then disposed of with the sludge from the plant accepting the sludge.

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 13) and the TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

7. In accordance with 30 TAC §319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee will be given a less frequent measurement schedule. For this permit, 1/quarter will be reduced to 1/6 months. **A violation of any bacteria limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return to the standard frequency schedule, and the permittee may not apply for another reduction in measurement frequency for at least 24 months from the date of the last violation.** The Executive Director may establish a more frequent measurement schedule if necessary to protect human health or the environment.

**Attachment D**

Executive Director's Response to Public Comment

U.S. Department of the Army

Draft Permit No. WQ0012074001

Proposed Renewal of TPDES Permit No. WQ0012074001

2010 AUG 25 PM 1: 55  
Before the

Application by the §  
UNITED STATES DEPARTMENT OF §  
THE ARMY §  
for TPDES Permit No. WQ0012074001 §

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY  
CHIEF CLERK'S OFFICE

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

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The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by the United States Department of the Army (Applicant) for renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0012074001 and on the Executive Director's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code, Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letters and comments at the public meeting from:

Ronald M. Bishop,  
Ted C. Bowen,  
Jeanette and Richard Brace,  
David P. Brown,  
Joy Buckels,  
Edith Jane and John Lee Coble,  
Norman L. Cooper,  
Belinda and Ron Frisk,  
Kenneth M. Fuller,  
James J. Gansle,  
Steve P. Hart,  
David Hayes,  
Tom Hodge, General Manager of the  
Canyon Lake Water Service  
Company,  
Paul B. Holm,  
Don M. Johnson,  
Milo G. Johonnett,  
Charles E. and Xena B. Jones,

the Honorable Jan Kennedy, County  
Commissioner of Comal County,  
Kris N. Kilmer,  
Paul E. Klein,  
Sue Johnson Mauer,  
Mrs. Diana Melancon,  
the Honorable Doug Miller, State  
Representative,  
Tony Overman,  
Judy and Rose Pizzitola,  
Dr. Jeff Quinn,  
Lois and Patrick Ricci,  
Joanne W. and Marvin D. Serr,  
Frances and Phillip Strickland,  
Larry and Sandi Taylor,  
Douglas Wagner,  
Frank L. Walsh, and  
Robert W. Wickman, representing  
Friends of Canyon Lake.

This Response addresses all comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

## BACKGROUND

### Description of Facility

The United States Department of the Army has applied to the TCEQ for renewal of its TPDES permit that would authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 12,500 gallons per day. TCEQ received this application on July 23, 2009. The Canyon Lake Wastewater Treatment Facility is an activated sludge process plant operated in the extended aeration mode. Treatment units include a lift pump, a bar screen, an aeration basin, a final clarifier, and a chlorine contact chamber. The facility is in operation.

The effluent limitations in the draft permit, based on a 30-day average, are 10 milligrams per liter (mg/l) 5-day biochemical oxygen demand, 15 mg/l total suspended solids, and 4.0 mg/l minimum dissolved oxygen. The effluent must 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 treated effluent is discharged directly to Canyon Lake in Segment No. 1805 of the Guadalupe River Basin. The designated uses for Segment No. 1805 are aquifer protection, exceptional aquatic life use, public water supply and contact recreation.

The facility is located approximately 3,300 feet east of Farm-to-Market Road 306 and 2,500 feet north of Jacob Creek Park Road in Comal County, Texas 78133.

### Procedural Background

The application was received on July 23, 2009, and declared administratively complete on September 10, 2009. Notice of Receipt of Application and Intent to Obtain a Water Quality Permit Renewal (NORI) was published October 9, 2009, in the *New Braunfels Herald-Zeitung* and in Spanish on October 4, 2009, in *La Prensa de San Antonio*. The TCEQ Executive Director completed the technical review of the application on October 6, 2009, and prepared a draft permit. Notice of Application and Preliminary Decision for a TPDES Permit for Municipal Wastewater Renewal (NAPD) was published January 20, 2010, in the *New Braunfels Herald-Zeitung* and in Spanish on January 17, 2010, in *La Prensa de San Antonio*. A public meeting was held in New Braunfels on June 24, 2010 and the comment period closed at the public meeting. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76<sup>th</sup> Legislature, 1999).

### Access to Rules, Laws, and Records

Secretary of State website for all administrative rules: [www.sos.state.tx.us](http://www.sos.state.tx.us)

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

Texas statutes: <http://www.statutes.legis.state.tx.us/>

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

Federal rules in Title 40 of the Code of Federal Regulations: <http://www.epa.gov/lawsregs/search/40cfr.html>

Federal environmental laws: <http://www.epa.gov/lawsregs/laws/index.html>

Commission records for this facility are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1<sup>st</sup> Floor (Office of Chief Clerk). The application for this facility has been available for viewing and copying at Moral Welfare and Recreation (MWR) Building 300, 698 Jacobs Lake Creek Park Road, Satler, Texas, since publication of the NORI and the application draft permit, statement of basis/technical summary, and Executive Director's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the Agency at 1-888-777-3186 or you may contact the TCEQ Region 13 Office at 210-490-3096. Citizen complaints may also be filed on-line at the TCEQ website (select "Reporting," then "Make an Environmental Complaint"). If the facility is found to be out of compliance it will be subject to enforcement action.

## COMMENTS and RESPONSES

### COMMENT 1

Ronald Bishop supported issuance of the permit renewal because the volume was small and the facility served the nation's soldiers.

### RESPONSE 1

The Executive Director notes this comment.

### COMMENT 2

Ted Bowen, Jeannette and Richard Brace, Joy Buckels, Edith and John Coble, Belinda and Ron Frisk, Kenneth Fuller, Steve Hart, David Hayes, Tom Hodge, Paul Holm, Don Johnson, Milo Johonnett, Charles and Xena Jones, Commissioner Jan Kennady, Kris Kilmer, Paul Klein, Sue Maurer, Mrs. Diana Melancon, Tony Overman, Judy and Rose Pizzitola, Dr. Jeff Quinn, Lois and Patrick Ricci, Joanne and Marvin Serr, Frances and Phillip Strickland, Larry and Sandi Taylor, Douglas Wagner, Frank Walsh, and Robert Wickman were concerned about their drinking water that comes from Canyon Lake and their families' recreation on Canyon Lake, and asked that the draft permit contain a 5-2-2-1 effluent set, consistent with other wastewater discharge permits on Canyon Lake. David Brown asked that the effluent limits be consistent with other wastewater discharge permits on Canyon Lake. Norman Cooper and James Gansle wanted an improved treatment level.

Commissioner Jan Kennady wanted assurance of good quality water. State Representative Doug Miller wanted alternative effluent limits for the facility.

## **RESPONSE 2**

TCEQ staff analyze wastewater discharge applications to ensure that effluent limits in permits comply with Commission rules. In general, the goal is to construct permits that meet water quality standards for the protection of aquatic life, human health, and the environment. These standards include specific numeric and narrative water quality criteria applicable to the waters receiving a discharge. Staff evaluated this application and incorporated pertinent site-specific factors in an effort to reduce uncertainty and bolster confidence in the results of the analysis. This review preliminarily determined that existing water quality standards and uses will be maintained by this permit action. The existing water quality uses for Canyon Lake include aquifer protection, exceptional aquatic life use, public water supply and contact recreation. Effluent limitations for some of the major constituents have been evaluated using a mathematical model of the receiving waters. Model results indicate that limits including 5 mg/l 5-day carbonaceous biochemical oxygen demand and 2 mg/l ammonia-nitrogen are not required for a discharge of this flow at this location. The proposed discharge was also screened against proposed reservoir nutrient criteria for Canyon Lake and the model indicated a nutrient limit was not warranted at this time.

Title 30 of the Texas Administrative Code, Section 307.6 (b)(3) states that water in the state shall be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. Water in the state with a sustainable fishery and designated as public water supply, such as Canyon Lake, will not exceed applicable human health toxic criteria.

## **COMMENT 3**

Ted Bowen, Joy Buckels, Edith and John Coble, Belinda and Ron Frisk, Kenneth Fuller, Steve Hart, David Hayes, Don Johnson, Milo Johonnett, Charles and Xena Jones, Commissioner Jan Kennady, Kris Kilmer, Paul Klein, Sue Maurer, Mrs. Diana Melancon, Tony Overman, Judy and Rose Pizzitola, Dr. Jeff Quinn, Lois and Patrick Ricci, Joanne and Marvin Serr, Frances and Phillip Strickland, Larry and Sandi Taylor, Douglas Wagner, Frank Walsh, and Robert Wickman asked that the Guadalupe River be treated the same as the Highland Lakes and the Lower Colorado River.

## **RESPONSE 3**

The TCEQ has established water quality standards for all water bodies in the state. These standards are found in Chapter 307 of Title 30 of the Texas Administrative Code. These standards have also been approved by the U.S. Environmental Protection Agency.

When petitioned to do so by local interests, the TCEQ has, through rulemaking, established special standards on specific water bodies more strict than would normally be required. Through the

rulemaking process, the TCEQ has aired all issues involved with the more strict standards and has involved the participation of all parties interested in protection of those watersheds, including users of the water bodies as well as the entities that would be regulated by and have to conform with the more strict standards.

The specialized watershed protection rules are found in Chapter 311 of Title 30 of the Texas Administrative Code. Subchapter A protects Lakes Travis and Austin, Subchapter B protects Lakes Inks and Buchanan, Subchapter E protects the Colorado River, and Subchapter F protects Lakes Lyndon B. Johnson and Marble Falls. Other subchapters protect Clear Lake; Lake Houston; Lakes Worth, Eagle Mountain, Bridgeport, Cedar Creek, Arlington, Benbrook, and Richland-Chambers; and the John Graves Scenic Waterway.

To date, no party has petitioned the TCEQ for special standards for Canyon Lake or the Guadalupe River watersheds beyond the standards found in Chapter 307.

#### **COMMENT 4**

Jeanette and Richard Brace believed that a federal facility on a federal reservoir should provide leadership in the protection of their community.

#### **RESPONSE 4**

The Executive Director notes this comment.

#### **COMMENT 5**

Norman Cooper was concerned about endangered species downstream from Canyon Lake.

#### **RESPONSE 5**

The TCEQ staff determines the potential for any adverse impact from the proposed discharge to aquatic or aquatic dependent federally endangered or threatened species, including proposed species that may be present in the receiving waters. This determination is based on several factors in accordance with the United States Fish and Wildlife Service's biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System. This is then noted in the memo for referral to the EPA to make a decision for further consultation with the Fish and Wildlife Service. EPA responded that it had no objection to this preliminary draft permit and determined that the draft permit will meet the guidelines and requirements of the Clean Water Act and satisfy the EPA's regulatory requirements.

## **COMMENT 6**

James Gansle, Commissioner Jan Kennady, and State Representative Doug Miller were concerned about effect of water quality on the economic vitality of Canyon Lake and the Guadalupe River.

## **RESPONSE 6**

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider the economic vitality of a particular area. The Executive Director has reviewed the permit application in accordance with the applicable law, policy, and procedures, in accordance with the agency's mission to protect our state's human and natural resources.

## **COMMENT 7**

Commissioner Jan Kennady, State Representative Doug Miller, and Robert Wickman were concerned about the age of the facility and the likelihood of it breaking down.

## **RESPONSE 7**

The startup date of the facility was 1968. Although it has been operating for a number of years, self-reported information indicates the facility is operating well. The Canyon Lake Recreation Area Wastewater Treatment Facility has operated within the parameters of the permit and it is expected that it will continue to do so in the future.

## **COMMENT 8**

State Representative Doug Miller was concerned about the collective effect of all sources of wastewater into Canyon Lake, even those coming from upstream of the lake.

## **RESPONSE 8**

For renewal permit actions, an antidegradation review is not required because there is no increase in loading. Nevertheless, the discharge was screened for nutrients as a precaution. The nutrient model used to screen against the proposed numerical nutrient standards for reservoirs as proposed in the Texas Surface Water Quality Standards indicated that no nutrient limit was required. The qualitative nutrient screening method takes into account other dischargers in the vicinity.

Furthermore, the proposed numerical nutrient criteria will be used to monitor the water quality of Canyon Lake once adopted.

#### **COMMENT 9**

State Representative Doug Miller and Robert Wickman suggested the possibility of a shorter permit term, perhaps two years, to encourage a more proactive stance for improvements to the plant on the part of the Applicant.

#### **RESPONSE 9**

The TCEQ, to the greatest extent practicable, evaluates wastewater discharge permits within a single river basin within the same year. No permit may be issued for less than two years and no permit may be issued for more than five years in order to keep an individual permit on the established basin permitting cycle. Because the basin permitting cycle is mandated by Commission rule, the Executive Director recommends permit terms to conform to those rules. Nevertheless, the Commission, after due consideration, may change the term of the permit if a situation warrants such a change.

#### **COMMENT 10**

Tom Hodge was concerned whether the facility would be able to meet its effluent limits when the plant approaches full capacity.

#### **RESPONSE 10**

The plant is permitted to discharge treated effluent at a daily average flow of 12,500 gallons per day. The summary of the applicant's Monthly Effluent Report data for the period February 2003 through March 2009 indicates the facility is discharging treated wastewater at a daily average flow of 4,000 gallons per day and contains an average biological oxygen demand concentration of approximately 2.2 milligrams per liter (parts per million) and a total suspended solids concentration of 7.7 milligrams per liter (parts per million). Operational Requirements, Item No. 8 on page 10 of the proposed draft permit states that when the flow reaches 75 percent of the permitted daily average flow for three consecutive months, the Applicant must initiate engineering and financial planning for expansion or upgrade of the domestic wastewater treatment or collection facilities. When the flow reaches 90 percent of the permitted daily average flow for three consecutive months, the Applicant must obtain authorization from TCEQ to begin constructing the necessary additional treatment or collection facilities. These permit provisions are designed to help prevent overloading of the treatment system and to prevent the discharge of treated effluent with pollutant concentrations above

the permit limits. Finally, the Applicant is subject to potential enforcement action for failure to comply with TCEQ rules or the permit.

**COMMENT 11**

Tom Hodge would like to see phosphorus and nitrate limits in the permit.

**RESPONSE 11**

The nutrient model used to screen against the proposed numerical nutrient standards for reservoirs as proposed in the Texas Surface Water Quality Standards indicated that no nutrient limit was required.

**COMMENT 12**

Robert Wickman asked that the renewal of this permit be denied.

**RESPONSE 12**

The Executive Director notes this comment.

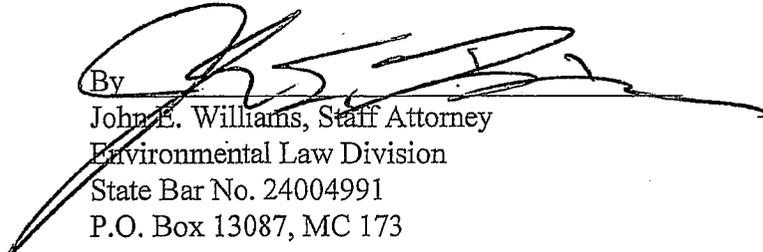
No changes to the draft permit have been made.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.  
Executive Director

Robert Martinez, Director  
Environmental Law Division

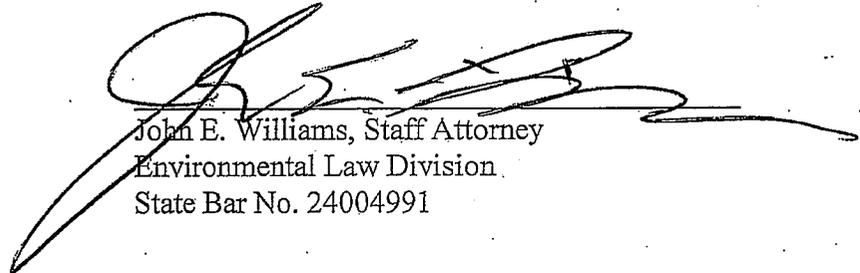
By 

John E. Williams, Staff Attorney  
Environmental Law Division  
State Bar No. 24004991  
P.O. Box 13087, MC 173

Austin, Texas 78711-3087  
512-239-0455  
Representing the Executive Director of the Texas  
Commission on Environmental Quality

**CERTIFICATE OF SERVICE**

I certify that on August 25, 2010, the "Executive Director's Response to Public Comment" for Permit No. WQ0012074001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
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CHIEF CLERKS OFFICE

**Attachment E**

Compliance Summary

Draft Permit No. WQ0012074001

U.S. Department of the Army

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600126262 US Department of the Army	Classification: AVERAGE	Rating: 2.74
Regulated Entity:	RN102077500 CANYON LAKE RECREATIONAL AREA	Classification: AVERAGE	Site Rating: 0.15
ID Number(s):	WASTEWATER PERMIT WASTEWATER EPA ID		WQ0012074001 TX0031232
Location:	698 JACOBS LAKE CREEK PARK RD		
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	October 20, 2010		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	June 01, 2004 to October 20, 2010		

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

Name: Staff Name Phone: 239 - 1205

### 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: 9/1/2010 Repeat Violator:    NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
.....
- 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 06/18/2004 (303545)
  - 2 06/24/2005 (350661)
  - 3 07/28/2004 (355347)
  - 4 09/07/2004 (355348)
  - 5 09/22/2004 (355349)
  - 6 11/01/2004 (355350)
  - 7 12/27/2004 (355351)
  - 8 03/25/2005 (373025)
  - 9 02/17/2005 (383702)
  - 10 03/23/2005 (383703)
  - 11 02/25/2005 (383704)
  - 12 11/29/2004 (383705)
  - 13 01/27/2005 (383706)
  - 14 05/05/2005 (421553)
  - 15 06/06/2005 (421554)
  - 16 07/14/2005 (442539)

17	09/13/2005	(442540)
18	09/09/2005	(442541)
19	09/09/2005	(442542)
20	02/27/2006	(471647)
21	03/27/2006	(471648)
22	10/09/2005	(471649)
23	11/23/2005	(471650)
24	12/15/2005	(471651)
25	02/08/2006	(471652)
26	04/24/2006	(500222)
27	05/26/2006	(500223)
28	06/28/2006	(500224)
29	07/28/2006	(522327)
30	07/28/2006	(522328)
31	09/27/2006	(522329)
32	02/26/2007	(537674)
33	02/27/2007	(579445)
34	03/22/2007	(579446)
35	05/03/2007	(579447)
36	05/31/2007	(579448)
37	10/24/2006	(579449)
38	12/01/2006	(579450)
39	12/27/2006	(579451)
40	01/31/2007	(579452)
41	07/03/2007	(621173)
42	08/08/2007	(621174)
43	08/31/2007	(621175)
44	10/03/2007	(621176)
45	10/31/2007	(621177)
46	12/13/2007	(621178)
47	01/18/2008	(673274)
48	02/01/2008	(673275)
49	07/23/2008	(687070)
50	03/10/2008	(691428)
51	04/10/2008	(691429)
52	05/15/2008	(691430)
53	06/12/2008	(712358)
54	07/02/2008	(712359)
55	08/01/2008	(712360)
56	08/20/2008	(712361)
57	09/26/2008	(712362)
58	10/31/2008	(728635)
59	04/09/2009	(751714)
60	04/09/2009	(751715)
61	02/04/2009	(751716)
62	02/23/2009	(751717)
63	02/23/2009	(751718)
64	06/09/2009	(808145)

65 07/17/2009 (808146)  
 66 07/17/2009 (808147)  
 67 11/04/2009 (808148)  
 68 11/04/2009 (808149)  
 69 02/18/2010 (808150)  
 70 02/18/2010 (808151)  
 71 02/18/2010 (808152)  
 72 02/18/2010 (808153)  
 73 05/27/2010 (832146)  
 74 05/27/2010 (832147)  
 75 06/09/2010 (845167)  
 76 06/09/2010 (845168)  
 77 08/26/2010 (850214)

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

Date: 06/30/2004 (355347) CN600126262  
 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: 07/31/2004 (355348) CN600126262  
 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: 08/31/2004 (355349) CN600126262  
 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: 09/30/2004 (355350) CN600126262  
 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: 10/31/2004 (383705) CN600126262  
 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: 11/30/2004 (355351) CN600126262  
 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 (383703) CN600126262  
 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 (471652) CN600126262  
 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: 08/31/2009 (808149) CN600126262  
 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: 10/31/2009 (808151) CN600126262

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

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