

**TCEQ DOCKET NO. 2011-1469-IWD**

<b>APPLICATION OF</b>	<b>§</b>	<b>BEFORE THE</b>
<b>RIO GRANDE MINING COMPANY</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>for TPDES Permit No.</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>WQ0004297000</b>	<b>§</b>	

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

**I. Introduction**

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests (Response) on the application by Rio Grande Mining Company (Applicant) for a new TCEQ Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0004297000. This response is filed pursuant to Title 30 of the Texas Administrative Code, Section 55.209(d). The Office of the Chief Clerk timely received a hearing request from Presidio County Judge, Honorable Paul Hunt.

Attached for Commission consideration are the following:

- Attachment A – Technical Summary & Draft Permit
- Attachment B – Executive Director's Response to Public Comment (RTC)
- Attachment C – Map and Diagram of the Facility Site
- Attachment D – Compliance History

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

**II. Facility Description**

The Applicant, Rio Grande Mining Company and operator of the Shafter Mine, has applied for a major amendment without renewal to amend its Texas Land Application Permit (TLAP), which authorizes the disposal of wastewater via surface and sub-surface irrigation, to a Texas Pollutant Discharge Elimination System (TPDES) discharge permit which would authorize the discharge of mine dewatering water into water in the state at a daily average flow not to exceed 360,000 gallons per day. The current TLAP permit authorizes the disposal of mine dewatering water via surface and subsurface irrigation at a daily average flow not to exceed 360,000 gallons per day. If

the draft permit is issued, the Applicant will not be authorized to dispose of mine dewatering water via surface or subsurface irrigation.

The facility is located west of U.S. Highway 67, approximately one mile west of the Shafter townsite, Presidio County, Texas 79843. The effluent is proposed to be discharged to an unnamed drainage, then to Arroyo del Muerto, then to Wilson Arroyo, then to Rio Grande Below Riverside Diversion Dam, in Segment No. 2307 of the Rio Grande Basin.

### **III. Procedural Background**

TCEQ received the major amendment application on July 13, 2010, and declared it administratively complete on October 15, 2010. The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published on October 28, 2010, in English in *The Big Bend Sentinel* and in Spanish in *The Presidio International*. The Executive Director completed the technical review of the application on February 12, 2011, and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) was published on April 14, 2011, in English in *The Big Bend Sentinel* and in Spanish in *The Presidio International*. The comment period closed May 16, 2011. The Executive Director's Response to Public Comment was filed with the Office of the Chief Clerk on July 15, 2011. The Final Decision Letter was mailed on July 19, 2011, and the period to request a hearing or reconsideration ended on August 18, 2011. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999).

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

#### **A. Responses to Requests**

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

Responses to hearing requests must specifically address:

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;

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

30 TAC § 55.209(e).

#### **B. Hearing Request Requirements**

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

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

- (1) give the time, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the

proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;

- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the Commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- (5) provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

### **C. Requirement that Requestor be an Affected Person**

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

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

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

30 TAC § 55.203.

#### **D. Referral to the State Office of Administrative Hearings**

When the Commission grants a request for a contested case hearing, the Commission shall issue an order specifying the issues to be referred to SOAH. The Commission may not refer an issue to SOAH for a contested case hearing unless the Commission determines that the issue:

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

30 TAC § 50.115(c).

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

The comment period for this application generated one hearing request.

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

###### *1. Compliance with 30 TAC §§ 55.201(a)-(d)*

Judge Hunt timely submitted a written contested case hearing request via e-comment, dated May 13, 2011, that requested a contested case hearing, and included relevant contact information. However, it did not identify any personal justiciable interest affected by the application as required by Rule 55.201(d)(2). The request, moreover, did not list any relevant and material issues as required by Rule 55.201(d)(4).

The request raises issues related to disposal of ore processing process water and water usage and conservation, neither of which is relevant to this permit, as discussed further below. Accordingly, the hearing request did not substantially comply with Rule 55.201(d) and should be denied as an invalid hearing request.

The Executive Director concludes that Judge Hunt has not substantially complied with 30 TAC §§ 55.201(d) and should be denied as an invalid hearing request.

## *2. Whether the Requestor Meets the Requirements of an Affected Person*

By letter submitted May 13, 2011, Presidio County Judge, Honorable Paul Hunt, requested a hearing. The request does not state that it is being submitted on behalf of Presidio County, and so the ED presumes it is on behalf of Judge Hunt, individually. The ED recommends denying his hearing request because Judge Hunt does not have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. In determining whether a person is affected, the Commission should consider the items listed in Rule 55.203(c), as set out above. First, the interest claimed (groundwater depletion and arsenic contamination by ore processing wastewater), if any, is not relevant to a decision on this application. The draft permit expressly prohibits the discharge of mineral processing wastewater. If the Applicant intends to discharge mineral processing wastewater associated with silver ore mining, the Applicant must apply to the TCEQ for a separate authorization to do so. Second, Judge Hunt does not identify his property or provide any manner of assessing whether there are any distance restrictions or other limitations imposed by law on any potential interest that might be affected by the application. Third, although groundwater depletion, discharging of ore processing process wastewater, and discharging of dewatering water stem from the same mining activity, they all have different regulations, as discussed below, and therefore can be addressed through other applications. Finally, because the comment letter does not provide any information on where Judge Hunt's property is located, it is impossible to assess the likely impact of the regulated activity on his health and safety, or on the use of his property. In sum, Judge Hunt does not state or show how he, or Presidio County, is an affected person.

The Executive Director concludes that Judge Hunt does not meet the criteria set out in 30 TAC § 55.203 and accordingly is not an affected person.

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

Judge Hunt raised a number of issues in his letter dated May 13, 2011. None of the issues are relevant and material to this permit application. Judge Hunt is concerned with the waste of aquifer water and contamination from ore processing. While the TCEQ strongly encourages water conservation efforts, the wasting of water in the mining process is a water quantity issue while the instant dewatering authorization is a water quality issue. Water quantity and conservation in the process of a mine operation are not relevant and material to this permit application. The use of groundwater is

governed by Texas case law and groundwater conservation districts under Chapters 35 and 36 of the Texas Water Code. The application at issue here is a discharge permit and therefore does not cover whether the use of that water is authorized. Judge Hunt's other concern, ore processing wastewater discharge, is not subject to this permit, as stated in Other Requirement 5 in the draft permit - "The discharge of domestic wastewater and processing wastewater from the Mineral Processing Plant are not authorized by this permit." Accordingly, any ore-processing wastewater discharge would be the subject of another discharge permit and is not relevant to this dewatering discharge permit.

The Executive Director concludes that Judge Hunt did not raise any issues that are relevant and material to the Commission's decision on this wastewater permit application.

#### **VI. Duration of the Contested Case Hearing**

The Executive Director recommends that the duration for a contested case hearing on this matter, should there be one, between preliminary hearing and the presentation of a proposal for decision before the Commission, be nine months.

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

The Executive Director recommends the following actions to the Commission:

- A. Find that Judge Hunt is not an affected person.
- B. Deny the hearing request filed by Judge Hunt.
- C. Find that the request raises no issues referable to SOAH.

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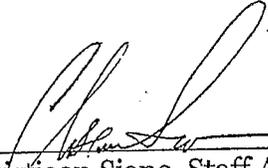
Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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

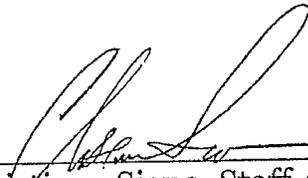
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Environmental Law Division

By   
Christiaan Siano, Staff Attorney  
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Representing the Executive Director of the  
Texas Commission on Environmental Quality

### CERTIFICATE OF SERVICE

I certify that on October 7, 2011, the original and seven copies of the "Executive Director's Response to Hearing Requests" for Permit No. WQ0004297000, were filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was served to all persons listed on the attached mailing list via facsimile transmission, inter-agency mail, -email, or by deposit in the U.S. mail.

By   
Christiaan Siano, Staff Attorney  
Environmental Law Division  
State Bar No. 24051335

**MAILING LIST**  
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**DOCKET NO. 2011-1469-IWD; PERMIT NO. WQ0004297000**

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**ATTACHMENT A**

**TECHNICAL SUMMARY & DRAFT PERMIT**





TEXAS COMMISSION ON ENVIRONMENTAL  
QUALITY

P.O Box 13087  
Austin, Texas 78711-3087

PERMIT TO DISCHARGE WASTES

under provisions of

Section 402 of the Clean Water Act  
and Chapter 26 of the Texas Water Code

TPDES PERMIT NO.  
WQ0004297000  
*[For TCEQ office use only -  
EPA I.D. No. TX0132624]*

This permit supersedes and  
replaces TCEQ Permit No.  
WQ0004297000 issued on  
August 29, 2008.

Rio Grande Mining Company

whose mailing address is

1750-1188 West Georgia Street  
Vancouver, B.C., Canada V6E 4A2

is authorized to treat and discharge wastes from the Shafter Mine, an underground silver ore mine  
(SIC 1044)

located west of U.S. Highway 67, approximately one mile west of the Shafter townsite, Presidio  
County, Texas

to an unnamed drainage, thence to Arroyo del Muerto, thence to Wilson Arroyo, thence to Rio Grande  
Below Riverside Diversion Dam in Segment No. 2307 of the Rio Grande Basin

only according to 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 on September 1, 2013.

ISSUED DATE:

\_\_\_\_\_  
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 mine dewatering water subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.360 million gallons per day (MGD). The daily maximum flow shall not exceed 1.08 MGD.

Effluent Characteristics	Discharge Limitations		Minimum Self-Monitoring Requirements	
	Daily Average mg/L	Daily Maximum mg/L	Single Grab mg/L	Report Daily Average and Daily Maximum Measurement Frequency Sample Type
Flow (MGD)	(0.360)	(1.08)	N/A	Continuous
Total Suspended Solids	20	30	30	2/week Composite
Copper, Total	0.15	0.30	0.30	1/week Composite
Zinc, Total	0.75	1.5	1.5	1/week Composite
Lead, Total	0.3	0.6	0.6	1/week Composite
Silver, Total	0.02	0.049	0.049	1/week Composite
Mercury, Total	0.001	0.002	0.002	1/week Composite
Cadmium, Total	0.05	0.10	0.10	1/week Composite
Oil and Grease	15	20	20	1/week Grab

- The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/day by grab sample.
- There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
- Effluent monitoring samples shall be taken at the following location: Outfall 001, where mine dewatering water is discharged, and prior to entering the unnamed drainage.

**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 Texas Water Code §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 a 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 of made in a calendar month. For any measurement of bacteria equaling zero, a substitute value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
- f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
- g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.

### 3. Sample Type

- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (b).

- b. Grab sample - an individual sample collected in less than 15 minutes.

4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.
6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

## MONITORING AND REPORTING REQUIREMENTS

### 1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§319.4 - 319.12. Unless otherwise

specified, a monthly effluent report shall be submitted each month, to the Enforcement Division (MC 224), by the 20th day of the following month for each discharge that is described by this permit whether or not a discharge is made for that month. Monitoring results must be reported on an approved self-report form that is signed and certified as required by Monitoring and Reporting Requirements No. 10.

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

## 2. Test Procedures

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

## 3. Records of Results

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

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

## 4. Additional Monitoring by Permittee

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

## 5. Calibration of Instruments

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

## 6. Compliance Schedule Reports

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

## 7. Noncompliance Notification

- a. In accordance with 30 TAC §305.125(9) any noncompliance that may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
  - b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:
    - i. Unauthorized discharges as defined in Permit Condition 2(g).
    - ii. Any unanticipated bypass that exceeds any effluent limitation in the permit.
    - iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.
  - c. In addition to the above, any effluent violation that deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
  - d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
8. In accordance with the procedures described in 30 TAC §§35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
9. Changes in Discharges of Toxic Substances

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

- a. That any activity has occurred or will occur that 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) that 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 that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that 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 that would be subject to CWA §301 or §306 if it were directly discharging those pollutants;
  - b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
  - c. For the purpose of this paragraph, adequate notice shall include information on:
    - i. The quality and quantity of effluent introduced into the POTW; and
    - ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

## PERMIT CONDITIONS

### 1. General

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

## 2. Compliance

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

## 3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC Chapter 361.
- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then

in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC §7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

#### 4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
  - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC §305.534 (relating to New Sources and New Dischargers); 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 that are not described in the permit application or that would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.
- e. In accordance with the TWC §26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA §307(a) for a toxic pollutant that is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA §307(a) for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

## 5. Permit Transfer

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

## 6. Relationship to Hazardous Waste Activities

This permit does not authorize any activity of hazardous waste storage, processing, or disposal 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 Texas Water Code 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(15)) 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;
  - ii. the permit number(s);
  - iii. the bankruptcy court in which the petition for bankruptcy was filed; and
  - iv. 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 Land Application Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.
4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.
5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under TWC §7.302(b)(6).
7. Documentation

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

8. Facilities that generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.
- a. Whenever flow measurements for any domestic sewage treatment facility reach 75% of the permitted daily average or annual average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment and/or collection facilities. Whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. In the case of a domestic wastewater treatment facility that reaches 75% of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.  
  
If in the judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 149) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.
  - b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.
  - c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.
11. Facilities that generate industrial solid waste as defined in 30 TAC §335.1 shall comply with these provisions:
- a. Any solid waste, as defined in 30 TAC §335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
  - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.

- c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC §335.8(b)(1), to the Corrective Action Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
  - d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC §335.5.
  - e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
  - f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:
    - i. Volume of waste and date(s) generated from treatment process;
    - ii. Volume of waste disposed of on-site or shipped off-site;
    - iii. Date(s) of disposal;
    - iv. Identity of hauler or transporter;
    - v. Location of disposal site; and
    - vi. Method of final disposal.
- The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.
12. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with THSC Code Chapter 361.

**OTHER REQUIREMENTS**

1. Violations of daily maximum limitations for the following pollutants shall be reported orally or by facsimile to TCEQ Region 6, within 24 hours from the time the permittee becomes aware of the violation followed by a written report within five working days to TCEQ Region 6 and the Enforcement Division (MC 224):

<u>POLLUTANT</u>	<u>MAL (mg/L)</u>
Copper (Total)	0.010
Mercury (Total)	0.0002
Zinc (Total)	0.005
Lead (Total)	0.005
Silver (Total)	0.002
Cadmium (Total)	0.001

Test methods utilized shall be sensitive enough to demonstrate compliance with the permit effluent limitations. Permit compliance/noncompliance determinations will be based on the effluent limitations contained in this permit with consideration given to the minimum analytical level (MAL) for the parameters specified above.

When an analysis of an effluent sample for any of the parameters listed above indicates no detectable levels above the MAL and the test method detection level is as sensitive as the specified MAL, a value of zero (0) shall be used for that measurement when determining calculations and reporting requirements for the self-reporting form. This applies to determinations of daily maximum concentration, calculations of loading and daily averages, and other reportable results.

When a reported value is zero (0) based on this MAL provision, the permittee shall submit the following statement with the self-reporting form either as a separate attachment to the form or as a statement in the comments section of the form.

"The reported value(s) of zero (0) for       [list parameter(s)]       on the self-reporting form for       [monitoring period date range]       is based on the following conditions: 1) the analytical method used had a method detection level as sensitive as the MAL specified in the permit, and 2) the analytical results contained no detectable levels above the specified MAL."

When an analysis of an effluent sample for a parameter indicates no detectable levels and the test method detection level is not as sensitive as the MAL specified in the permit, or an MAL is not specified in the permit for that parameter, the level of detection achieved shall be used for that measurement when determining calculations and reporting requirements for the self-reporting form. A zero (0) may not be used.

2. There is no mixing zone established for this discharge to an intermittent stream. Acute toxic criteria apply at the point of discharge.
3. Reporting requirements according to 30 TAC Sections 319.1-319.11 and any additional effluent reporting requirements contained in the permit are suspended from the effective date of the permit until plant startup or discharge, whichever occurs first, from the facility described by this permit. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 6) and the Applications Review and Processing Team (MC-148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first, and prior to completion of each additional phase on Notification of Completion Form 20007.

4. Within 90 days of initiating mine dewatering operations, wastewater discharged via Outfall 001 shall be sampled and tested for those parameters listed on Tables 1 and 2 of this permit for a minimum of four (4) separate sampling events which are a minimum of one (1) week apart. Table 1 shall be completed with the analytical results and sent to the TCEQ, Wastewater Permitting Section (MC-148), Industrial Permits Team within 30 days from completing the required sampling. These analytical results will be compared to the calculated water quality-based effluent limits found in Attachment A of the Statement of Basis/Technical Summary and Executive Director's Preliminary Decision. Based on this technical review of the submitted analytical results, an amendment may be initiated by TCEQ staff to include additional effluent limitations, monitoring requirements, or both effluent limitations and monitoring requirements. Failure to submit data within specified timeframes is a violation of this permit.
5. The discharge of domestic wastewater and process wastewater from the Mineral Processing Plant are not authorized by this permit.

Table 1

Outfall No.:	<input type="checkbox"/> C <input type="checkbox"/> G	Effluent Concentration (mg/l)					
		Samp.	Samp.	Samp.	Samp.	Average	
Pollutants							
BOD (5-day)							
CBOD (5-day)							
Chemical Oxygen Demand							
Total Organic Carbon							
Dissolved Oxygen							
Ammonia Nitrogen							
Total Suspended Solids							
Nitrate Nitrogen							
Total Organic Nitrogen							
Total Phosphorus							
Oil and Grease							
Total Residual Chlorine							
Total Dissolved Solids							
Sulfate							
Chloride							
Fluoride							
Fecal Coliform							
Temperature (°F)							
pH (Standard Units; min/max)							
		Effluent Concentration (µg/l)					MAL (µg/l)
Total Aluminum							30
Total Antimony							30
Total Arsenic							10
Total Barium							10
Total Beryllium							5
Total Cadmium							1
Total Chromium							10
Trivalent Chromium							N/A
Hexavalent Chromium							10
Total Copper							10
Cyanide							20
Total Lead							5
Total Mercury							0.2
Total Nickel							10
Total Selenium							10
Total Silver							2.0
Total Thallium							10
Total Zinc							5

Table 2

Outfall No.:	<input type="checkbox"/> C <input type="checkbox"/> G	Believed Present	Believed Absent	Effluent Concentration (mg/l)		# of Samples
				Average	Maximum	
Pollutants						
Bromide						
Color(PCU)						
Nitrate-Nitrite(as N)						
Sulfide(as S)						
Sulfite(as SO <sub>3</sub> )						
Surfactants						
Total Antimony						
Total Beryllium						
Total Boron						
Total Cobalt						
Total Iron						
Total Magnesium						
Total Molybdenum						
Total Manganese						
Total Thallium						
Total Tin						
Total Titanium						

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

**DESCRIPTION OF APPLICATION**

Applicant: Rio Grande Mining Company; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004297000 (TX0132624).

Regulated Activity: Industrial Wastewater Permit.

Type of Application: Major Amendment.

Request: Major amendment with out renewal to amend the facility's existing Texas Land Application Permit (TLAP) which authorized the disposal of wastewater via surface and sub-surface irrigation to a TPDES discharge permit to allow for the direct discharge of wastewater to waters in the state.

Authority: Federal Clean Water Act §402; Texas Water Code §26.027; 30 Texas Administrative Code (TAC) Chapter 305, Subchapters C-F, Chapters 307 and 319, Commission Policies; and EPA Guidelines.

**EXECUTIVE DIRECTOR RECOMMENDATION**

The proposed permit will be issued to retain the current expiration date of September 1, 2013.

**REASON FOR PROJECT PROPOSED**

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment of its existing permit. The proposed amendment would amend the facility's existing TLAP which authorized the disposal of wastewater via surface and sub-surface irrigation to TPDES discharge permit to allow for the direct discharge of wastewater to waters in the state.

**PROJECT DESCRIPTION AND LOCATION**

The applicant proposes to operate the Shafter Mine, a silver mine site.

Wastewater is produced from perched aquifers which were created as a result of previous underground exploration activities. The mine dewatering water will be treated in a series of underground sumps designed to settle the solids in the water. The mine dewatering water is then transported via pipe and discharged via Outfall 001. Wastewaters produced by the Mineral Processing Plant are not authorized for discharge via this permit. The wastewaters from the Mineral Processing Plant are not authorized for disposal under this permit. Domestic wastewater is disposed of via an on-site septic tank not permitted by this TPDES permit.

The plant site is located west of U.S. Highway 67, approximately one mile west of the Shafter townsite, Presidio County, Texas.

The effluent is discharged to an unnamed drainage, thence to Arroyo del Muerto, thence to Wilson Arroyo, thence to Rio Grande Below Riverside Diversion Dam in Segment No. 2307 of the Rio Grande. The unclassified receiving waters have no significant aquatic life use for the unnamed drainage and no significant aquatic life use for Arroyo del Muerto. The designated uses for Segment No. 2307 are high aquatic life use, contact recreation, and public water supply. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

STATEMENT OF BASIS / TECHNICAL SUMMARY AND  
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION  
TPDES Permit No. WQ0004297000

In accordance with 30 TAC §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

Segment No. 2307 is currently listed on the State's inventory of impaired and threatened waters (the 2008 Clean Water Act Section 303(d) list). The listings are as follows:

- Downstream of Riverside Dam to Guadalupe Bridge: bacteria, chloride, total dissolved solids (AU 2307\_01)
- Guadalupe Bridge to the Alamo Grade Structure: bacteria, chloride, total dissolved solids (AU 2307\_02)
- Alamo Grade Structure to Little Box Canyon: total dissolved solids, chloride (AU 3207\_03)
- Little Box Canyon to 25 miles upstream of Rio Conchos confluence: total dissolved solids, chloride (AU 2307\_04)
- 25 miles upstream of the Rio Conchos confluence (lower segment boundary): chloride, total dissolved solids (AU2307\_05)

The proposed discharge of mine dewatering water from this facility is not anticipated to contribute to the segment impairments listed above. The facility does not propose to discharge domestic wastewater under this permit, which is the most likely source of bacterial contamination from an industrial facility. Data submitted with the application which represents the ground water quality in the mine area show low levels of both total dissolved solids and chlorides. In addition, in order to determine the effluent quality of the wastewater being discharged from the facility, Other Requirement No. 4 has been added to the draft permit which requires the facility to perform effluent testing for several parameters, including total dissolved solids, chloride, and bacteria. Based on a review of the submitted effluent data, the permit may be amended to include additional effluent limits if necessary to protect water quality and to ensure that the discharge does not further contribute to the impairments for the segment.

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**SUMMARY OF EFFLUENT DATA**

Self-reporting data is not available because the facility has not discharged under a TPDES permit and has not been in operation for several years; therefore, no effluent data is available to be summarized.

**PROPOSED PERMIT CONDITIONS**

The draft permit authorizes a discharge of mine dewatering water at a daily average flow not to exceed 0.360 million gallons per day and a daily maximum flow not to exceed 1.08 MGD via Outfall 001.

Final effluent limitations are established in the draft permit as follows:

<u>Outfall Number</u>	<u>Pollutant</u>	<u>Daily Average</u>	<u>Daily Maximum</u>
001	Flow (MGD)	(0.360)	(1.08)
	Total Suspended Solids	20 mg/L	30 mg/L
	Copper, Total	0.15 mg/L	0.30 mg/L
	Zinc, Total	0.75 mg/L	1.5 mg/L
	Lead, Total	0.3 mg/L	0.6 mg/L
	Silver, Total	0.02 mg/L	0.049 mg/L
	Mercury, Total	0.001 mg/L	0.002 mg/L
	Cadmium, Total	0.05 mg/L	0.10 mg/L
	Oil and Grease	15 mg/L	20 mg/L
	pH (standard units)	(6.0 minimum)	(9.0 maximum)

Regulations promulgated in Title 40 of the Code of Federal Regulations require technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, or on best professional judgment (BPJ) in the absence of guidelines. The discharge of mine dewatering water is subject to federal effluent limitation guidelines found in 40 CFR §440, Ore Mining and Dressing Point Source Category, Subpart J, Copper, Lead, Zinc, Gold, Silver, and Molybdenum Ores Subcategory. Effluent limits for total suspended solids, total copper, total zinc, total lead, total mercury, total cadmium, and pH are technology based effluent limits derived from the federal effluent limitation guidelines. The water quality-based effluent limit for total silver has been imposed in the draft permit based on BPJ. The effluent limitation for oil and grease has been placed in the draft permit based on BPJ to be consistent with other industrial TPDES permit.

Water quality-based effluent limitations for the protection of aquatic life are presented at Appendix A. Aquatic life criteria established in Tables 1 and 3 of 30 TAC 307 are incorporated into the menu as well as recommendations by the Water Quality Assessment Section memorandum dated November 15, 2010. TCEQ practice for determining significant potential is to compare the reported analytical data from the facility against percentages of the calculated daily average water quality-based effluent limitation. Permit limitations are required when analytical data reported in the application exceeds 85 percent of the calculated daily average water quality-based effluent limitation. Monitoring and reporting is required when analytical data reported in the application exceeds 70 percent of the calculated daily average water quality-based effluent limitation. The facility has not begun to discharge wastewater; therefore, it could not provide effluent data to be screened. Other Requirement No. 4 has been placed in the draft permit which requires the facility to obtain the required effluent data and submit it the TCEQ for screening against the water quality-based effluent limits found in Appendix A. Based on this review, the permit may be reopened to place appropriate water quality-based effluent limits in the permit if required.

STATEMENT OF BASIS / TECHNICAL SUMMARY AND  
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**SUMMARY OF CHANGES FROM APPLICATION**

None.

**SUMMARY OF CHANGES FROM EXISTING PERMIT**

The permittee requested the following changes in its amendment request that the Executive Director has recommended granting.

The applicant has requested an amendment of its existing Texas Land Application Permit (TLAP) which authorized the disposal of wastewater via surface and sub-surface irrigation to a Texas Pollutant Discharge Elimination System (TPDES) discharge permit to allow for the direct discharge of wastewater to waters in the state. This request was granted.

The following additional changes have been made to the draft permit.

- Special Provisions 1 through 36 have been removed from the draft permit, which are directly related to the land application of effluent.
- Other Requirement No. 1 has been added to the draft permit which provide guidance for reporting violations of daily maximum effluent limits for several parameter in the draft permit.
- Other Requirement No. 2 has been added to the draft permit which provide a mixing zone definition for the discharge to an intermittent stream.
- Other Requirement No. 3 has been added to the draft permit which provides guidance for notification requirements prior to plant start up.
- Other Requirement No. 4 has been added to the draft permit which requires the facility to take effluent samples once the facility begins discharging and submit the sample results to the TCEQ for review.
- Other Requirement No. 5 has been added to the draft permit which identifies domestic wastewater and process wastewater from the Mineral Processing Plant as wastewater not authorized for discharge by the draft permit.
- Technology-based effluent limits from 40 CFR §440, Ore Mining and Dressing Point Source Category, Subpart J, Copper, Lead, Zinc, Gold, Silver, and Molybdenum Ores Subcategory for total suspended solids, total copper, total zinc, total mercury, and total cadmium have been added to the draft permit. See Appendix B for a discussion of these proposed technology-based limits.
- A total silver water quality-based effluent limit has been placed at Outfall 001. See Appendix A for the calculations used to derive water quality-based limits for the protection of aquatic life.

**BASIS FOR PROPOSED DRAFT PERMIT**

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

1. Application submitted July 13, 2010 and additional information submitted August 20, 2010, October 12, 2010, and November 1, 2010.
2. Existing permits: TCEQ Permit No. WQ0004297000 issued August 29, 2008.
3. TCEQ Rules.

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4. Texas Surface Water Quality Standards - 30 TAC §§307.1-307.10, effective August 17, 2000, and Appendix E, effective February 27, 2002.
5. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, January 2003.
6. Memos from the Water Quality Standards Implementation Team and the Water Quality Assessment Team of the Water Quality Assessment Section of the TCEQ.
7. "Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.
8. EPA Effluent Guidelines: 40 CFR §440 (BAT and BPT). A new source determination was performed and this discharge of mine dewatering water is not a new source as defined at 40 CFR §122.2.
9. Consistency with the Coastal Management Plan: N/A

### 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.

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.

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

For additional information about this application contact Tres Koenings at (512) 239-1189.

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Tres Koenings

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Date

STATEMENT OF BASIS / TECHNICAL SUMMARY AND  
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**Appendix A**  
**Calculated Water Quality-Based Effluent Limits**

TEXTTOX MENU #1 - INTERMITTENT STREAM

The water quality-based effluent limitations demonstrated below are calculated using:

Table 1, 2000 Texas Surface Water Quality Standards (30 TAC 307) for Freshwater Aquatic Life

Table 3, 2000 Texas Surface Water Quality Standards for Human Health

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

TPDES Permit No: WQ0004297000  
 Permittee Name: Rio Grande Mining Company  
 Outfall No: 001  
 Prepared By: Tres Koenings  
 Date: 2-09-11

**DISCHARGE INFORMATION:**

Intermittent Receiving Waterbody: unnamed drainage  
 Segment No: 2307  
 TSS (mg/L): 83  
 pH (Standard Units): 7.3  
 Hardness (mg/L as CaCO<sub>3</sub>): 373  
 Chloride (mg/L): 556  
 Effluent Flow for Aquatic Life (MGD): 0.36  
 Critical Low Flow [7Q2] (cfs): N/A  
 Acute Effluent % for Aquatic Life: 100

**CALCULATE TOTAL/DISSOLVED RATIO:**

<i>Stream/River Metal</i>	<i>Intercept (b)</i>	<i>Slope (m)</i>	<i>Partitioning Coefficient (K<sub>po</sub>)</i>	<i>Dissolved Fraction (Cd/Ct)</i>		<i>Water Effects Ratio (WER)</i>	
Aluminum	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Arsenic	5.68	-0.73	19013.98	0.39		1	Assumed
Cadmium	6.6	-1.13	27004.85	0.31		1	Assumed
Chromium (Total)	6.52	-0.93	54357.24	0.18		1	Assumed
Chromium (+3)	6.52	-0.93	54357.24	0.18		1	Assumed
Chromium (+6)	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Copper	6.02	-0.74	39799.92	0.23		1	Assumed
Lead	6.45	-0.8	82174.59	0.13		1	Assumed
Mercury	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Nickel	5.69	-0.57	39457.13	0.23		1	Assumed
Selenium	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Silver	6.38	-1.03	25313.35	0.32		1	Assumed
Zinc	6.1	-0.7	57101.21	0.17		1	Assumed

**AQUATIC LIFE**

**CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS**

<i>Parameter</i>	<i>Acute Standard (ug/L)</i>	<i>WLAa</i>	<i>LTAa</i>	<i>Daily Avg. (ug/L)</i>	<i>Daily Max. (ug/L)</i>
Aldrin	3	3.00	1.72	2.53	5.35
Aluminum	991	991.00	567.84	834.73	1765.99
Arsenic	360	928.14	531.82	781.78	1653.97
Cadmium	144.715	469.08	268.78	395.11	835.92

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Carbaryl	2	2.00	1.15	1.68	3.56
Chlordane	2.4	2.40	1.38	2.02	4.28
Chlorpyrifos	0.083	0.08	0.05	0.07	0.15
Chromium (+3)	1612.85	8889.48	5093.67	7487.70	15841.32
Chromium (+6)	15.7	15.70	9.00	13.22	27.98
Copper	63.694	274.10	157.06	230.88	488.45
Cyanide	45.78	45.78	26.23	38.56	81.58
4,4'-DDT	1.1	1.10	0.63	0.93	1.96
Dementon	N/A	N/A	N/A	N/A	N/A
Dicofol	59.3	59.30	33.98	49.95	105.67
Dieldrin	2.5	2.50	1.43	2.11	4.46
Diuron	210	210.00	120.33	176.89	374.23
Endosulfan I (alpha)	0.22	0.22	0.13	0.19	0.39
Endosulfan II (beta)	0.22	0.22	0.13	0.19	0.39
Endosulfan sulfate	0.22	0.22	0.13	0.19	0.39
Endrin	0.18	0.18	0.10	0.15	0.32
Guthion	N/A	N/A	N/A	N/A	N/A
Heptachlor	0.52	0.52	0.30	0.44	0.93
Hexachlorocyclohexane (Lindane)	2	2.00	1.15	1.68	3.56
Lead	387.808	3032.85	1737.82	2554.60	5404.63
Malathion	N/A	N/A	N/A	N/A	N/A
Mercury	2.4	2.40	1.38	2.02	4.28
Methoxychlor	N/A	N/A	N/A	N/A	N/A
Mirex	N/A	N/A	N/A	N/A	N/A
Nickel	4310.690	18427.95	10559.22	15522.05	32839.16
Parathion (ethyl)	0.065	0.07	0.04	0.05	0.12
Pentachlorophenol	12.26194	12.26	7.03	10.33	21.85
Phenanthrene	30	30.00	17.19	25.27	53.46
Polychlorinated Biphenyls (PCBs)	2	2.00	1.15	1.68	3.56
Selenium	20	20.00	11.46	16.85	35.64
Silver, (free ion)	0.8	27.62	15.83	23.27	49.23
Toxaphene	0.78	0.78	0.45	0.66	1.39
Tributyltin (TBT)	0.13	0.13	0.07	0.11	0.23
2,4,5 Trichlorophenol	136	136.00	77.93	114.55	242.36
Zinc	349.152	2003.92	1148.25	1687.93	3571.05

**CALCULATE 70% AND 85% OF DAILY AVERAGE EFFLUENT LIMITATIONS**

<i>Parameter</i>	<i>70%</i>	<i>85%</i>
Aldrin	1.769	2.148
Aluminum	584.310	709.520
Arsenic	547.246	664.513
Cadmium	276.578	335.845
Carbaryl	1.179	1.432
Chlordane	1.415	1.718
Chlorpyrifos	0.049	0.059
Chromium (+3)	5241.39	6364.54
Chromium (+6)	9.257	11.241
Copper	161.614	196.246
Cyanide	26.993	32.777
4,4'-DDT	0.649	0.788
Dementon	N/A	N/A
Dicofol	34.964	42.457
Dieldrin	1.474	1.790
Diuron	123.820	150.352
Endosulfan I (alpha)	0.130	0.158
Endosulfan II (beta)	0.130	0.158

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Endosulfan sulfate	0.130	0.158
Endrin	0.106	0.129
Guthion	N/A	N/A
Heptachlor	0.307	0.372
Hexachlorocyclohexane (Lindane)	1.179	1.432
Lead	1788.221	2171.411
Malathion	N/A	N/A
Mercury	1.415	1.718
Methoxychlor	N/A	N/A
Mirex	N/A	N/A
Nickel	10865.43	13193.74
Parathion (ethyl)	0.038	0.047
Pentachlorophenol	7.230	8.779
Phenanthrene	17.689	21.479
Polychlorinated Biphenyls (PCBs)	1.179	1.432
Selenium	11.792	14.319
Silver, (free ion)	16.287	19.777
Toxaphene	0.460	0.558
Tributyltin (TBT)	0.077	0.093
2,4,5 Trichlorophenol	80.188	97.371
Zinc	1181.548	1434.737

STATEMENT OF BASIS / TECHNICAL SUMMARY AND  
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**APPENDIX B**

**CALCULATIONS - TECHNOLOGY-BASED LIMITS**

The discharge of mine dewatering water from the Shafter Mine site is subject to federal effluent limitation guidelines found at 40 CFR §440, Ore Mining and Dressing Point Source Category, Subpart J, Copper, Lead, Zinc, Gold, Silver, and Molybdenum Ores Subcategory. 40 CFR §440 Subpart J provide effluent limitations that represent the best practicable control technology (BPT) at §440.102, and the best available technology economically achievable (BAT) at §440.103. These effluent limitations are summarized below.

**40 CFR §440.102 (BPT)** - The concentration of pollutants discharged in mine drainage from mines operated to obtain copper bearing ores, lead bearing ores, zinc bearing ores, gold bearing ores, or silver bearing ores, or any combination of these ores open-pit or underground operations other than placer deposits shall not exceed the following effluent limitations:

<u>Pollutant</u>	<u>Daily Average, mg/L</u>	<u>Daily Maximum, mg/L</u>
Total Suspended Solids	20	30
Copper	0.15	0.30
Zinc	0.75	1.5
Lead	0.3	0.6
Mercury	0.001	0.002
pH (standard units)	(6.0 minimum)	(9.0 maximum)

**40 CFR §440.103 (BAT)** - The concentration of pollutants discharged in mine drainage from mines operated to obtain copper bearing ores, lead bearing ores, zinc bearing ores, gold bearing ores, or silver bearing ores, or any combination of these ores open-pit or underground operations other than placer deposits shall not exceed the following effluent limitations:

<u>Pollutant</u>	<u>Daily Average, mg/L</u>	<u>Daily Maximum, mg/L</u>
Copper	0.15	0.30
Zinc	0.75	1.5
Lead	0.3	0.6
Mercury	0.001	0.002
Cadmium	0.05	0.10

Summary of effluent limits required by 40 CFR 440, Subpart J:

<u>Pollutant</u>	<u>Daily Average, mg/L</u>	<u>Daily Maximum, mg/L</u>	<u>BAT/BPT</u>
Total Suspended Solids	20	30	BPT
Copper	0.15	0.30	BPT & BAT
Zinc	0.75	1.5	BPT & BAT
Lead	0.3	0.6	BPT & BAT
Mercury	0.001	0.002	BPT & BAT
Cadmium	0.05	0.10	BAT
pH (standard units)	(6.0 minimum)	(9.0 maximum)	BPT

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**APPENDIX C**

**COMPARISON OF FEDERAL EFFLUENT LIMIT GUIDELINES AND WATER QUALITY-BASED EFFLUENT LIMITS**

Federal Effluent Limitation Guidelines, 40 CFR 440, Subpart J (Appendix B):

Pollutant	Daily Average, mg/L	Daily Maximum, mg/L	BAT/BPT
Total Suspended Solids	<b>20</b>	<b>30</b>	BPT
Copper	<b>0.15</b>	<b>0.30</b>	BPT & BAT
Zinc	<b>0.75</b>	<b>1.5</b>	BPT & BAT
Lead	<b>0.3</b>	<b>0.6</b>	BPT & BAT
Mercury	<b>0.001</b>	<b>0.002</b>	BPT & BAT
Cadmium	<b>0.05</b>	<b>0.10</b>	BAT
pH (standard units)	<b>(6.0 minimum)</b>	<b>(9.0 maximum)</b>	BPT

Calculated Water Quality-Based Effluent Limitations (WQBEL)(Appendix A):

Pollutant	Daily Average, mg/L	Daily Maximum, mg/L
Total Suspended Solids	N/A	N/A
Copper	0.23	0.49
Zinc	1.7	3.5
Silver	<b>0.02</b>	<b>0.049</b>
Lead	2.5	5.4
Mercury	0.002	0.004
Cadmium	0.4	0.8

The most stringent of limits between the federal effluent limitation guidelines and the calculated water quality-based effluent limitations are imposed in the draft permit. The limits in bold above are the most stringent, and therefore have been imposed in the draft permit.

Effluent Limitations Proposed:

Pollutant	Daily Average, mg/L	Daily Maximum, mg/L
Total Suspended Solids	20	30
Copper	0.15	0.30
Zinc	0.75	1.5
Silver	0.02	0.049
Lead	0.3	0.6
Mercury	0.001	0.002
Cadmium	0.05	0.10
pH (standard units)	(6.0 minimum)	(9.0 maximum)

**ATTACHMENT B**

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



PROPOSED TPDES Permit No. WQ0004297000

2011 JUL 15 PM 4:48

Application by  
RIO GRANDE MINING COMPANY,  
for TPDES Permit No.  
WQ0004297000

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§  
§  
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Before the  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

CHIEF CLERKS 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 Rio Grande Mining Company, for a new Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0004297000 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 received timely comment letters from **Ms. Mary Jane Williams, The Honorable Judge Paul Hunt, Mr. Randy Laurence, and Mr. Monroe Elms.** With an email to the TCEQ dated July 3, 2011 Mr. Monroe Elms withdrew his comments. This Response addresses all comments received, whether withdrawn or not.

### BACKGROUND

#### Rio Grande Mining Company's Application:

Rio Grande Mining Company (Permittee), which operates the Shafter Mine, has applied for a major amendment without renewal to amend its Texas Land Application Permit (TLAP), which authorizes the disposal of wastewater via surface and sub-surface irrigation, to a Texas Pollutant Discharge Elimination System (TPDES) discharge permit which would authorize the discharge of mine dewatering water into water in the state at a daily average flow of 360,000 gallons per day. The current TLAP permit authorizes the disposal of mine dewatering water via surface and subsurface irrigation at a daily average flow not to exceed 360,000 gallons per day. If the draft permit is issued, the Permittee will not be authorized to dispose of mine dewatering water via surface or

subsurface irrigation.

The facility is located west of U.S. Highway 67, approximately one mile west of the Shafter townsite, Presidio County, Texas 79843. The effluent is proposed to be discharged to an unnamed drainage, then to Arroyo del Muerto, then to Wilson Arroyo, then to Rio Grande Below Riverside Diversion Dam, in Segment No. 2307 of the Rio Grande Basin.

### **Procedural Background**

TCEQ received the major amendment application on July 13, 2010, and declared it administratively complete on October 15, 2010. The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published on October 28, 2010, in English in *The Big Bend Sentinel* and in Spanish in *The Presidio International*. The Executive Director completed the technical review of the application on February 12, 2011, and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) was published on April 14, 2011, in English in *The Big Bend Sentinel* and in Spanish in *The Presidio International*. The comment period closed May 16, 2011. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999).

### **Access to Rules, Laws and Records**

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. Other information can be obtained on the web at the following addresses:

- Secretary of State website for all administrative rules: [www.sos.state.tx.us](http://www.sos.state.tx.us)
- TCEQ rules in Title 30 of the Texas Administrative Code:  
[www.sos.state.tx.us/tac/](http://www.sos.state.tx.us/tac/)  
(select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: [www.capitol.state.tx.us/statutes/statutes.html](http://www.capitol.state.tx.us/statutes/statutes.html)
- TCEQ website: [www.tceq.state.tx.us](http://www.tceq.state.tx.us) (for downloadable rules in WordPerfect or

Adobe PDF formats, select Rules, Policy, & Legislation, then Rules and Rulemaking, then Download TCEQ Rules)

- Federal rules in Title 40 of the Code of Federal Regulations (CFR): [www.epa.gov/epahome/cfr40.htm](http://www.epa.gov/epahome/cfr40.htm)
- Federal environmental laws: [www.epa.gov/epahome/laws.htm](http://www.epa.gov/epahome/laws.htm)

Commission records for this facility are available for viewing and copying. Those records are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken); the permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the Presidio County Courthouse, 301 North Highland Avenue, Marfa, Texas.

### **COMMENTS and RESPONSES**

#### **COMMENT 1:**

The Honorable Judge Paul Hunt expressed concern about the effects of the discharge on the health of the residents of Shafter, and the regional wildlife. Mary Lane Williams is concerned about possible contamination of the Rio Grande River and Big Bend National Park by the discharge proposed by this facility. Monroe Elms commented that if allowed to dump this polluted water into the water shed, it will have a long and negative effect on the people, the environment, and tourism, in the Big Bend area and in Mexico. Similarly, Randy Lawrence is concerned about the impact the proposed discharge will have on people and the environment.

#### **RESPONSE 1:**

The legislature has mandated that "[it] is the policy of this state . . . to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state. . ."<sup>1</sup> The

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<sup>1</sup> Tex. Water Code § 26.003.

TCEQ implements this mandate by drafting permits with effluent limits that will protect water quality.

The Executive Director determined that the designated uses for Rio Grande Below Riverside Diversion Dam in Segment No. 2307 of the Rio Grande Basin are high aquatic life use, contact recreation, and public water supply; therefore, the effluent limits in the draft permit were drafted to maintain and protect the high aquatic life uses, contact recreation and public water supply.

If the draft permit is issued and the Permittee starts discharging effluent, the ED will screen the wastewater for compliance with the Texas Surface Water Quality Standards to ensure protection of aquatic life in the receiving stream.. The Texas Surface Water Quality Standards require that "Surface waters must not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." 30 TAC § 307.4(d). The TCEQ's Procedures to Implement the Texas Surface Water Quality Standards (IPs) are designed to ensure compliance with that requirement. As stated within the IPs, intermittent streams with no significant aquatic life uses, such as the unnamed drainage and the arroyo involved in this permit, have no human health criteria for discharges.

Because the Shafter Mine is not currently discharging effluent, there are no effluent data from the facility. Therefore, the draft permit requires the Permittee to sample the initial discharges from the facility and analyze them for a series of pollutants. The TCEQ will screen the results of the analyses against the concentrations necessary to protect the designated uses of the receiving water. See Draft Permit, page 5 and Other Requirement 1. If the draft permit is issued, the effluent data will be compared against the permit limits derived in Appendix A of the Statement of Basis and Executive Director's Preliminary Decision, which were developed based on the Texas Surface Water Quality Standards found at 30 TAC § 307.10, to ensure protection of aquatic life in the receiving stream and to protect the designated uses of the unnamed drainage and Arroyo del Muerto. If the effluent data show pollutants that have the potential to exceed the calculated water quality-based limitations necessary to protect aquatic life, a permit

amendment will be initiated by TCEQ staff and additional monitoring, effluent limits, or other controls may be added to the permit.

The point of discharge is called an "outfall." This permit has only one outfall, referred to as Outfall 001. Outfall 001 has technology-based effluent limitations that were developed using the federal regulations guidelines relating to this type of mining operation,<sup>2</sup> in addition to effluent limits established based on the best professional judgment of the permit writer. Combining these, the effluent limitations and monitoring requirements established in the draft permit for Outfall 001 are:

<u>Outfall</u>	<u>Parameter</u>	<u>Daily Avg</u>	<u>Daily Max</u>	<u>Monitoring Frequency</u>
001	Flow (MGD)	(0.360)	(1.08)	2/week
	Total Suspended Solids	20 mg/L	30 mg/L	1/week
	Copper, Total	0.15 mg/L	0.30 mg/L	1/week
	Zinc, Total	0.75 mg/L	1.5 mg/L	1/week
	Lead, Total	0.3 mg/L	0.6 mg/L	1/week
	Silver, Total	0.02 mg/L	0.049 mg/L	1/week
	Mercury, Total	0.001 mg/L	0.002 mg/L	1/week
	Cadmium, Total	0.05 mg/L	0.10 mg/L	1/week
	Oil and Grease	15 mg/L	20 mg/L	1/week
	pH (standard units)	(6.0 - 9.0)		1/day

These criteria are designed to ensure that the surface waters will "not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." See 30 TAC § 307.4(d).

The Executive Director has determined that if the Permittee operates and maintains the facility as required by the draft permit and all applicable regulations, it will be protective of the environment, water quality, human health and wildlife. If you have any concerns or complaints about the WWTP, please contact the TCEQ at 512-339-

<sup>2</sup> See Title 40 Code of Federal Regulations (40 CFR) §440, Ore Mining and Dressing Point Source Category, Subpart J, Copper, Lead, Zinc, Gold, Silver, and Molybdenum Ores Subcategory.

2929 or 888-777-3186. Noncompliance with any permit provision may result in enforcement action against the Cactus.

**COMMENT 2:**

Mary Lane Williams and Randy Lawrence question why such a large flow volume of wastewater is necessary.

**RESPONSE 2:**

The flow volume for this facility was established based on the type of operation involved and the information provided by the Permittee regarding the operation. According to the Permittee, ground water inflows to the underground mining area have historically ranged from 360,000 to 550,000 gpd (gpd). The Permittee intends to route a portion of this ground water inflow (approximately 144,000 gpd) to the Mineral Processing Plant on-site for use at that plant. (The discharge of wastewater from the Mineral Processing Plant is not the subject of this permit.) Therefore, the Permittee determined that a daily average effluent flow of 360,000 gpd would be necessary to ensure the proper operation of the mine.

**COMMENT 3:**

Mary Lane Williams questions how the TCEQ or other government agencies will monitor the water quality from the facility.

**RESPONSE 3:**

TCEQ requires the Permittee to submit monthly self-reporting requirements. The TCEQ also performs routine wastewater treatment plant inspections. TPDES permits are required to comply with the Clean Water Act and all applicable regulations promulgated by the U.S. Environmental Protection Agency (EPA). Since the EPA delegated the administration of the National Pollutant Discharge Elimination System to

the TCEQ, EPA has oversight authority over TPDES permits issued by the TCEQ. In certain instances, EPA may enforce TPDES water quality violations.

There are monitoring and reporting requirements on page 2 of the draft permit to ensure that the Permittee is complying with the effluent limits established for discharges from the facility. The Permittee is required to monitor and report the daily average and daily maximum for total suspended solids, copper, zinc, lead, silver, mercury, cadmium and oil and grease as reflected in the following table:

Effluent Characteristics	Discharge Limitations			Minimum Self-Monitoring Requirements	
	Daily Average mg/L	Daily Maximum mg/L	Single Grab mg/L	Report Daily Average and Daily Maximum Measurement Frequency	Sample Type
Flow (MGD)	(0.360)	(1.08)	N/A	Continuous	Totalizer
Total Suspended Solids	20	30	30	2/week	Composite
Copper, Total	0.15	0.30	0.30	1/week	Composite
Zinc, Total	0.75	1.5	1.5	1/week	Composite
Lead, Total	0.3	0.6	0.6	1/week	Composite
Silver, Total	0.02	0.049	0.049	1/week	Composite
Mercury, Total	0.001	0.002	0.002	1/week	Composite
Cadmium, Total	0.05	0.10	0.10	1/week	Composite
Oil and Grease	15	20	20	1/week	Grab

Other Requirement 1 in the draft permit requires the Permittee to report any violation of the effluent limits for copper, zinc, lead, silver, mercury, and cadmium to the TCEQ within 24 hours. Pages 3-7 of the draft permit contain additional monitoring and reporting requirements which the Permittee must comply with. Failure to comply with these permit requirements could subject to the Permittee to an enforcement action with severe consequences.

Additionally, TCEQ relies on citizen complaints to help ensure compliance with its rules and permits. Citizens may contact the TCEQ at 1-888-777-3186, the regional

office in the El Paso area at 915-834-4949, or by e-mail at [complaint@TCEQ.state.tx.us](mailto:complaint@TCEQ.state.tx.us) to report suspected violations or to file a complaint.

**COMMENT 4:**

Randy Lawrence is concerned about the lack of information that was made available to the public regarding the nature of the waste.

**RESPONSE 4:**

The information available to the public for review includes (1) the complete application received from the Permittee including all reports and attachments describing the nature and types of wastes involved in the operation, (2) the NORI which provides notice to the public about the application and the location where it will be available for review, (3) the water quality assessment and modeler's memoranda, (4) statement of basis and technical summary, (5) the draft permit containing information on the nature and type of waste permitted to be discharged, the flow and effluent limitations, and (6) the ED's preliminary decision on the application and NAPD. The ED provides mailed and published notice of the application to the public to give them an opportunity to review the application material, provide comment on the application and request a contested case hearing. For major amendments such as this, a Permittee must provide a list and map of affected landowners. Affected landowners are those landowners located adjacent to the proposed mine's property boundaries and landowners with property on either side of the receiving stream for one mile downstream from the proposed point of discharge. The TCEQ mails notice of the application to the affected landowners and others on the mailing list for the application and for the county.

In addition to the mailed notice, the Permittee must publish two notices prepared by the TCEQ in a local newspaper: the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) and the Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD). The Permittee must also provide a copy of the

application, proposed draft permit, and NAPD in a public place for viewing and copying. For this application, the documents are available for viewing and copying at the Presidio County Courthouse, 301 North Highland Avenue, Marfa, Texas.

For this permit, persons living further than one mile downstream of the discharge were notified through publication of the NORI and the NAPD, both published in *The Big Bend Sentinel* and *The Presidio International* newspapers. Additional notification would have occurred by letter if an individual downstream of the discharge was on either the county-wide mailing list or the mailing list maintained for this application.

**COMMENT 5:**

Randy Lawrence asks if wastewater is stored in open ponds or lagoons, what effect will it have on migratory birds that may come in contact with it?

**RESPONSE 5:**

According to the application, the Permittee does not use any open ponds or lagoons for storage of mine dewatering water. The mine dewatering water will be treated in a series of underground sumps and then transported via an eight inch pipe to be discharged via Outfall 001. Therefore, the facility should not have an impact on migratory birds due the storage of wastewater at the facility.

**COMMENT 6:**

Randy Lawrence is concerned about the impact the proposed discharge will have on downstream water supplies.

**RESPONSE 6:**

The ED does not anticipate that the discharge will have any negative impact on downstream water supplies. The proposed discharge route is to an unnamed drainage, then to Arroyo del Muerto, then to Wilson Arroyo, then to Rio Grande Below Riverside Diversion Dam in Segment No. 2307 of the Rio Grande River Basin. The unclassified

receiving waters, the unnamed drainage and the Arroyo del Muerto were determined to be intermittent (dry for at least one week during most years) in the stream reach assessed which was three miles downstream of the outfall location. Intermittent waterbodies are assigned "no significant aquatic life uses" in accordance with the Texas Surface Water Quality Standards (TSWQS) at 30 TAC §307.4(h)(4). The classified perennial water body, Rio Grande Below Riverside Diversion Dam is assigned contact recreation, public water supply, and high aquatic life uses in accordance with Appendix A of the TSWQS. The dissolved oxygen criterion for the unnamed drainage and Arroyo del Muerto is 2.0 mg/l. The dissolved oxygen criterion for Rio Grande Below Riverside Diversion Dam is 5.0 mg/l.

The Permittee is proposing to discharge groundwater seepage that collects in the mine over time. The Permittee supplied an analysis of groundwater from the mine. Results of the analysis did not indicate any contaminants or dissolved solids (salts) above the EPA minimum concentration levels for chemicals in drinking water. As discussed in Response 1, human health criteria are not applied to intermittent streams.

In accordance with 30 TAC § 307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. TCEQ's antidegradation policy applies to any increase in pollution authorized by a TPDES wastewater discharge permit. Increases in pollution are determined by information on effluent characteristics that are provided in the permit application, the draft permit, and other available sources. The Standards Implementation Team conducts Tier 1 and Tier 2 review in accordance with 30 TAC § 307.5. Antidegradation reviews under Tier 1 ensure that existing water quality uses are not impaired by increases in pollution loading. TPDES permit amendments or new permits that allow increased pollution loading are subject to review under Tier 1 of the antidegradation policy, and all pollution that could cause an impairment of existing uses is included in the evaluation.

A Tier I antidegradation review for this facility has preliminarily determined that existing water quality uses will not be impaired by this permit action. No significant

degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life use downstream, and the existing uses will be maintained and protected. The review also preliminary determined that no water bodies with exceptional, high, or intermediate uses are present within the stream reach assessed. Therefore, no Tier 2 degradation determination is required. The preliminary determination can be reexamined and may be modified if new information is received. Additionally, please see Response No. 1.

**COMMENT 7:**

The Honorable Judge Paul Hunt is concerned about the effect this dewatering operation will have on the fragile desert mountain aquifer system in the area.

**RESPONSE 7:**

The Permittee requested a major amendment to discharge wastewater to water in the state. The discharge from the dewatering operation is not expected to negatively impact ground or surface water in the aquifer system within the reach of the operation. Aquifer levels and controls are typically in the jurisdiction of local ground water conservation districts.

**COMMENT 8:**

The Honorable Judge Paul Hunt is concerned about possible ground water contamination by arsenic from the ore processing operations at the site.

**RESPONSE 8:**

This permit only authorizes the discharge of mine dewatering water associated with the mining operations. This permit does not authorize the discharge of wastewaters produced as a result of the ore processing operation. The Permittee has indicated that wastes from the processing of ore at the site will be authorized by a separate TCEQ authorization.

**COMMENT 9:**

Randy Lawrence comments that the discharge from this facility will create a permanent flow of water in a naturally intermittent stream creating unnatural conditions in which non-native flora and fauna may intrude upon native species since the natural environment has been changed by the discharge.

**RESPONSE 9:**

The scope of the ED's review of a TPDES permit application is limited to water quality issues. TCEQ does not have jurisdiction to address non-native species invasion concerns in the wastewater permitting process. The TPDES permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes and coastal waters. The draft permit includes effluent limits and monitoring requirements to ensure that the proposed discharge meets water quality standards.

The issuance of a TPDES permit does not authorize the invasion of any personal property rights, nor limit a landowner's ability to seek judicial relief for interference with the use or enjoyment of his or her property.

The unclassified immediate receiving water bodies, the unnamed drainage and the Arroyo del Muerto, are designated as intermittent streams. Unclassified waters are those smaller water bodies that are not designated as segments with specific uses and criteria in Appendix A or D of 30 TAC §307.10 of the TSWQS. The designation of these unclassified receiving water bodies as intermittent streams will not be changed as a result of the water being discharged from the facility. The designations are based on native water only.

**COMMENT 10:**

The Honorable Judge Paul Hunt expressed concern over the impact of the discharge on the commercial operations that serve the Presidio County economy.

**RESPONSE 10:**

The permitting process is intended to control the discharge of pollutants into water in the state and to protect the water quality of the state's rivers, lakes and coastal waters. TCEQ does not have jurisdiction to address the commercial operations that serve the Presidio County economy.

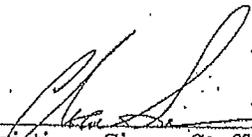
**No changes to the draft permit have been made.**

Respectfully submitted,

Texas Commission on Environmental  
Quality

Mark R. Vickery, P.G.  
Executive Director

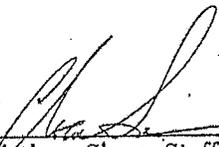
Robert Martinez, Director  
Environmental Law Division

By   
Christian Siano, Staff Attorney  
Environmental Law Division

State Bar No. 24051335  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
512-239-6743  
Representing the Executive Director of  
the Texas Commission on  
Environmental Quality

**CERTIFICATE OF SERVICE**

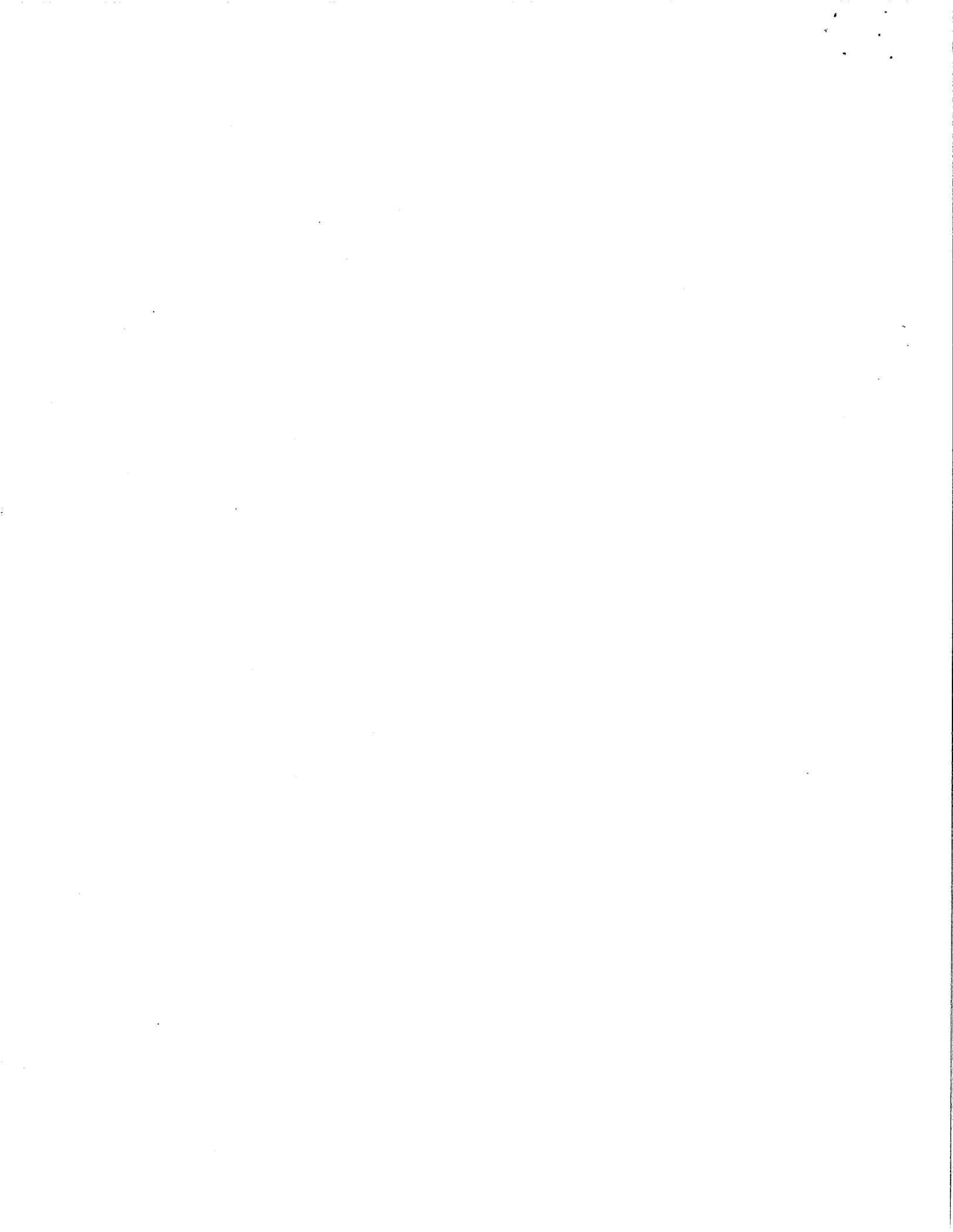
I certify that on July 15, 2011, the "Executive Director's Response to Public Comment" for Permit No. WQ0004297000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

By   
Christiaan Slano, Staff Attorney  
Environmental Law Division

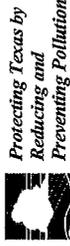
TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
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CHIEF CLERKS OFFICE

**ATTACHMENT C-1**

**RIO GRANDE MINING CO. – SHAFTER MINE**



**Rio Grande Mining Co.  
Shafter Mine  
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 28, 2011



Projection: Texas Statewide Mapping System (TSM5)  
Scale: 1:46,830

**Legend**

- Facility
- Discharge Route
- Point of Discharge

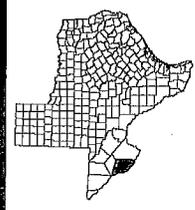
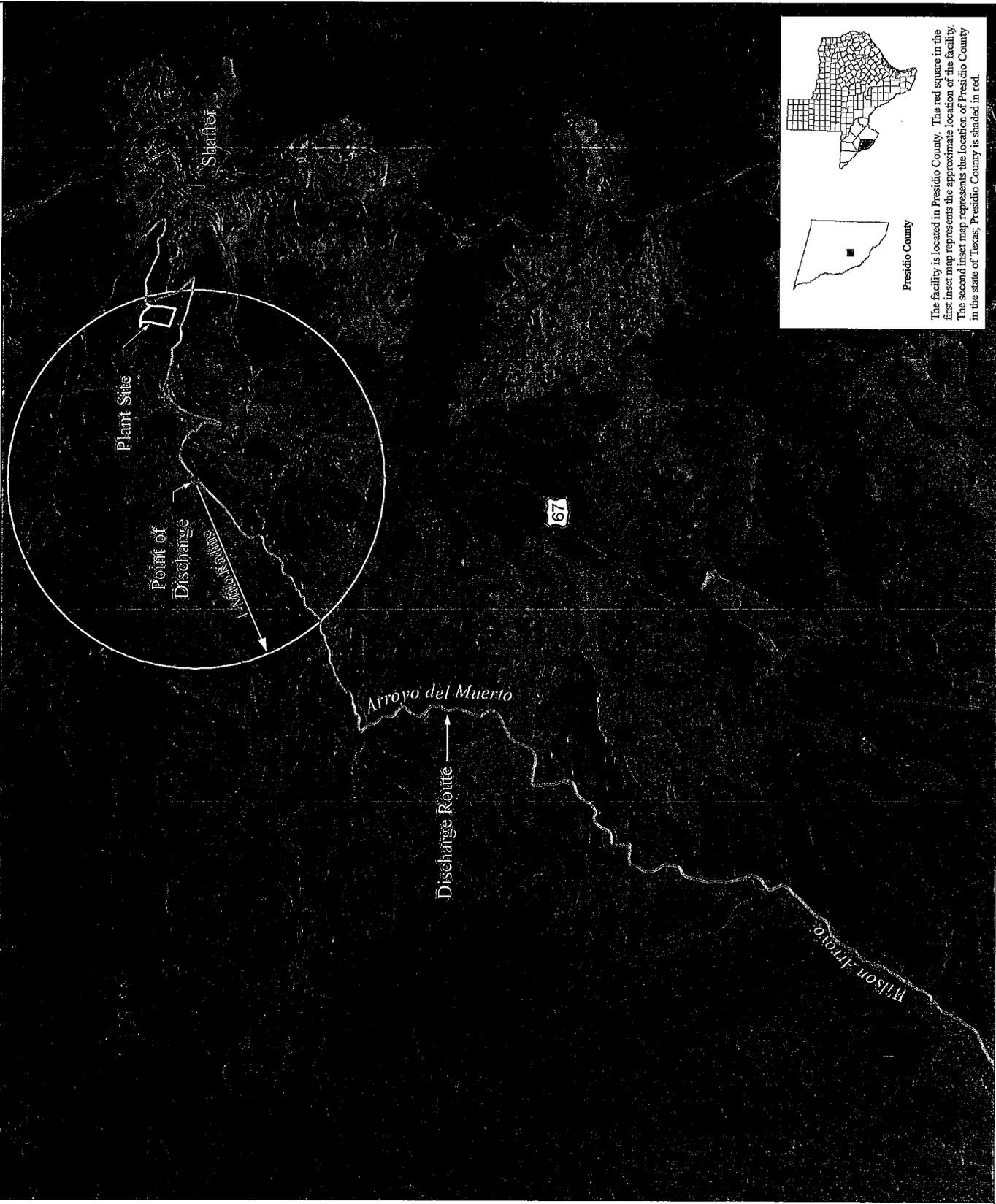
Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requester information from the requester. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this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

This map depicts the following:

- (1) The approximate location of the plant. This is labeled "Plant Site".
- (2) The point of discharge. This is labeled "Point of Discharge".
- (3) The discharge route. This is labeled "Discharge Route".
- (4) The 1-mile radius from the discharge point. This is labeled "1-Mile Radius".

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 Resources Division at (512) 239-0800.

M/McDonough CRE-356999



Presidio County

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



C-2

**RIO GRANDE MINING CO. – SHAFTER MINE**



**Rio Grande Mining Co.  
Shafter Mine  
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 7, 2011



Projection: Texas Statewide Mapping System  
(TSMMS)  
Scale 1:950,000

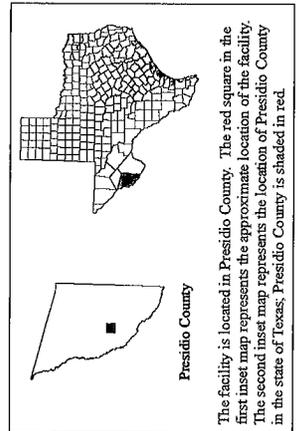
Legend  
— Discharge Route

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

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(1) The approximate location of the plant. This is labeled "Plant Site".

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MelDonogh CRF-356999





**ATTACHMENT D**

**COMPLIANCE HISTORY**



# Compliance History

Customer/Respondent/Owner-Operator:	CN600495493 Rio Grande Mining Company	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN100812502 SHAFTER MINE	Classification: HIGH	Site Rating: 0.00
ID Number(s):	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	PH0021M
	AIR NEW SOURCE PERMITS	PERMIT	80987
	WASTEWATER	EPA ID	TX0132624
	WASTEWATER	PERMIT	WQ0004297000
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1890018
Location:	GO 1 MILE WEST ON HIGHWAY 67 TO MINE ACCESS RD		
TCEQ Region:	REGION 06 - EL PASO		
Date Compliance History Prepared:	October 05, 2011		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	July 13, 2005 to September 29, 2011		

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

Name: Tres Koenings Phone: 239 - 1189

## 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: 9/1/2011 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 

1	08/24/2009	(766884)
2	04/25/2011	(907596)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas

N/A