

**DOCKET NO. 2013-0820-MWD**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
	<b>§</b>	
<b>HAYS COUNTY MUNICIPAL</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
	<b>§</b>	
<b>UTILITY DISTRICT (MUD) NO. 5</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
	<b>§</b>	
<b>FOR TCEQ PERMIT NO.</b>	<b>§</b>	
	<b>§</b>	
<b>WQ0014358001</b>	<b>§</b>	

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

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**I. INTRODUCTION**

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests (Response) on the application by Hays County Municipal Utility District (MUD) No. 5 (Applicant) for a renewal of TCEQ Permit Number WQ0014358001. Bill Bunch filed contested case hearing requests on behalf of Kathy Turney, Friendship Alliance, and Save Our Springs Alliance, Inc. (S.O.S.).

Attached for Commission consideration are the following:

- Attachment A – Technical Summary and Draft Permit
- Attachment B – Executive Director's Response to Public Comment (RTC)
- Attachment C – Compliance History Report
- Attachment D – GIS Map
- Attachment E – Executive Director's Public Meeting Denial Letter

**II. DESCRIPTION OF FACILITY**

The Applicant applied to the Executive Director for a renewal with changes to its existing Texas Land Application Permit (TLAP). The existing TLAP authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 40,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 9.18 acres in the Interim I phase, 120,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 27.55 acres in the Interim II phase, and 300,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 68.87 acres in the Final phase. The Applicant is currently operating in the Interim II phase of the existing permit, disposing of approximately 82,000 gallons per day of domestic wastewater via public access subsurface drip irrigation system with a minimum area of 22.55 acres. The Applicant requested the removal of the 40,000 gallons per day Interim I phase, and the addition of the proposed 150,000 gallons per

day Interim II phase. The draft permit authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 120,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 27.55 acres in the Interim I phase, 150,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 34.44 acres in the Interim II phase, and 300,000 gallons per day via public access subsurface drip irrigation system with a minimum of 68.87 acres in the Final phase. The draft permit will not authorize the discharge of pollutants to water in the state. The existing wastewater treatment facility serves the Highpointe Subdivision.

The wastewater treatment facility and disposal sites are located approximately 2.3 miles south of U.S. Highway 290, and approximately 6,500 feet east of Sawyer Ranch Road. The disposal sites are located throughout the Highpointe Subdivision. The entrance to the subdivision is located on the east side of Sawyer Ranch Road, approximately 1.7 miles along Sawyer Ranch Road, south of the intersection of U.S. Highway 290 and Sawyer Ranch Road. Sawyer Ranch Road is located 8.2 miles west of the intersection of U.S. Highway 290 and Texas Highway 71 (the "Y" in Oak Hill), and 5.5 miles east of Dripping Springs in Hays County, Texas 78737. The wastewater treatment facility and disposal sites are located in the drainage basin of Onion Creek in Segment No. 1427 of the Colorado River Basin.

### **III. PROCEDURAL BACKGROUND**

The permit application was received on February 21, 2012, and declared administratively complete on March 7, 2012. The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit Renewal (NORI) was published on April 5, 2012 in the *Austin American Statesman* (English), and in *iahora sí!* (Spanish). The Notice of Application and Preliminary Decision for Water Quality Land Application Permit for Municipal Wastewater Renewal (NAPD) was published on July 19, 2012 in the *Austin-American Statesman* (English), and in *iahora sí!* (Spanish). The public comment period ended on August 20, 2012. The TCEQ's Office of the Chief Clerk received public comments, a public meeting request, and a contested case hearing request from Bill Bunch on behalf of Kathy Turney, Friendship Alliance, and S.O.S. Alliance on August 22, 2012.<sup>1</sup> The Executive Director denied the public meeting request on January 14, 2013. The Executive Director's Response to Public Comment (RTC) was filed with the TCEQ's Office of the Chief Clerk on March 15, 2013. On March 18, 2013, a copying error caused an incomplete copy of the Executive Director's RTC to be mailed

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<sup>1</sup> The Executive Director notes that it appears that the public comments filed by Bill Bunch on behalf of Kathy Turney, Friendship Alliance, and S.O.S. Alliance were received by the TCEQ's Office of the Chief Clerk two days after the close of the public comment period. The public comment period ended on August 20, 2012, and the comments were received by the TCEQ's Office of the Chief Clerk on August 22, 2012. It is anticipated that the requestors will address this issue in their reply to this response to hearing requests. The Commission may not refer an issue to SOAH for a contested case hearing unless the Commission determines that the issue was raised during the public comment period. 30 Texas Administrative Code (TAC) § 50.115(c)(2). Additionally, a hearing request must 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. 30 TAC § 55.201(d)(4).

out with the Executive Director's Final Decision Letter. On March 28, 2013, a complete copy of the Executive Director's RTC and a Revised Final Decision Letter was mailed out, extending the period for timely filing a contested case hearing request or request for reconsideration until April 29, 2013. On April 26, 2013, Bill Bunch on behalf of S.O.S. Alliance, Inc. filed a second contested case hearing request. This permit renewal application was declared administratively complete on or after September 1, 1999; therefore, this permit renewal application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801 (76<sup>th</sup> Legislature, 1999).

#### **IV. THE EVALUTATION PROCESS FOR HEARING REQUESTS**

HB 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The Commission implemented HB 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The permit renewal application was declared administratively complete on March 7, 2012; therefore, it is subject to the procedural requirements of HB 801.

##### **A. Response to Request**

The Executive Director, the Public Interest Counsel, and the Applicant may each submit a written response to a hearing request. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

- a) whether the requestor is an affected person;
- b) whether issues raised in the hearing request are disputed;
- c) whether the dispute involves questions of fact or of law;
- d) whether the issues were raised during the public comment period;
- e) 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 RTC;
- f) whether the issues are relevant and material to the decision on the application; and
- g) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e).

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

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements.

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

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

- a) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible fax number, who shall be responsible for receiving all official communications and documents for the group;
- b) 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;
- c) request a contested case hearing;
- d) 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
- e) provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

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

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

30 TAC § 55.205(a).

**C. “Affected Person” Status**

In order to grant a contested case hearing, the Commission must determine that a requestor is an “affected person.” 30 TAC § 55.203 sets out who may be considered 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) Except as provided by 30 TAC § 55.103, 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 the 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 (SOAH)**

When the Commission grants a request for a contested case hearing, the Commission is required to issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing. 30 TAC § 50.115(b). 30 TAC § 50.115(c) sets out the test for determining whether an issue may 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.

## **V. ANALYSIS OF THE REQUESTS**

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

The Executive Director analyzed the hearing requests to determine whether they comply with Commission rules.

#### **1. Whether the Requestors Complied with 30 TAC §§ 55.201(c) and (d) or 55.205(a)**

- a. Kathy Turney – The public comment period for this permit application ended on August 20, 2012. The period for timely filing a request for a contested case hearing ended on April 29, 2013. A written contested case hearing request was filed with the TCEQ’s Office of the Chief Clerk by Bill Bunch on behalf of Kathy Turney on August 22, 2012. The hearing request includes: Mr. Bunch’s contact information; Ms. Turney’s personal justiciable interest in the permit application, including a statement that Ms. Turney “own[s] land within one-quarter mile distance of the permitted irrigation of the Highpointe treatment plant;” a request for a contested case hearing; and a list of material disputed issues of fact that form the basis of the request. The Executive Director notes that it appears that the public comments filed by Bill Bunch on behalf of Kathy Turney, Friendship Alliance, and S.O.S. Alliance were received by the TCEQ’s Office of the Chief Clerk two days after the close of the public comment period. If the Commission determines that the public comments were not timely filed, Ms. Turney will not be able to satisfy 30 TAC § 55.201(d)(4).

The Executive Director recommends that the Commission find that Kathy Turney’s hearing request **does not** substantially comply with 30 TAC § 55.201(d).

- b. Friendship Alliance – The public comment period for this permit application ended on August 20, 2012. The period for timely filing a request for a contested case hearing ended on April 29, 2013. A written contested case hearing request was filed with the TCEQ’s Office of the Chief Clerk by Bill Bunch on behalf of the Friendship Alliance on August 22, 2012. The hearing request does not: identify one or more members of the group that would have standing to request a hearing in their own right; claim that the interests the group seeks to protect are germane to the organization’s purpose; or state that neither the claim asserted nor the relief requested requires the participation of individual members in the case.

The Executive Director recommends that the Commission find that Friendship Alliance’s hearing request **does not** substantially comply with 30 TAC § 55.205(a).

- c. S.O.S. Alliance, Inc. – The public comment period for this permit application ended on August 20, 2012. The period for timely filing a request for a contested case hearing ended on April 29, 2013. A written contested case hearing request was filed

with the TCEQ's Office of the Chief Clerk by Bill Bunch on behalf of S.O.S. Alliance, Inc. on April 26, 2013. The hearing request includes: Mr. Bunch's contact information; a description of S.O.S. Alliance, Inc. as "a non-profit, charitable organization dedicated to the preservation of the Edwards Aquifer, its springs and contributing streams, and to the natural and cultural heritage of the Hill Country region and its watersheds, with a special emphasis on Barton Springs;" a statement that identifies Kathy Turney as a member of the group that "lives and owns a home less than one-half mile downstream of the subject wastewater plant, [and] has been directly harmed by pollution from the plant;" and a statement that neither the claim asserted nor the relief requested requires Ms. Turney's individual participation in the case. S.O.S. Alliance, Inc. cannot satisfy 30 TAC § 55.205(a)(1). As discussed below, there is no right to a contested case hearing on this permit renewal application pursuant to Texas Water Code (TWC) § 26.028(d) and 30 TAC 55.201(i)(5); therefore, S.O.S. Alliance, Inc. cannot identify one or more members that would have standing to request a hearing in their own right.

The Executive Director recommends that the Commission find that S.O.S. Alliance, Inc.'s hearing request **does not** substantially comply with 30 TAC § 55.205(a).

## **2. Whether the Requestors Have a Right to a Contested Case Hearing on this Renewal Application**

The Commission must determine whether there is a right to a contested case hearing on this permit renewal application. The contested case hearing requests should be denied pursuant to TWC § 26.028(d) and 30 TAC § 55.201(i)(5), because there is no right to a contested case hearing on this permit renewal application. 30 TAC § 55.201(i)(5) provides that there is no right to a contested case hearing on an application to renew a permit issued under TWC Chapter 26 if:

- a) the applicant is not applying to:
  - i. increase significantly the quantity of waste authorized to be discharged; or
  - ii. change materially the pattern or place of discharge;
- b) the activity authorized by the renewal will maintain or improve the quality of the waste authorized to be discharged;
- c) any required opportunity for a public meeting has been given;
- d) consultation and response to all timely received and significant public comment has been given; and
- e) the applicant's compliance history for the previous five years raises no issues regarding the applicant's ability to comply with a material term of the permit.

The Applicant has applied for a renewal with changes to TCEQ Permit No. WQ0014358001. The Applicant has requested the removal of the 40,000 gallons per day Interim I phase from the existing permit, and the addition of the proposed 150,000 gallons per day Interim II phase. This re-phasing of the existing permit will

not increase significantly the quantity of waste to be discharged. Both the existing permit and the draft permit authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 68.87 acres in the Final phase. The Applicant has not applied for a material change in the pattern or place of discharge. The draft permit will maintain the quality of the domestic wastewater being disposed of via public access subsurface drip irrigation system. An opportunity for a public meeting has been given. A public meeting request was filed with the TCEQ's Office of the Chief Clerk by Bill Bunch on behalf of Kathy Turney, Friendship Alliance, and S.O.S. Alliance on August 22, 2012. Pursuant to 30 TAC § 55.154, the Executive Director decided not to hold a public meeting on the renewal application. The Executive Director's Public Meeting Denial Letter was sent to Mr. Bunch on January 14, 2013. *See Attachment E.* The Executive Director has prepared a written response to all significant public comments. The Executive Director's RTC was filed with the TCEQ's Office of the Chief Clerk on March 15, 2013. *See Attachment B.* The Applicant's compliance history raises no issues regarding the Applicant's ability to comply with a material term of the permit. The Applicant has a compliance history classification of "high" for both the customer and the site, and a numeric rating of "0.00" for both the customer and the site. *See Attachment C.*

The Executive Director recommends that the Commission find that the permit renewal application meets all of the conditions in 30 TAC § 55.201(i)(5), and that there is no right to a contested case hearing on this permit renewal application. Accordingly, the contested case hearing requests filed on behalf of Kathy Turney, Friendship Alliance, and S.O.S. Alliance, Inc. should be denied.

## **VII. EXECUTIVE DIRECTOR'S RECOMMENDATIONS**

The Executive Director recommends that the Commission:

- a) find that there is no right to a contested case hearing on this permit renewal application pursuant to TWC § 26.028(d) and 30 TAC § 55.201(i)(5); and
- b) deny all contested case hearing requests.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Mark R. Vickery, P.G.  
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By



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REPRESENTING THE  
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TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

I certify that on July 3, 2013 the original and seven copies of the "Executive Director's Response to Hearing Requests" relating to the application of Hay County MUD No. 5 for TCEQ Permit No. WQ0014358001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was transmitted by mail, facsimile, intra-agency mail, electronic mail, or hand-delivery to all persons on the attached mailing list.



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Timothy J. Reidy, Staff Attorney  
Environmental Law Division  
State Bar No. 24058069

Mailing List  
Executive Director's Response to Hearing Requests  
Hays County Municipal Utility District (MUD) No. 5  
TCEQ Docket No. 2013-0820-MWD  
TCEQ Permit No. WQ0014358001

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**Attachment A –  
Technical Summary and  
Draft Permit**

**TECHNICAL SUMMARY AND  
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION**

DESCRIPTION OF APPLICATION

Applicant: Hays County Municipal Utility District No. 5  
TCEQ Permit No. WQ0014358001

Regulated Activity: Domestic Wastewater Permit

Type of Application: Renewal with changes

Request: Renewal with changes to add a 150,000 gallons per day Interim phase

Authority: Texas Water Code (TWC) § 26.027; 30 Texas Administrative Code (TAC) Chapters 305, 309, 312, 319, and 30; and Commission policies.

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The draft permit includes an expiration date of **September 1, 2019**, according to 30 TAC Section 305.127(1)(C)(ii)(III), Conditions to be Determined for Individual Permits.

REASON FOR PROJECT PROPOSED

Hays County Municipal Utility District No. 5 has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal with changes of Permit No. WQ0014358001 to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 68.87 acres. The applicant has requested addition of a 150,000 gallons per day Interim phase. The existing wastewater treatment facility serves Hays County MUD No. 5.

PROJECT DESCRIPTION AND LOCATION

The Highpointe Subdivision Wastewater Treatment Facility consists of an activated sludge process plant using the extended aeration mode. Treatment units in the Interim I and Interim II phases include a lift station, bar screen, aeration basin, final clarifier, aerobic sludge digester, and a chlorine contact chamber. Treatment units in the final phase will include an additional, aeration basin, final clarifier, aerobic sludge digester, and chlorine contact chamber with the same capacities as the Interim II phase facilities. The facility includes an effluent holding tank, each with a capacity of 333,000 gallons for storage of treated effluent prior to irrigation. An additional 333,000 gallon effluent holding tank will be added in the final phase, for a total capacity of 666,000 gallons. The facility is in operation.

Sludge generated from the treatment facility is hauled by a registered transporter to the City of Manor Wilbarger Creek Wastewater Treatment Facility, Permit No. WQ0012900001 to be digested, dewatered and then disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The wastewater treatment facility and disposal site are located approximately 2.3 miles south of U.S. Highway 290 and approximately 6,500 feet east of Sawyer Ranch Road. The disposal sites are located throughout the Highpointe Subdivision. The entrance to the subdivision is located on the east side of Sawyer Ranch Road, approximately 1.7 miles along Sawyer Ranch Road, south of the intersection of U.S. Highway 290 and Sawyer Ranch Road. Sawyer Ranch Road is located 8.2 miles west of the intersection of U.S. Highway 290 and Texas Highway 71 (the "Y" in Oak Hill), and 5.5 miles east of Dripping Springs in Hays County, Texas 78737.

The wastewater treatment facility and disposal site are located in the drainage basin of Onion Creek in Segment No. 1427 of the Colorado River Basin. No discharge of pollutants into water in the State is authorized by this permit.

#### SUMMARY OF EFFLUENT DATA

The following is a summary of the applicant's Monthly Effluent Report data for the period February 2010 through January 2012. The average of Daily Average value is computed by averaging of all 30-day average values for the reporting period for each parameter.

<u>Parameter</u>	<u>Average of Daily Average</u>
Flow, MGD	0.061
BOD <sub>5</sub> , mg/l	3.1
TSS, mg/l	4.1

#### DRAFT PERMIT CONDITIONS

The draft permit authorizes the disposal of treated domestic wastewater effluent at a daily average flow not to exceed 120,000 gallons per day via a public access subsurface drip irrigation system with a minimum area of 27.55 acres in the Interim I phase, a daily average flow not to exceed 150,000 gallons per day via a public access subsurface drip irrigation system with a minimum area of 34.44 acres in the Interim II phase, and a daily average flow not to exceed 300,000 gallons per day via a public access subsurface drip irrigation system with a minimum area of 68.87 acres in the Final phase. The facility includes an effluent holding tank with a total capacity of 333,000 gallons for storage of treated effluent prior to irrigation. The facility will include two effluent holding tanks with a total capacity of 666,000 gallons for storage of treated effluent prior to irrigation in the Final phase. Application rates shall not exceed 0.1 gallons per square foot per day. The irrigated crops include warm and cool season vegetation.

The effluent limitations in the draft permit, based on a daily average, are 20 mg/l BOD<sub>5</sub> and 20 mg/l TSS. The effluent shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility is

hailed by a registered transporter to the City of Manor Wilbarger Creek Wastewater Treatment Facility, Permit No. WQ0012900001 to be digested, dewatered and then disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

SUMMARY OF CHANGES FROM APPLICATION

The flow monitoring frequency in the Final phase has been changed from five/week by instantaneous measurement to continuous by totalizing meter, based on the requirements of 30 TAC Chapter 217.

SUMMARY OF CHANGES FROM EXISTING PERMIT

The existing permit includes an Interim I phase (40,000 gallons per day), an Interim II (120,000 gallons per day) and a Final phase (300,000 gallons per day). The draft permit includes an Interim I phase (120,000 gallons per day), an Interim II (150,000 gallons per day) and a Final phase (300,000 gallons per day).

The flow monitoring frequency in the Final phase has been changed from five/week by instantaneous measurement to continuous by totalizing meter, based on the requirements of 30 TAC Chapter 217.

Special Provision No. 4 in the existing permit, which required the permittee to submit a summary design letter prior to construction of the final phase, has been continued in the draft permit. The provision has been updated to refer to 30 TAC Chapter 217. Plans and specifications for the 150,000 gallons per day facilities were approved in November 2004.

Special Provision No. 8 has been updated to identify the irrigated crops as cool and warm season vegetation.

Special Provision No. 9 has been updated to specify that warm and cool season vegetation shall be established and well maintained in the irrigation area throughout the year for effluent and nutrient uptake by the crop and to prevent pathways for effluent surfacing.

Special Provision No. 12 has been updated to include the word "the" before the term "pump and haul".

~~Special Provision No. 14 has been updated in the draft permit. The word "effluent" replaces "wastewater".~~

Special Provision No. 19 has been updated to refer to 30 TAC Chapter 217.

Special Provision No. 21 has been updated to clarify the soil sampling and reporting procedures. The updated reporting requirements include reporting of total nitrate and submission of a map with the report.

Special Provision No. 26, which authorized transportation of sludge to the City of Austin Walnut Creek Wastewater Treatment Facility, has been updated in the draft permit to authorize transportation of sludge to the City of Manor Wilbarger Creek Wastewater Treatment Facility.

The reporting date has been changed from September 1 of each year to September 30 of each year, based on 30 TAC §312.48.

#### BASIS FOR DRAFT PERMIT

The following items were considered in developing the permit draft:

1. Application submitted with letter dated February 21, 2012.
2. Existing TCEQ permit: Permit No. WQ0014358001 issued September 28, 2007.
3. Interoffice Memorandum from the Water Quality Assessment Team, Water Quality Assessment & Standards Section, Water Quality Division.

#### PROCEDURES FOR FINAL DECISION

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

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

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

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

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the

Hays County Municipal Utility District No. 5

Permit No. WQ0014358001

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

TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

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

For additional information about this application, contact Dex Dean at (512) 239-4570.

  
\_\_\_\_\_  
Dex Dean  
Municipal Permits Team  
Wastewater Permitting Section (MC 148)

  
\_\_\_\_\_  
Date



PERMIT NO. WQ0014358001

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

This is a renewal of Permit No.  
WQ0014358001 issued  
September 28, 2007.

PERMIT TO DISCHARGE WASTES  
under provisions of Chapter 26  
of the Texas Water Code

Hays County Municipal Utility District No. 5

whose mailing address is

100 Congress Avenue, Suite 1300  
Austin, Texas 78701

Nature of Business Producing Waste: Domestic wastewater treatment operation, SIC Code 4952.

General Description and Location of Waste Disposal System:

Description: The Highpointe Subdivision Wastewater Treatment Facility consists of an activated sludge process plant using the extended aeration mode. Treatment units in the Interim I and Interim II phases include a lift station, bar screen, aeration basin, final clarifier, aerobic sludge digester, and a chlorine contact chamber. Treatment units in the final phase include an additional aeration basin, final clarifier, aerobic sludge digester, and chlorine contact chamber with the same capacities as the Interim II phase units. The facility includes an effluent holding tank with a capacity of 333,000 gallons for storage of treated effluent prior to irrigation. An additional 333,000 gallon effluent holding tank will be added in the Final phase, for a total capacity of 666,000 gallons. The permittee is authorized to dispose of treated domestic wastewater effluent at a daily average flow not to exceed 0.120 million gallons per day (MGD) via subsurface drip irrigation of 27.55 acres of public access land in the Interim I phase, a daily average flow not to exceed 0.150 MGD via subsurface drip irrigation of 34.44 acres of public access land in the Interim II phase, and a daily average flow not to exceed 0.300 MGD via subsurface drip irrigation of 68.87 acres of public access land in the Final phase. Application rates shall not exceed 0.1 gallons per square foot per day. The irrigated crops include warm and cool season vegetation.

Location: The wastewater treatment facility and disposal site are located approximately 2.3 miles south of U.S. Highway 290 and approximately 6,500 feet east of Sawyer Ranch Road. The disposal sites are located throughout the Highpointe Subdivision. The entrance to the subdivision is located on the east side of Sawyer Ranch Road, approximately 1.7 miles along Sawyer Ranch Road, south of the intersection of U.S. Highway 290 and Sawyer Ranch Road. Sawyer Ranch Road is located 8.2 miles west of the intersection of U.S. Highway 290 and Texas Highway 71 (the "Y" in Oak Hill), and 5.5 miles east of Dripping Springs, in Hays

County, Texas 78737. (See Attachment A.)

Drainage Area: The wastewater treatment facility and disposal site are located in the drainage basin of Onion Creek in Segment No. 1427 of the Colorado River Basin. No discharge of pollutants into water in the State is authorized by this permit.

This permit and the authorization contained herein shall expire at midnight on **September 1, 2019**.

ISSUED DATE:

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For the Commission

**EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

**Conditions of the Permit: No discharge of pollutants into water in the State is authorized.**

**A. Effluent Limitations**

Character: Treated Domestic Sewage Effluent

Volume: Daily Average Flow –  
 Interim I phase - 0.120 MGD from the treatment system  
 Interim II phase - 0.150 MGD from the treatment system  
 Final phase - 0.300 MGD from the treatment system

Quality: The following effluent limitations shall be required:

<u>Parameter</u>	<u>Effluent Concentrations</u>			
	<u>(Not to Exceed)</u>			
	<u>Daily Average</u> mg/l	<u>7-Day Average</u> mg/l	<u>Daily Maximum</u> mg/	<u>Single Grab</u> mg/l
Biochemical Oxygen Demand (5-day)	20	30	45	65
Total Suspended Solids	20	30	45	65

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units.

The effluent shall be chlorinated in a chlorine contact chamber to a residual of 1.0 mg/l with a minimum detention time of 20 minutes.

**B. Monitoring Requirements:**

<u>Parameter</u>	<u>Monitoring Frequency</u>	<u>Sample Type</u>
Flow		
Interim I phase	Five/week	Instantaneous
Interim II phase	Five/week	Instantaneous
Final phase	Continuous	Totalizing Meter
Biochemical Oxygen Demand (5-day)	One/week	Grab
Total Suspended Solids	One/week	Grab
pH	One/week	Grab
Chlorine Residual	Five/week	Grab

The monitoring shall be done after the final treatment unit and prior to storage of the treated effluent. If the effluent is land applied directly from the treatment system, monitoring shall be done after the final treatment unit and prior to land application. These records shall be maintained on a monthly basis and be available at the plant site for inspection by authorized representatives of the Commission for at least three years.

**STANDARD PERMIT CONDITIONS**

This permit is granted in accordance with the Texas Water Code and the rules and other Orders of the Commission and the laws of the State of Texas.

**DEFINITIONS**

All definitions in Section 26.001 of the Texas Water Code and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

**1. Flow Measurements**

- a. 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.
- b. 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 1 million gallons per day or greater permitted flow.
- c. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.

**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.

3. Sample Type

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

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

4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.

5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids which have not been classified as hazardous waste separated from wastewater by unit processes.

6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

**MONITORING REQUIREMENTS**

1. Monitoring Requirements

Monitoring results shall be collected 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 in accordance with 30 TAC §§ 319.4 - 319.12.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Texas Water Code, Chapters 26, 27, and 28, and Texas Health and Safety Code, Chapter 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record or other document submitted or required to be maintained under this permit, including monitoring reports, records 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, monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, and records of all data used to complete the application for this permit 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, or application. 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 determining compliance with permit requirements.

### 5. Calibration of Instruments

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

### 6. Compliance Schedule Reports

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

7. Noncompliance Notification

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

b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:

- i. Unauthorized discharges as defined in Permit Condition 2(g).
- ii. Any unanticipated bypass which exceeds any effluent limitation in the permit.

c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.

d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible.

8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.

9. Changes in Discharges of Toxic Substances

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

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- i. One hundred micrograms per liter (100 µg/L);
- ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;

- iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
  - iv. The level established by the TCEQ.
- b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- i. Five hundred micrograms per liter (500 µg/L);
  - ii. One milligram per liter (1 mg/L) for antimony;
  - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
  - iv. The level established by the TCEQ.

#### 10. Signatories to Reports

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

### PERMIT CONDITIONS

#### 1. General

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

#### 2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.

- b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation or suspension, or for denial of a permit renewal application or an application for a permit for another facility.
  - c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
  - d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation which has a reasonable likelihood of adversely affecting human health or the environment.
  - e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.
- 
- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and Texas Water Code Section 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
  - g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Special Provisions section of this permit.
  - h. 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).
3. Inspections and Entry
    - a. Inspection and entry shall be allowed as prescribed in the Texas Water Code Chapters 26, 27, and 28, and Texas Health and Safety Code Chapter 361.
    - b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in

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

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

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

## 5. Permit Transfer

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

## 6. Relationship to Hazardous Waste Activities

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

## 7. Property Rights

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

## 8. 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.

## 9. 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.

## 10. Notice of Bankruptcy.

- a. Each permittee shall notify the Executive Director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:

- i. the permittee;
- ii. an entity (as that term is defined in 11 USC, § 101(14)) controlling the permittee or listing the permit or permittee as property of the estate; or
- iii. an affiliate (as that term is defined in 11 USC, § 101(2)) of the permittee.

- b. This notification must indicate:

- i. the name of the permittee;
- 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 Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.
4. The permittee is responsible for installing, prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.
5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under Texas Water Code § 7.302(b)(6).
7. Documentation

For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information specified as not confidential in 30 TAC § 1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim

must be asserted in the manner prescribed in the application form or by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

8. Facilities which generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.

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

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

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

c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.

9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
10. Facilities which generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
  - a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
  - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
  - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Environmental Cleanup Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
  - d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the 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.

11. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with Chapter 361 of the Texas Health and Safety Code.

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## SLUDGE PROVISIONS

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

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

#### A. General Requirements

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

#### B. Testing Requirements

1. Sewage sludge shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method, which receives the prior approval of the TCEQ for the contaminants listed in Table 1 of 40 CFR Section 261.24. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division and the Regional Director (MC Region 11) within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to:

Director, Permitting and Remediation Support Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 11) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

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

TABLE 1

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

\* Dry weight basis

3. Pathogen Control

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

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

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

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

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

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

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

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

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

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

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

Alternative 1 -

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

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

- i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;

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

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

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

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

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

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

#### 4. Vector Attraction Reduction Requirements

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

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

- Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. Volatile solids must be reduced by less than 17 percent to demonstrate compliance.
- Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. Volatile solids must be reduced by less than 15 percent to demonstrate compliance.
- Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.
- Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.
- Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container.
- Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 percent based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90 percent based on the moisture content and total solids prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- Alternative 9 -
- i. Sewage sludge shall be injected below the surface of the land.
  - ii. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.

- iii. When sewage sludge that is injected below the surface of the land is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

Alternative 10-

- i. Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.
- ii. When sewage sludge that is incorporated into the soil is Class A with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

C. Monitoring Requirements

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

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

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

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

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

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

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

**A. Pollutant Limits**

Table 2

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

Table 3

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

\*Dry weight basis

**B. Pathogen Control**

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

## C. Management Practices

1. Bulk sewage sludge shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters in the State.
2. Bulk sewage sludge not meeting Class A requirements shall be land applied in a manner which complies with the Management Requirements in accordance with 30 TAC Section 312.44.
3. Bulk sewage sludge shall be applied at or below the agronomic rate of the cover crop.
4. An information sheet shall be provided to the person who receives bulk sewage sludge sold or given away. The information sheet shall contain the following information:
  - a. The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land.
  - b. A statement that application of the sewage sludge to the land is prohibited except in accordance with the instruction on the label or information sheet.
  - c. The annual whole sludge application rate for the sewage sludge application rate for the sewage sludge that does not cause any of the cumulative pollutant loading rates in Table 2 above to be exceeded, unless the pollutant concentrations in Table 3 found in Section II above are met.

## D. Notification Requirements

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

## E. Record keeping Requirements

The sludge documents will be retained at the facility site and/or shall be readily available for review by a TCEQ representative. The person who prepares bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative for a

period of five years. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC Section 312.47 for persons who land apply.

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

5. The following certification statement:

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

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

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

- a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC Section 312.47(a)(4)(A)(ii) or 30 TAC Section 312.47(a)(5)(A)(ii), as applicable, and to the permittee's specific sludge treatment activities.
- b. The location, by street address, and specific latitude and longitude, of each site on which sludge is applied.
- c. The number of acres in each site on which bulk sludge is applied.
- d. The date and time sludge is applied to each site.

- e. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.
- f. The total amount of sludge applied to each site in dry tons.

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

#### F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 11) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30 of each year the following information:

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

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

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

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

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

Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division and the Regional Director (MC Region 11) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Remediation Support Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 11) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

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

#### F. Record keeping Requirements

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

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

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

#### G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 11) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year the following information:

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

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

**SPECIAL PROVISIONS:**

1. This permit is granted subject to the policy of the Commission to encourage the development of areawide waste collection, treatment and disposal systems. The Commission reserves the right to amend this permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an areawide 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 areawide 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.
2. The permittee shall employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license or registration according to the requirements of 30 TAC Chapter 30, Occupational Licenses and Registrations and in particular 30 TAC Chapter 30, Subchapter J, Wastewater Operators and Operations Companies.

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

3. The permittee shall maintain and operate the treatment facility in order to achieve optimum efficiency of treatment capability. This shall include required monitoring of effluent flow and quality as well as appropriate grounds and building maintenance.
4. Prior to construction of the Final phase wastewater treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) of the Water Quality Division, a summary submittal letter according to the requirements in 30 TAC Section 217.6(c). If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and a final engineering design report which comply with the requirements of 30 TAC Chapter 217, Design Criteria for Wastewater Treatment Systems. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2 of the permit.
5. The permittee shall comply with the requirements of 30 TAC Section 309.13 (a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC Section 309.13(e).
6. The permittee shall notify the TCEQ Regional Office (MC Region 11) and the Applications Review and Processing Team (MC 148) of the Water Quality Division in writing at least forty-five (45) days prior to operating in the Interim II phase and prior to completion of the Final phase facilities on Notification of Completion Form 20007.

7. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
8. The irrigated crops include warm and cool season vegetation. Application rates shall not exceed 0.1 gallons per square foot per day. The permittee is responsible for providing equipment to determine application rates and maintaining accurate records of the volume of effluent applied. These records shall be made available for review by the Texas Commission on Environmental Quality and shall be maintained for at least three years.
9. The subsurface drip irrigation system shall be designed and managed so as to prevent ponding or surfacing of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Warm and cool season vegetation shall be established and well maintained in the irrigation area throughout the year for effluent and nutrient uptake by the crop and to prevent pathways for effluent surfacing.
10. In the event of wastewater surfacing due to damage to the drip irrigation lines, wastewater application shall be shut-off to the drip irrigation zone and public access to the zone shall be restricted.
11. Treatment preceding disposal shall remove sufficient total suspended solids from the wastewater to preclude plugging of the drip-emitters.
12. If complete shutdown of the facility becomes necessary or if the storage capacity is exceeded, the permittee shall employ the pump and haul method to prevent the discharge of treated or untreated wastewater. The permittee shall obtain the necessary authorization from the TCEQ Regional Office (MC Region 11) before undertaking the pump and haul activity.
13. Permanent transmission lines shall be installed from the treatment system to each drip irrigation zone of the subsurface drip irrigation system.
14. Effluent shall not be applied for irrigation when the ground is saturated.
15. The permittee shall erect adequate signs stating that the irrigation water is from a non-potable water supply for any area where treated effluent is stored or where there exist hose bibs or faucets. Signs shall consist of a red slash superimposed over the international symbol for drinking water accompanied by the message "DO NOT DRINK THE WATER" in both English and Spanish. All piping transporting the effluent shall be clearly marked with these same signs.
16. The permittee shall maintain a long term contract with the owner(s) of the land application site which is authorized for use in this permit, or own the land authorized for land application of treated effluent.
17. The irrigation operation shall consist of at least two cycles per day with a minimum of three hours rest period between the end of one irrigation dosing and the beginning of the next irrigation dosing.
18. The permittee shall maintain a minimum rootable soil depth below the drip irrigation lines of 12 inches. The drip irrigation lines shall be covered with at least six inches of soil. If imported soils are utilized, the permittee shall submit no later than 90 days prior to construction to the TCEQ Water Quality Assessment Team (MC 150) and the Wastewater

Permitting Section (MC 148) of the Water Quality Division a plan for review/revision and approval describing how the imported soils will be incorporated into the native soils and how soil erosion will be prevented in the affected areas.

19. Drip irrigation lines shall be installed on the contour and lateral slopes of the tubing shall not exceed 1 percent. The permittee can apply for a variance to this provision by providing justification together with the detailed design plans and specifications submittal required under 30 Texas Administrative Code (TAC) Chapter 217 indicating how uneven application of effluent due to back draining will be avoided. Each drainfield (zone) shall have at least one moisture sensing device placed no more than 12 inches below the drip lines that will automatically shut off irrigation to the drainfield when the soil becomes saturated. This provision shall apply to drainfields added for the Interim II and Final phases of the permit.
20. The physical condition of the drip irrigation fields will be monitored on a weekly basis. Any areas with problems such as surface runoff, surficial erosion, stressed or damaged vegetation, etc., will be recorded in the field log kept onsite and corrective measures will be implemented within 24 hours of discovery.
21. The permittee shall obtain representative soil samples from the root zones of the land application area. Composite sampling techniques shall be used. Each composite sample shall represent no more than 40 acres with no less than two soil cores per drip zone. Subsamples shall be composited by like sampling depth, type of crop and soil type for analysis and reporting. Soil types are soils that have like topsoil or plow layer textures. These soils shall be sampled individually from 0 to 12 inches, and 12 to 24 inches below ground level. The permittee shall sample and analyze soils in December to February of each year. Soil samples shall be analyzed within 30 days of procurement.

Samples shall be analyzed according to the following table:

Parameter	Method	Minimum Analytical Level (MAL)	Reporting units
pH	2:1 (v/v) water to soil mixture	0.1	Standard units
Electrical Conductivity	Obtained from the SAR water saturated paste extract	0.01	dS/m (same as mmho/cm)
Nitrate-nitrogen	From a 1 N KCl soil extract	1	mg/kg (dry weight basis)
Total Kjeldahl Nitrogen (TKN)	For determination of Organic plus Ammonium Nitrogen. Procedures that use Mercury (Hg) are not acceptable.	20	mg/kg (dry weight basis)

Total Nitrogen	= TKN plus Nitrate-nitrogen		mg/kg (dry weight basis)
Plant-available: Phosphorus	Mehlich III with inductively coupled plasma	1	mg/kg (dry weight basis)
Plant-available: Potassium (K) Calcium (Ca) Magnesium (Mg) Sodium (Na) Sulfur (S)	May be determined in the same Mehlich III extract with inductively coupled plasma	5 (K) 10 (Ca) 5 (Mg) 10 (Na) 1 (S)	mg/kg (dry weight basis)
Water-soluble: Sodium (Na) Calcium (Ca) Magnesium (Mg)	Obtained from the SAR water saturated paste extract	1 (Na) 1 (Ca) 1 (Mg)	Water soluble constituents are reported in mg/L
Sodium Adsorption Ratio (SAR)	$SAR = \frac{Na}{\sqrt{\frac{Ca + Mg}{2}}}$		<p><i>Express concentrations of Na, Ca and Mg in the water saturated paste extract in milliequivalents/liter (meq/L) to calculate the SAR. The SAR value is unit less.</i></p> <p>If the SAR is greater than 10, amendments (e.g., gypsum) shall be added to the soil to adjust the SAR to less than 10.</p>
Amendment addition, e.g., gypsum	Recommendation from analytical laboratory		Report in <i>short tons/acre</i> in the year effected

The permittee shall provide a copy of this plan to the analytical laboratory prior to sample analysis. The permittee shall submit the results of the soil sample analyses with copies of the laboratory reports with a map depicting the permanent sampling fields to the Water Quality Assessment Team (MC 150), TCEQ Regional Office (MC Region 11) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division no later than the end of September following the sampling date of each year. If wastewater is not applied in a particular year, the permittee shall notify the same TCEQ offices and indicate that wastewater and/or sludge has not been applied on the approved land disposal sites during that year.

22. The permittee shall remove surface flagstones from the land application site where soils are sufficient and, where soils are not sufficient, soils will be imported to ensure there is at least 12 inches of adequate rooting material beneath the drip lines. The permittee shall notify the TCEQ Region 11 office 30 days prior to installation of the drip lines.
23. The permittee shall use cultural practices to promote and maintain the health and

propagation of the cover crops and avoid plant lodging. The permittee shall harvest the crops (cut and remove it from the application field) at least once per year.

24. The permittee shall establish a viable year-round cover crop consisting of a warm season grass overseeded with a cooler season grass.
25. The facility is located on the Edwards Aquifer Contributing Zone, as mapped by the TCEQ, and is subject to 30 TAC Chapter 213, Subchapter B.
26. The permittee is authorized to haul sludge from the wastewater treatment facility, by a licensed hauler, to the City of Manor Wilbarger Creek Wastewater Treatment Facility, TPDES Permit No. WQ0012900001, to be digested, blended, dewatered and then disposed of with the sludge from the plant accepting the sludge.

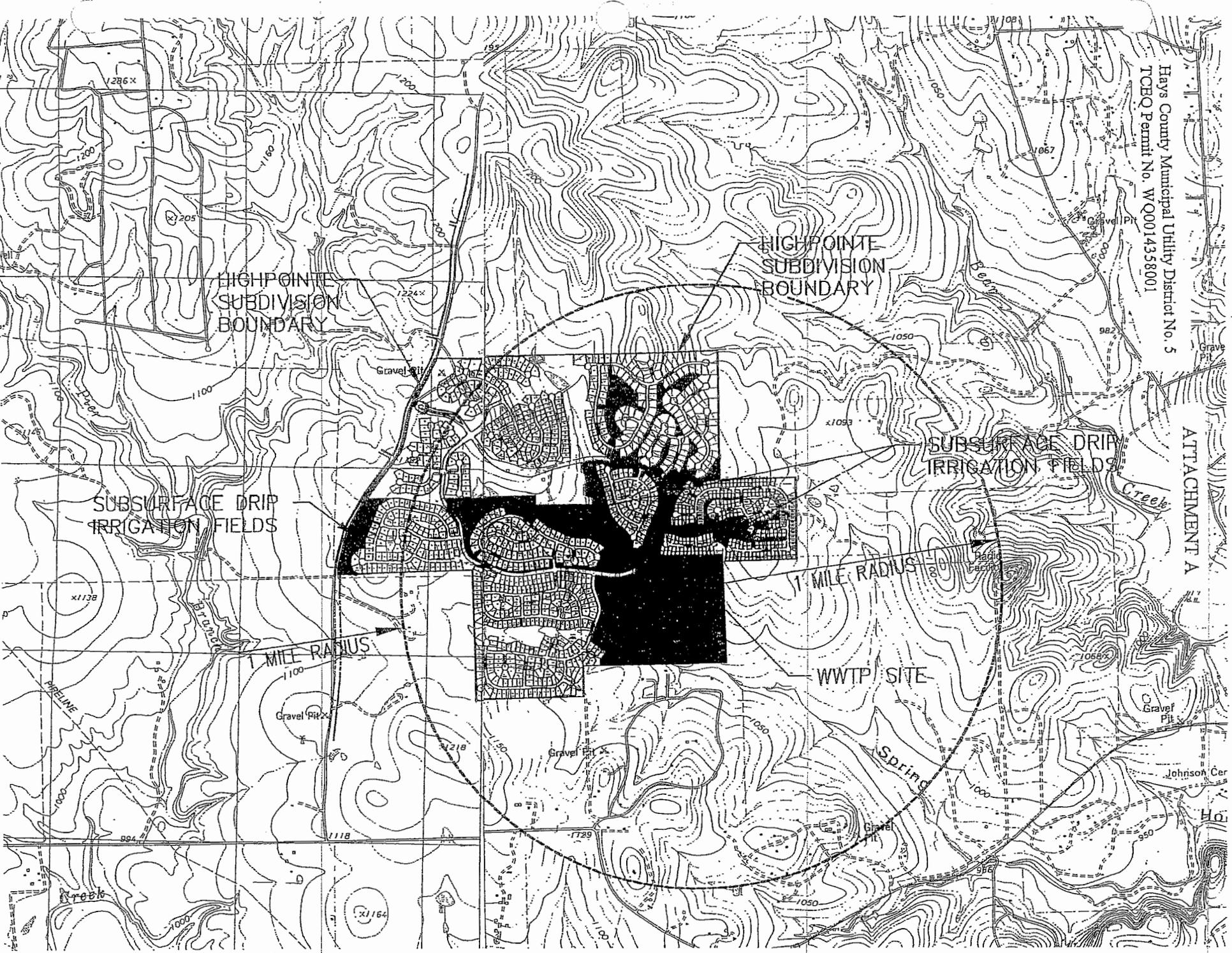
The permittee shall keep records of all sludge removed from the wastewater treatment plant site and these records shall include the following information:

- a. The volume of sludge hauled;
- b. The date(s) that sludge was hauled;
- c. The identity of haulers; and
- d. The permittee, TCEQ permit number, and location of the wastewater treatment plant to which the sludge is hauled.

These records shall be maintained on a monthly basis and shall be reported to the TCEQ Regional Office (MC Region 11) and the TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

Hays County Municipal Utility District No. 5  
TCEQ Permit No. WQ001458001

ATTACHMENT A



**Attachment B –  
Executive Director’s  
Response to Public  
Comment (RTC)**

**TCEQ PERMIT NO. WQ0014358001**

<b>APPLICATION BY</b>	§	<b>BEFORE THE</b>
<b>HAYS COUNTY MUNICIPAL</b>	§	<b>TEXAS COMMISSION ON</b>
<b>UTILITY DISTRICT NO. 5</b>	§	<b>ENVIRONMENTAL QUALITY</b>

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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 on Hays County Municipal Utility District No. 5's (Applicant) application to renew TCEQ Permit No. WQ0014358001 and on the Executive Director's preliminary decision. The Office of the Chief Clerk received a comment letter from Bill Bunch on behalf of Save Our Springs Alliance (S.O.S.). This response addresses all public comments received, whether or not withdrawn. If you need more information about this permit application or TCEQ's permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at <http://www.tceq.texas.gov>.

**BACKGROUND**

Description of Facility

The Applicant has applied to the TCEQ for a renewal with changes to its Texas Land Application Permit (TLAP), which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 120,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 27.55 acres in the Interim I phase, 150,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 34.44 acres in the Interim II phase, and 300,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 68.87 acres in the Final phase. The existing permit authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 40,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 9.18 acres in the Interim I phase, 120,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 27.55 acres in the Interim II phase, and 300,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 68.87 acres in the Final phase. The Applicant has requested the removal of the 40,000 gallons per day Interim I phase from the existing permit, and the addition of the proposed 150,000 gallons per day Interim II phase mentioned above. The draft permit will not authorize the discharge of pollutants to water in

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the state. The existing wastewater treatment facility serves the Highpoint<sup>e</sup> Subdivision.

The wastewater treatment facility and disposal sites are located approximately 2.3 miles south of U.S. Highway 290, and approximately 6,500 feet east of Sawyer Ranch Road. The disposal sites are located throughout the Highpoint Subdivision. The entrance to the subdivision is located on the east side of Sawyer Ranch Road, approximately 1.7 miles along Sawyer Ranch Road, south of the intersection of U.S. Highway 290 and Sawyer Ranch Road. Sawyer Ranch Road is located 8.2 miles west of the intersection of U.S. Highway 290 and Texas Highway 71 (the "Y" in Oak Hill), and 5.5 miles east of Dripping Springs in Hays County, Texas 78737. The wastewater treatment facility and disposal sites are located in the drainage basin of Onion Creek in Segment No. 1427 of the Colorado River Basin.

### Procedural Background

The permit application was received on February 21, 2012, and declared administratively complete on March 7, 2012. The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit Renewal (NORI) was published on April 5, 2012 in the *Austin American Statesman* (English), and in *lahora sí!* (Spanish). The Notice of Application and Preliminary Decision for Water Quality Land Application Permit for Municipal Wastewater Renewal (NAPD) was published on July 19, 2012 in the *Austin-American Statesman* (English), and in *lahora sí!* (Spanish). The public comment period ended on August 20, 2012. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76<sup>th</sup> Legislature, 1999).

### **COMMENTS AND RESPONSES**

#### **COMMENT 1:** (Elevated Nitrates, Phosphorus, and Bacteria Levels)

S.O.S. commented that a receiving water assessment report conducted by the City of Austin's Watershed Protection Department indicates that elevated levels of nitrates, bacteria, and algal growth have been detected downstream from the wastewater treatment facility and disposal sites. S.O.S. also commented that a United States Geological Survey (U.S.G.S.) report found that land-applied treated effluent is a likely source of elevated nitrate found in Barton Springs and its five contributing streams, including Barton Creek. S.O.S. also commented that research performed by the City of Austin and the U.S.G.S. has shown that Barton Springs and its primary contributing streams, including Barton Creek, suffer from elevated levels of nitrogen and phosphorous, and that sediments of Barton Springs are at times found to contain hydro-phobic chemicals at levels toxic to aquatic life.

**RESPONSE 1:**

The draft permit authorizes the disposal of treated domestic wastewater via subsurface drip irrigation. The draft permit does not authorize the discharge of pollutants to water in the state. The draft permit includes provisions that are designed to protect both surface and groundwater quality. For example, the Applicant must maintain vegetation in the irrigation areas throughout the year for effluent and nutrient uptake, and to prevent the ponding or surfacing of treated effluent. The Applicant is prohibited from irrigating when the ground is saturated. The Applicant is also required to monitor the physical condition of the drip irrigation fields on a weekly basis for surface runoff, surficial erosion, stressed or damaged vegetation, etc. Provided that the Applicant operates and maintains the wastewater treatment facility and disposal sites in accordance with TCEQ rules and the requirements contained in the draft permit, no discharge of pollutants to water in the state is anticipated.

Bear Creek is not included on the state's list of impaired or threatened water bodies, the 2010 Texas 303(d) list. The referenced receiving water quality assessment report conducted by the City of Austin Watershed Protection Department concludes that elevated levels of nitrates in Bear Creek may be attributable to "washoff from the watershed after the buildup from an abnormally severe drought." See Bear Creek Receiving Water Assessment, January 2009 – March 2010, p. 25, City of Austin Watershed Protection Department, SR-10-10 (September 2010 Update). The report also concludes that elevated nitrate concentrations in Bear Creek may be the result of a combination of nutrient cycling and non-point source runoff from development. See Id.

**COMMENT 2:** (Unauthorized Discharge)

S.O.S. commented that downstream water quality monitoring data indicates that the facility is discharging treated wastewater. S.O.S. also asserted that, based on aerial photography, the facility appears to be discharging directly into a tributary of Spring Hollow. S.O.S. recommended that land application areas along the upper reaches of Spring Hollow and a tributary of Spring Hollow be removed from the draft permit, and replaced by upland areas away from the tributary of Spring Hollow.

**RESPONSE 2:**

The Applicant has applied for a renewal with changes to its existing TLAP permit, which authorizes the disposal of treated domestic wastewater via a public access subsurface drip irrigation system. Groundwater resources serving as sources or potential sources of domestic raw water supply will be protected by limiting wastewater application rates. Effluent storage and treatment ponds will be constructed with adequate liners. The draft permit includes provisions that are designed to protect both surface and groundwater quality. As previously

mentioned, the draft permit does not authorize the discharge of pollutants to water in the state. A discharge to water in the state would constitute a violation of the draft permit, and could subject the Applicant to a TCEQ enforcement action. The draft permit mandates a 0.1 gallon per square foot per day application rate. Executive Director staff has determined that this application rate and frequency is an acceptable agronomic rate of uptake by the required surface vegetation.

The draft permit requires the Applicant to comply with 30 TAC § 309.13(a) through (d), which protects surface and groundwater by prohibiting unprotected treatment units within the 100-year floodplain, prohibiting treatment units in wetlands, establishing buffers from sources of drinking water, and establishing liner requirements for surface impoundments overlying aquifer recharge zones. The draft permit includes provisions that are designed to protect both surface and groundwater quality. For example, the Applicant is required to maintain a 150-foot buffer zone between the application areas and any private water well. Provided that the Applicant operates and maintains the wastewater treatment facility and disposal sites in accordance with TCEQ rules and the requirements contained in the draft permit, no discharge of pollutants to water in the state is anticipated.

**COMMENT 3:** (Effluent Limits)

S.O.S. commented that the effluent limits in the draft permit do not comply with best available technology, and are not adequate to prevent pollutant discharge and protect surface and groundwater quality. Specifically, S.O.S. asserts that the effluent limits of 20 mg/l Biochemical Oxygen Demand (BOD) and 20 mg/l Total Suspended Solids (TSS) in the draft permit are not adequate, and that the draft permit should contain effluent limits for total nitrogen and phosphorus.

**RESPONSE 3:**

Effluent limits in the draft permit comply with 30 TAC Chapter 309, which was developed to maintain water quality in accordance with the Texas Surface Water Quality Standards (TSWQS). Special Provision No. 21 of the draft permit requires the Applicant to obtain representative soil samples from the land application areas, and analyze them for total nitrogen and phosphorus. Based upon the results of these soil analyses, if necessary, the TCEQ may initiate a permitting action to incorporate additional effluent limits. Finally, the receiving water quality assessment report conducted by the City of Austin Watershed Protection Department indicates that the maximum observed nitrate concentrations in streams adjacent to the Highpointe Subdivision are below the acceptable levels contained in the Public Drinking Water Standards at 30 TAC Chapter 290. See Bear Creek Receiving Water Assessment, January 2009 –

March 2010, p. 21 – 23, City of Austin Watershed Protection Department, SR-10-10 (September 2010 Update).

**COMMENT 4:** (100-Year Floodplain)

S.O.S. expressed concern about irrigation areas being located within the 100-year floodplain. Specifically, S.O.S. asserted effluent application within the 100-year floodplain creates a high risk of effluent entering adjacent streams.

**RESPONSE 4:**

TCEQ rules do not prohibit the land application of effluent within the 100-year floodplain. Furthermore, the draft permit contains provisions designed to prevent effluent from leaving the land application areas and entering adjacent water bodies. For example, Special Provision No. 9 mandates that the subsurface drip irrigation system be designed and managed so as to prevent the ponding or surfacing of treated effluent. Special Provision No. 14 prohibits the application of treated effluent when the ground is saturated. Finally, in the event of a complete shutdown or if the storage capacity of the wastewater treatment facility is exceeded, Special Provision No. 12 requires the Applicant to pump and haul the treated effluent to an authorized disposal facility. If the Applicant operates and maintains the wastewater treatment facility and disposal sites in accordance with TCEQ rules and the requirements contained in the draft permit, then no discharge of pollutants to water in the state is anticipated.

**COMMENT 5:** (Ground Saturation and Soil Moisture Monitoring)

S.O.S. commented that, even though Special Provision No. 14 prohibits the land application of treated effluent when the ground is saturated, there is no reliable mechanism to monitor ground saturation. S.O.S. commented that moisture monitoring is not required during the Interim phases of the draft permit.

**RESPONSE 5:**

As previously mentioned, Special Provision No. 14 prohibits the application of treated effluent when the ground is saturated. In response to this comment, the Executive Director has amended Special Provision No. 19 of the draft permit. Special Provision No. 19 now requires the Applicant to install soil moisture sensing devices that automatically shut off irrigation to the drainfields when the soil becomes saturated during the Interim II and Final phases of the draft permit.

**COMMENT 6:** (Storage Requirements)

S.O.S. commented that the two-day effluent storage requirement in the draft permit is insufficient to allow a delay in effluent application during frequently occurring rainfall events, resulting in treated effluent application to saturated soils.

**RESPONSE 6:**

The storage requirements in the draft permit correspond to the storage recommendations for pumping tanks in *Design and Installation of Low-Pressure Pipe Waste Treatment Systems* (UNC Sea Grant College, 1982). The wastewater facility includes an effluent holding tank with a total capacity of 333,000 gallons for storage of treated effluent prior to irrigation in the Interim I and II phases. The Applicant will construct a second effluent holding tank for a total capacity of 666,000 gallons for the storage of treated effluent prior to irrigation in the Final phase. The draft permit requires the Applicant to prevent discharge if the storage capacity is exceeded by pumping and hauling wastewater off-site. If pumping and hauling is necessary, the TCEQ Region 11 Office will verify that the wastewater is taken to an acceptable receiving facility by a TCEQ registered hauler.

**COMMENT 7: (Uniform Distribution of Treated Effluent)**

S.O.S. commented that background calculations of wastewater irrigation, evaporation rates, and nutrient loading likely assume the uniform application of treated effluent, while the facility's actual operations likely cause the uneven uptake of water and nutrients. S.O.S. asserts that irrigation is uneven due to the design limitations of drip irrigation, and the intentional and unintentional operation of the irrigation system that results in concentrating irrigation flows to certain areas while leaving other areas un-irrigated or under-irrigated. S.O.S. also argues that uptake is uneven due to slope, exposure to sunlight, soil depth and composition, temperature, and other factors. S.O.S. states that any renewed permit should include conditions that reduce wastewater application rates, and require even distribution of wastewater over areas away from streams and steep slopes with adequate soil and vegetative cover.

**RESPONSE 7:**

The draft permit contains numerous provisions to ensure the even distribution of treated effluent, and the maintenance of adequate vegetative cover in the irrigation areas. For example, Special Provision No. 9 requires that the subsurface drip irrigation system be designed and managed so as to prevent the ponding or surfacing of treated effluent, the contamination of ground and surface water, and the occurrence of nuisance conditions. Special Provision No. 9 also requires that the Applicant establish and maintain vegetation in the irrigation area throughout the year for effluent and nutrient uptake. Special Provision No. 11 requires that, before it is disposed, wastewater is treated to remove total suspended solids in order to prevent the plugging of drip-emitters. Also, Special

Provision No. 19 requires that drip irrigation lines are installed on the contour, and the lateral slopes of the tubing not exceed 1% in order to prevent the concentration of effluent. The Executive Director has amended Special Provision No. 19 by requiring the Applicant to install moisture sensing devices that automatically shut off irrigation to the drainfields when the soil becomes saturated in the Interim II and Final phases of the draft permit. In order to ensure adequate soil storage for effluent uptake by plant roots, Special Provision No. 18 requires the Applicant to provide six inches of soil cover over the drip irrigation lines, and maintain a 12-inch minimum rootable soil depth below the drip irrigation lines. Special Provision Nos. 23 and 24 require the Applicant to use cultural practices to promote and maintain the health and propagation of year-round cover crops. Finally, Special Provision No. 20 requires the Applicant to monitor the physical condition of the drip irrigation fields on a weekly basis, record any problems (e.g., surface runoff, surficial erosion, stressed or damaged vegetation, etc.) in an on-site field log, and implement corrective measures within 24 hours. These draft permit provisions were designed to ensure the uniform distribution of treated effluent in the irrigation areas, and the adequate uptake of treated effluent by cover crops.

**COMMENT 8:** (Landscaping Chemicals)

S.O.S. commented that water and nutrient balancing is rendered meaningless if irrigation wastewater is mixed with landscaping chemicals. S.O.S. states that draft permit does not prohibit the mixing of chemicals and irrigated wastewater, and does not include limitations that protect against over-saturation or the discharge of polluted wastewater to surface water or groundwater.

**RESPONSE 8:**

In its original cropping plan, the Applicant did not indicate that additional fertilizer or supplemental irrigation water would be applied to the irrigation areas. Dosing the irrigation areas with treated effluent, allowing for rest periods between each dosing cycle, and placing irrigation drip lines below six inches of soil cover while maintaining a 12-inch rootable soil depth should keep the treated effluent within the root zone for uptake by plant roots. As previously mentioned, the draft permit does not authorize the discharge of pollutants to water in the state.

**COMMENT 9:** (Phased Permitting)

S.O.S. commented that redefining the phasing of facility upgrades and irrigation area usage will result in lowered water quality. S.O.S. objects to the redefined phases of the draft permit, and asserts that, at a minimum, the phases should remain the same as those in the existing permit.

**RESPONSE 9:**

The removal of the 40,000 gallon per day Interim I phase, and the addition of a 150,000 gallon per day Interim II phase did not relax the standards in the Applicant's existing TLAP permit. The existing permit authorizes the Applicant to dispose of treated domestic wastewater at a daily average flow not to exceed 300,000 gallons per day via public access subsurface drip irrigation system with a minimum area of 68.87 acres in the Final phase. The draft permit includes the same Final phase.

**COMMENT 10:** (Use and Enjoyment of Property and Property Values)

S.O.S. commented that the operation of the Highpointe facility has deteriorated water quality in Bear Creek, and thereby adversely impacted members' use and enjoyment of their land and their property values.

**RESPONSE 10:**

As previously mentioned, the draft permit does not authorize the discharge of pollutants to water in the state. The issuance of this TLAP permit renewal does not authorize the invasion of personal or property rights, or any violation of federal, state, or local laws or regulations. Nothing in the draft permit limits a landowner's ability to seek relief in response to any interference with the landowner's use and enjoyment of his or her property.

The TCEQ's jurisdiction is limited to the authority granted to it by the Texas Legislature. Pursuant to Section 26.027 of the Texas Water Code, the TCEQ is authorized to issue permits for the discharge of pollutants into or adjacent to water in the state. The issue of potential adverse impacts to property values is outside the scope of review of a wastewater disposal or discharge permit application.

**COMMENT 11:** (S.O.S. Members' Pets' Health)

S.O.S. commented that its members' pets play in Bear Creek, and that their well-being is being harmed by the pollution caused by the facility.

**RESPONSE 11:**

As previously stated, the draft permit does not authorize the discharge of pollutants to water in the state. The TSWQS were designed to be protective of human health, aquatic life, livestock, terrestrial wildlife, and the environment. The Executive Director has reviewed draft permit, and made a preliminary decision that it meets the TSWQS. If the Applicant's TLAP permit is renewed, and the facility is operated in accordance with the permit conditions and the TSWQS, there should no impact to S.O.S. members' pets' well-being.

**COMMENT 12:** (Foaming and Erosion)

S.O.S. commented that its members have experienced offensive foaming and increased erosion along the tributary below the facility.

**RESPONSE 12:**

The TCEQ has not received any complaints regarding the operation of the Highpointe Subdivision Wastewater Treatment Facility. Individuals who suspect that the Applicant is out of compliance with the terms and conditions of its permit or any environmental regulation are encouraged to report those concerns to the TCEQ Region 11 Office at 512-339-2929 or by calling the TCEQ's 24-hour, toll-free Environmental Complaint Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If the Applicant is found to be out of compliance with the terms and conditions of its permit, it will be subject to a TCEQ enforcement action.

The TCEQ's jurisdiction is limited to the authority granted to it by the Texas Legislature. Pursuant to Section 26.027 of the Texas Water Code, the TCEQ is authorized to issue permits for the discharge pollutants into or adjacent to water in the state. The issue of erosion is outside the scope of review of a wastewater disposal or discharge permit application.

**COMMENT 13:** (Drinking Water)

S.O.S. commented that its members drink from water wells in the Edwards Aquifer, and that these members' interest in healthy drinking water will likely be harmed if the Highpointe Wastewater Treatment Facility permit is renewed without provisions that will protect water quality and eliminate the discharge to groundwater.

**RESPONSE 13:**

As previously mentioned, the draft permit does not authorize the discharge of pollutants to water in the state. The draft permit authorizes the disposal of treated domestic wastewater via subsurface drip irrigation. The draft permit includes provisions that are designed to protect groundwater quality. For example, Special Provision No. 18 requires the Applicant to place irrigation drip lines below six inches of soil cover and maintain a 12-inch rootable soil depth to keep the treated effluent within the root zone for uptake by plant roots. Groundwater resources serving as sources or potential sources of domestic raw water supply will be protected by limiting wastewater application rates. Effluent storage and treatment ponds will be constructed with adequate liners. The draft permit includes provisions that are designed to protect both surface and groundwater quality. The draft permit mandates a 0.1 gallon per square foot per day application rate. Executive Director staff has determined that this

application rate and frequency is an acceptable agronomic rate of uptake by the required surface vegetation. The draft permit requires the Applicant to comply with 30 TAC § 309.13(a) through (d), which protects surface and groundwater by prohibiting unprotected treatment units within the 100-year floodplain, prohibiting treatment units in wetlands, establishing buffers from sources of drinking water, and establishing liner requirements for surface impoundments overlying aquifer recharge zones. Furthermore, the Applicant is required to maintain a 150-foot buffer zone between the application areas and any private water well. Finally, because the Highpointe Wastewater Treatment Facility is within the Contributing Zone of the Edwards Aquifer, the Applicant must comply with Subchapter B, 30 TAC Chapter 213; which is designed to protect the existing and potential beneficial uses of groundwater in the Edwards Aquifer.

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

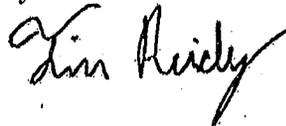
In response to public comment, the Executive Director has amended Special Provision No. 19 of the draft permit. Special Provision No. 19 now requires the Applicant to install soil moisture sensing devices that automatically shut off irrigation to the drainfields when the soil becomes saturated in the Interim II and Final phases of the draft permit.

Respectfully submitted,  
Texas Commission on Environmental  
Quality

Zak Covar  
Executive Director

Robert Martinez, Director  
Environmental Law Division

By



Timothy J. Reidy, Staff Attorney  
Environmental Law Division  
State Bar No. 24058069  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
Tel: (512) 239-0969  
Fax: (512) 239-0606

REPRESENTING THE EXECUTIVE

DIRECTOR OF THE TEXAS  
COMMISSION ON ENVIRONMENTAL  
QUALITY

**CERTIFICATE OF SERVICE**

I certify that on March 15, 2013, the "Executive Director's Response to Public Comment" for TCEQ Permit No. WQ0014358001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



---

Timothy J. Reidy, Staff Attorney  
Environmental Law Division  
State Bar No. 24058069

CHIEF CLERK'S OFFICE

2013 MAR 15 PM 4:38

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**Attachment C –  
Compliance History  
Report**



**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# **Attachment D – GIS Map**

**Hays County MUD No. 5  
Renewal of TCEQ Permit No. WQ0014358001  
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  
May 7, 2013

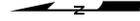
0 0.1 0.2 0.4 Miles  
Projection: Texas Statewide Mapping System (TSM5)  
Scale 1:18,500

**Legend**  
□ Property Boundary  
■ WWTP

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 2012 NAIP Imagery.

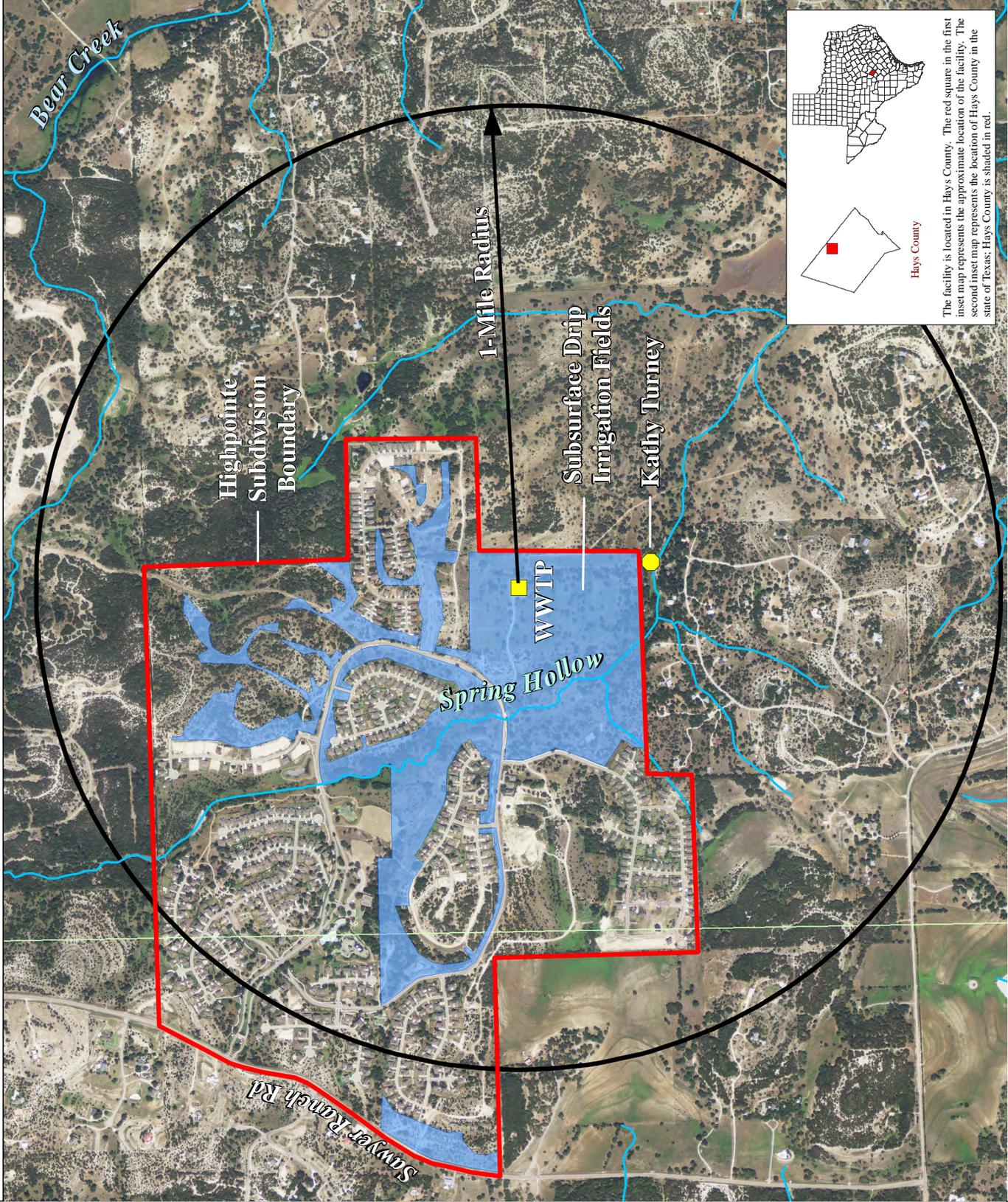
This map depicts the following:

- (1) The approximate location of the property boundary. This is labeled "Highpointe Sub-division Boundary".
- (2) Polygon and arrow depicting 1-mile radius.
- (3) Approximate location of the WWTP.



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

McDermott - CRF-308529



**Attachment E –  
Executive Director’s  
Public Meeting Denial  
Letter**

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

January 14, 2013

Bill Bunch, Attorney  
Save Our Springs Alliance  
P.O. Box 684881  
Austin, TX 78768

**RE: Hays County Municipal Utility District No. 5; Permit No. WQ0014358001**

Dear Mr. Bunch:

Thank you for your request for a public meeting on the application submitted by Hays County Municipal Utility District No. 5. In order to determine whether a public meeting should be held, the Executive Director considers the factors set out in 30 Texas Administrative Code Section 55.154. These rules require that a public meeting be held if: (1) the Executive Director determines that there is a substantial or significant degree of public interest in an application; (2) a member of the legislature who represents the general area in which the facility is located or proposed to be located requests that a public meeting be held; or (3) when a public meeting is otherwise required by law. The Executive Director has determined not to hold a public meeting on this application.

The TCEQ appreciates your interest in environmental issues. If you have any further questions, please feel free to contact the Public Education Program at 1-800-687-4040 or me at (512) 239-0969.

Sincerely,

A handwritten signature in black ink that reads "Tim Reidy".

Timothy J. Reidy, Staff Attorney  
Environmental Law Division

cc: Tara Drissell, TCEQ Chief Clerk, MC 105  
Brian Christian, Director, TCEQ Public Education Program, MC 108  
Dex Dean, TCEQ Permit Coordinator, MC 148  
Firoj Vahora, Team Leader, TCEQ Municipal Permits Team,  
Water Quality Division, MC 148