

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 25, 2013

Bridget C. Bohac, Chief Clerk  
Texas Commission on Environmental Quality  
Office of the Chief Clerk (MC-105)  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: **Avalon Water Supply and Sewer Service Corporation**  
**TCEQ Docket No. 2013-1507-MWD**

Dear Ms. Bohac,

Enclosed for filing is the Executive Director's Response to Request for Hearing in the above-entitled matter.

Sincerely,

A handwritten signature in cursive script that reads "Celia Castro".

Celia Castro, *Staff Attorney*  
Environmental Law Division  
State Bar No. 03997350

cc: Mailing List

Enclosure

**TCEQ Docket No. 2013-1507-MWD**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>AVALON WATER SUPPLY</b>	<b>§</b>	
<b>AND SEWER SERVICE</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>CORPORATION TPDES PERMIT</b>	<b>§</b>	
<b>NO. WQ0013981001</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

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

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**I. Introduction**

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Requests (Response) on the application by Avalon Water Supply and Sewer Service Corporation (Applicant or Avalon) for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0013981001. Timely hearing requests were received from Carol Gillespie, on behalf of herself and her sisters (Mary Grace Gillespie Bates and Marcia Gillespie). Ms. Carol Gillespie is currently represented by counsel, Mr. Gregory E. Wilhelm.

Attached for Commission consideration are the following:

Attachment A	Statement of Basis/Technical Summary and Executive Director's Preliminary Decision
Attachment B	Draft Permit
Attachment C	Compliance History
Attachment D	Executive Director's Response to Public Comment (RTC)
Attachment E	ED's Satellite Map
Attachment F	Applicant's Landowner Map and List

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

**II. Facility Description**

The Applicant applied for a major amendment that would authorize a variance to the buffer zone requirements, reactivation of an existing oxidation ditch which is currently being used as an equalization basin, installation of an additional clarifier, and an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 25,000 gallons per day (gpd) in the Interim phase (existing phase) to a daily average flow not to exceed 40,000 gpd in the Final Phase.

The existing wastewater treatment facility, the Avalon Wastewater Treatment Facility, serves the community of Avalon. The facility is located approximately 1,100 feet west of Farm to Market Road 55 and approximately 1,900 feet south of the intersection of Farm-to-Market Road 55 and State Highway 34 in Ellis County, Texas. The treated effluent is discharged through a pipe approximately 100 feet to an unnamed tributary; then to an unnamed reservoir; then to an unnamed tributary; then to Chambers Creek Above Richland Chambers Reservoir in Segment No. 0814 of the Trinity River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary and high aquatic life use for the unnamed reservoir. The designated uses for Segment No. 0814 are high aquatic life use, public water supply, and primary contact recreation.

The 2010 Clean Water Act Section 303(d) list, the State's inventory of impaired and threatened waters, does not currently list Segment No. 0814. However, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limitation of 126 Colony Forming Unit (CFU) or Most Probable Number (MPN) of *E. coli* per 100 ml has been added to the draft permit in accordance with the recent amendments to 30 Texas Administrative Code (30 TAC) Chapters 309 and 319.

### **III. Procedural Background**

The permit application for a renewal, originally received on June 14, 2011, was withdrawn on February 9, 2012 and replaced with an application for a major amendment on the same date. The application for a major amendment was declared administratively complete on March 26, 2012. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in the *Waxahachie Daily Light* on April 4, 2012. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published in the *Waxahachie Daily Light* on October 25, 2012. The original public comment period ended on November 26, 2012. Because the application documents were not located at the address as stated in the NORI published on April 4, 2012 and the NAPD published on October 25, 2012, the Applicant was instructed to re-notice this application. A combined NORI/NAPD was subsequently published in the *Waxahachie Daily Light* on April 10, 2013 and the extended comment period ended on May 10, 2013. The Response to Comment (RTC) was filed on July 10, 2013 and the ED's Final Decision Letter was mailed on July 12, 2013. The hearing request period ended on August 12, 2013. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

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

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The application was declared administratively complete on March 26, 2012 and therefore is subject to the HB 801 requirements. The Commission implemented HB 801 by adopting procedural rules in 30 TAC Chapters 39,

50, and 55. The regulations governing requests for contested case hearings are found at 30 TAC, Chapter 55.

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

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

Responses to hearing requests must specifically address:

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

30 TAC § 55.209(e).

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

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:

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

- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- (5) provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

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

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

- (a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- (b) Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
  - (1) whether the interest claimed is one protected by the law under which the application will be considered;
  - (2) distance restrictions or other limitations imposed by law on the affected interest;
  - (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
  - (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
  - (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
  - (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203.

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

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.” 30 TAC § 50.115(b).

The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue:

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

30 TAC § 50.115(c).

**V. Analysis of the Requests**

**A. Analysis of the Hearing Requests**

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

The hearing request period ended on August 12, 2013. Carol Gillespie submitted timely written contested hearing requests on May 1, 2012 and May 9, 2013; her contested case hearing requests were received by the Office of the Chief Clerk on May 3, 2012, and May 9, 2013, respectively. The hearing requests included relevant contact information and raised disputed issues of fact that were raised during the comment period.

The ED recommends the Commission find that the hearing requests of Carol Gillespie substantially comply with the requirements of 30 TAC § 55.201(c) & (d).

**2. *Whether the Requestors Met the Requirements of an Affected Person***

**Carol Gillespie and her sisters, Marcia Gillespie and Mary Grace Gillespie Bates -**

The ED’s satellite map (Attachment E) shows that the property owned by Carol Gillespie and her sisters is located within one mile of the discharge point and adjacent to the facility and discharge route. In addition, Applicant’s landowner map and legend (Attachment F) lists Carol Gillespie and her sisters as downstream landowners. Carol Gillespie has stated that the proposed permit would personally affect herself and her sisters. The discharge point is on their property; therefore, they are also downstream landowners. Carol Gillespie alleged that if the proposed discharge traversing their property is contaminated, it could potentially harm livestock that uses the unnamed tributary as a water source. Based on the proximity of their property, they have

demonstrated that the discharge may affect their health, safety, or use of the property or natural resources. Carol Gillespie appears likely to be affected by the permitted activity under the requirements of 30 TAC § 55.203(c). There is a reasonable relationship between the interest claimed and the regulated activity. Therefore, the requestors have raised personal justiciable interests related to a legal right, duty, privilege, power, or economic interest affected by the application and not common to that of the general public. The ED concludes that Carol Gillespie is an affected person.

The ED recommends the Commission find that Carol Gillespie is an affected person under the requirements of 30 TAC § 55.203.

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

The ED has analyzed the issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the RTC. None of the issues were withdrawn. The issues raised for this application and the ED's analysis and recommendations follow.

**1. Whether the Applicant properly requested a variance from the buffer zone requirements? (RTC #1)**

Carol Gillespie raised this issue. This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. The ED's response stated that, based on the information contained in the application, the Applicant could not meet any of the three methods for complying with the nuisance odor requirements. Pursuant to 30 TAC § 309.13(f), an Applicant shall request a variance if the facility will not meet the buffer zone requirement by one of the alternatives set out in 30 TAC § 309.13(e). This issue is relevant and material to a decision on the permit application.

The ED recommends referral of this issue to SOAH.

**2. Whether the Applicant's request for an increase in flow complies with the applicable sections of the TCEQ rules? (RTC #2)**

Carol Gillespie raised this issue. The existing permit requires that whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. 30 TAC 305.126(a). This issue is within TCEQ's jurisdiction, involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referring this issue to SOAH.

**3. Whether the increased flow will cause flooding to occur on the requestors' property? (RTC #3)**

Carol Gillespie raised this issue. This issue is not within TCEQ's jurisdiction and is not assessed during the wastewater permitting process. This issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

**4. Whether the issuance of the major amendment permit should be contingent on a resolution of an influent pipeline or discharge easement on the requestors' property? (RTC #4)**

Carol Gillespie raised this issue. This issue is not within TCEQ's jurisdiction. TCEQ is not part of any easement disputes between the parties. This issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

**5. Whether the facility's collection system is adequate and properly maintained for the requested increase in flow? (RTC #5)**

Carol Gillespie raised this issue. During the last permit term, the facility discharged more than 90% of the permitted flow for at least three consecutive months. However, the Applicant demonstrated that existing treatment units at the facility can be used to treat the additional flow. In addition, Other Requirement No. 11 in the proposed permit requires the Applicant to submit quarterly progress reports, which shall include (1) progress toward restoring the function of the existing oxidation ditch, (2) progress toward installing a larger clarifier for improved solids management, and (3) records of maintenance performed on the Hydroxyl system. This issue involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referring this issue to SOAH.

**6. Whether the facility should have an operator who maintains a full time position at another city? (RTC #6)**

Carol Gillespie raised this issue. This issue is not considered in the wastewater permitting process. Therefore, this issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

**7. Whether the sludge disposal provision requiring the Applicant to dispose sludge generated at the facility at the City of Italy's wastewater treatment plant is consistent with TCEQ rules? (RTC #7)**

Carol Gillespie raised this issue. This issue involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referring this issue to SOAH.

**8. Whether the permitted discharge will negatively impact the water supply for the requestor's livestock in violation of the Texas Surface Water Quality Standards and the proposed permit conditions? (RTC #8)**

Carol Gillespie raised this issue. The effluent limitations and conditions in the draft permit comply with the Texas Surface Water Quality Standards (TSWQS), 30 TAC §§ 307.1 - 307.10. This issue involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referring this issue to SOAH.

**9. Whether TCEQ is required under its rules to notify the requestor of past effluent limit violations? (RTC #9)**

Carol Gillespie raised this issue. This issue is not considered in the wastewater permitting process. Therefore, this issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

**10. Whether the requestor was entitled to mailed notice under TCEQ rules for the 1999 and the 2001 permit renewals? (RTC #10)**

Carol Gillespie raised this issue. This issue involves a question of law. Adjacent landowners and landowners along the discharge route within a reasonable distance from the point of discharge are not entitled to receive mailed notice from the Office of the Chief Clerk when there is an application to renew a permit. 30 TAC 39.551(b)(2)(A) and 39.551(c)(5)(A). Additionally, the 1999 and 2001 permits are not currently before the Commission. Therefore, this issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

**11. Whether the Applicant's Board of Directors violated the Texas Open Meetings Act? (RTC #11)**

Carol Gillespie raised this issue. This issue is not considered in the wastewater permitting process. Therefore, this issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

**12. Whether the Applicant displayed a pattern of dishonest, unethical, and illegal behavior with respect to the application? (RTC #12)**

Carol Gillespie raised this issue. This issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

**13. Whether the application was made available for reviewing and copying in compliance with TCEQ rules? (RTC #13)**

Carol Gillespie raised this issue. Because the application documents were not located at the address as stated in the NORI published on April 4, 2012 and the NAPD published on October 25, 2012, the Applicant was instructed to re-notice this application. A combined NORI/NAPD was subsequently published in the *Waxahachie Daily Light* on April 10, 2013. This issue involves a question of fact, was raised during the public comment period, and was not withdrawn. This issue is relevant and material to a decision on the permit application.

The ED recommends referring this issue to SOAH.

**14. Whether TCEQ's entry onto the requestor's property to investigate a complaint complied with Section 26.014 of the Texas Water Code? (RTC #14 & 15)**

Carol Gillespie raised this issue. This issue is not considered in the wastewater permitting process. Therefore, this issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

**15. Whether TCEQ's enforcement process with regards to the application was consistent with TCEQ Protocol and Procedures for delinquent fees and penalties? (RTC #16)**

Carol Gillespie raised this issue. This issue is not considered in the wastewater permitting process. Therefore, this issue is not relevant and material to a decision on the permit application.

The ED recommends not referring this issue to SOAH.

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

The ED recommends a nine month duration for a contested case hearing on this matter, should there be one, between preliminary hearing and the presentation of a proposal for decision. The ED also recommends referral to Alternate Dispute Resolution for a three month period prior to any preliminary hearing.

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

The ED recommends the following actions by the Commission:

The ED recommends the Commission find that Carol Gillespie is an affected person and recommends granting the hearing requests of Carol Gillespie on behalf of herself and her sisters (Mary Grace Gillespie Bates and Marcia Gillespie).

If the Commission finds that Carol Gillespie is an affected person and grants the hearing requests, the ED recommends that after a referral for a three month period to Alternate Dispute Resolution, the following issues should be referred to SOAH for a proceeding of nine months duration: **Issues 1, 2, 5, 7, 8, and 13.**

**Issue 1. Whether the Applicant properly requested a variance from the buffer zone requirements?**

**Issue 2. Whether the Applicant's request for an increase in flow complies with the applicable sections of the TCEQ rules?**

**Issue 5. Whether the facility's collection system is adequate and properly maintained for the requested increase in flow?**

**Issue 7. Whether the sludge disposal provision requiring the Applicant to dispose sludge generated at the facility at the City of Italy's wastewater treatment plant is consistent with TCEQ rules?**

**Issue 8. Whether the permitted discharge will negatively impact the water supply for the requestor's livestock in violation of the Texas Surface Water Quality Standards and the proposed permit conditions?**

**Issue 13. Whether the application was made available for reviewing and copying in compliance with TCEQ rules?**

The ED recommends **not** referring the following issues to SOAH: Issues 3, 4, 6, 9, 10, 11, 12, 14, and 15.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Zak Covar, Executive Director

Robert Martinez, Director  
Environmental Law Division



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Celia Castro, Staff Attorney  
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REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

### **CERTIFICATE OF SERVICE**

I certify that on October 25, 2013, the original and seven copies of the "Executive Director's Response to Hearing Requests" for Avalon Water Supply and Sewer Service Corporation, TPDES Permit No. WQ0013981001, were filed with the TCEQ's Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, electronic mail, inter-agency mail, or by deposit in the U.S. Mail.



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Celia Castro, Staff Attorney  
Environmental Law Division  
State Bar No. 03997350

**MAILING LIST**  
**AVALON WATER SUPPLY AND SEWER SERVICE**  
**CORPORATION**  
**DOCKET NO. 2013-1507-MWD; PERMIT NO. WQ0013981001**

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FOR THE EXECUTIVE DIRECTOR

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FOR PUBLIC INTEREST COUNSEL

via electronic mail:

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FOR ALTERNATIVE DISPUTE  
RESOLUTION

via electronic mail:

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**FOR THE CHIEF CLERK:**

Ms. Bridget C. Bohac  
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**REQUESTER(S)**

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# ATTACHMENT A

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

DESCRIPTION OF APPLICATION

Applicant: Avalon Water Supply and Sewer Service Corporation;  
Texas Pollutant Discharge Elimination System (TPDES) Permit No.  
WQ0013981001, TX0020567

Regulated Activity: Domestic Wastewater Permit

Type of Application: Major Amendment

Request: Major Amendment to authorize a buffer zone variance, process  
modifications, and an increase in permitted flow

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

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The draft permit includes an expiration date of **December 1, 2016** according to 30 TAC § 305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment of the existing permit to authorize a variance to the buffer zone requirements according to 30 TAC 309.13(f), reactivation of an existing oxidation ditch which is currently being used as an equalization basin, installation of an additional clarifier, and an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 25,000 gallons per day to a daily average flow not to exceed 40,000 gallons per day. The existing wastewater treatment facility serves the community of Avalon.

The applicant is requesting a variance to the buffer zone requirements according to 30 TAC § 309.13(f) based on the applicant's inability to purchase the necessary land, inability to secure legal restrictions on the use of adjacent tracts, and inability to provide nuisance odor prevention.

PROJECT DESCRIPTION AND LOCATION

The Avalon Wastewater Treatment Facility is a proprietary moving-bed bioreactor system. Treatment units in the Interim phase include a bar screen, an equalization basin (formerly an oxidation ditch), two emergency storage ponds, a primary dissolved air flotation (DAF) unit, a fixed-bed bioreactor, a moving-bed bioreactor, a secondary DAF unit, a polymer feed system, two cone-bottom clarifier tanks, an aerobic sludge digester, and a chlorine contact chamber. Treatment units in the Final phase will include a bar screen, an oxidation ditch, two emergency storage ponds, a primary DAF unit, a fixed-bed bioreactor, a moving-bed bioreactor, a secondary DAF unit, a polymer feed system, two cone-bottom clarifier tanks, a final clarifier, an aerobic sludge digester, and a chlorine contact chamber. The facility is operating in the Interim phase.

Sludge generated from the treatment facility is hauled by a registered transporter to the City of Italy Wastewater Treatment Facility, Permit No. WQ0014195001 to be digested, dewatered and then

Avalon Water Supply and Sewer Service Corporation  
TPDES Permit No. WQ0013981001  
Statement of Basis Summary Executive Directors Preliminary Decision

disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

The plant site is located approximately 1,100 feet west of Farm to Market Road 55 and approximately 1,900 feet south of the intersection of Farm-to-Market Road 55 and State Highway 34 in the community of Avalon in Ellis County, Texas 76623.

The treated effluent is discharged through a pipe approximately 100 feet to an unnamed tributary; thence to an unnamed reservoir; thence to an unnamed tributary; thence to Chambers Creek Above Richland Chambers Reservoir in Segment No. 0814 of the Trinity River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary and high aquatic life use for the unnamed reservoir. The designated uses for Segment No. 0814 are high aquatic life use, public water supply, and primary contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in the unnamed reservoir, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

The effluent limitations in the draft permit have been reviewed for consistency with the WQMP. The proposed limits are not contained in the approved WQMP. However, these limits will be included in the next WQMP update. A Waste Load Evaluation has been completed for this segment.

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

Segment 0814 is not currently listed on the State's inventory of impaired and threatened waters (2010 Clean Water Act Section 303(d) list).

### SUMMARY OF EFFLUENT DATA

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

<u>Parameter</u>	<u>Average of Daily Avg</u>
Flow, MGD	0.019
BOD <sub>5</sub> , mg/l	15
TSS, mg/l	27 (14 exceedances)

### DRAFT PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at an Interim volume not to exceed a daily average flow of 25,000 gallons per day and a Final volume not to exceed a daily average flow of 40,000 gallons per day.

The effluent limitations in the Interim phase of the draft permit, based on a 30-day average, are 20 mg/l BOD<sub>5</sub>, 20 mg/l TSS, Report mg/l NH<sub>3</sub>-N, 126 CFU or MPN of *E. coli* per 100 ml and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The effluent limitations in the Final phase of the draft permit, based on a 30-day average, are 20 mg/l BOD<sub>5</sub>, 20 mg/l TSS, Report mg/l NH<sub>3</sub>-N, 126 CFU or MPN of *E. coli* per 100 ml and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

Staff recommends approval of the variance to the buffer zone requirements according to 30 TAC § 309.13(f) based on the applicant's inability to purchase the necessary land, inability to secure legal restrictions on the use of adjacent tracts, and inability to provide nuisance odor prevention.

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. Sludge generated from the treatment facility is hauled by a registered transporter to the City of Italy Wastewater Treatment Facility, Permit No. WQ0014195001 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 applicant requested an amendment of the existing permit without any changes to the effluent limitations. However, the draft permit includes effluent limits and monitoring requirements for *E. coli*.

The Final phase in the draft permit requires continuous flow monitoring by totalizing meter.

### SUMMARY OF CHANGES FROM EXISTING PERMIT

A Final phase with a daily average flow of 40,000 gallons per day has been included in the draft permit. The existing permit authorizes a daily average flow of 25,000 gallons per day, which has been continued as an Interim phase in the draft permit. The existing permit requires the permittee to seek authorization for expansion or upgrades to the facility when flow exceeds 90% of the permitted flow for three consecutive months.

The Final phase in the draft permit requires continuous flow monitoring by totalizing meter.

Effluent limitations and monitoring requirements in the Interim phase of the draft permit remain the same as the existing permit requirements, with the exception of the added *E. coli* bacteria limitations and monitoring requirements.

*E. coli* bacteria limits have been added to the draft permit in accordance with the recent amendments to 30 TAC Chapters 309 and 319.

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

Other Requirement No. 1 in the existing permit has been updated in the draft permit to reclassify the operator requirements for this facility. Specifically, this Category D wastewater treatment facility now requires a facility operator holding a Category C license or higher. The Executive Review Committee recommended changing the operator requirements because of the complexity of the treatment process and past performance issues caused by improper operation and maintenance.

Other Requirement No. 4 in the existing permit has been updated in the draft permit to incorporate a variance from the buffer zone requirements in 30 TAC § 309.13 (e) in accordance with 30 TAC § 309.13 (f).

Other Requirement No. 7 in the existing permit has been updated in the draft permit to correct the reference to the previous TNRCC permit, which was allowed to expire. Specifically, "TCEQ Permit No. 11022-001" has been changed to "TNRCC Permit No. 11022-001".

Other Requirement No. 9 has been added to the draft permit and provides for reduced frequency of bacterial monitoring in accordance with 30 TAC §319.9.

Other Requirement No. 10 has been added to the draft permit to acknowledge that the facility operator requirements have been changed based on 30 TAC § 30.350(h). The Executive Review Committee recommended changing the operator requirements because of the complexity of the treatment process and past performance issues caused by improper operation and maintenance.

Other Requirement No. 11 has been added to the draft permit and requires the permittee to submit quarterly progress reports on the status facility improvements, maintenance performed on the Hydroxyl system, and the effects of these actions on facility's compliance with the permitted effluent limits.

Other Requirement No. 12 has been added to the draft permit and requires the permittee to submit a summary design transmittal before construction of the Final phase treatment facilities and the change in function or use of any existing treatment unit.

Other Requirement No. 13 has been added to the draft permit and requires the permittee to notify the TCEQ prior to entering the Final phase on Notification of Completion Form 20007.

### BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received February 9, 2012 and additional information received March 22, 2012 and July 6, 2012.
2. TPDES Permit No. WQ0013981001 issued April 30, 2007.
3. The effluent limitations and conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC §§ 307.1 - 307.10, effective August 17, 2000 and the EPA approved portions of the 2010 Texas Surface Water Quality Standards, effective July 22, 2010.
4. The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Domestic Wastewater Effluent Limitations.
5. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division.
6. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.
7. "Procedures to Implement the Texas Surface Water Quality Standards", Texas Commission on Environmental Quality, January 2003.
8. Texas 2010 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, August 25, 2010; approved by the EPA November 18, 2011.
9. TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits, Document No. 98-001.000-OWR-WQ, May 1998.

### PROCEDURES FOR FINAL DECISION

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

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

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

Avalon Water Supply and Sewer Service Corporation  
TPDES Permit No. WQ0013981001  
Statement of Basis Summary Executive Directors Preliminary Decision

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

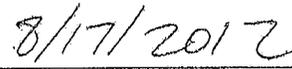
The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will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

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

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



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



Date

# ATTACHMENT B



TPDES PERMIT NO. WQ0013981001  
[For TCEQ office use only - EPA I.D.  
No. TX0020567]

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

This amendment supersedes and  
replaces TPDES Permit No.  
WQ0013981001 issued April 30, 2007.

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

Avalon Water Supply and Sewer Service Corporation

whose mailing address is

P.O. Box 246  
Itasca, Texas 76055

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

located approximately 1,100 feet west of Farm to Market Road 55 and approximately 1,900 feet south of the intersection of Farm-to-Market Road 55 and State Highway 34 in the community of Avalon in Ellis County, Texas 76623

through a pipe to an unnamed tributary; thence to an unnamed reservoir; thence to an unnamed tributary; thence to Chambers Creek Above Richland Chambers Reservoir in Segment No. 0814 of the Trinity River Basin

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

This permit shall expire at midnight, **December 1, 2016**.

ISSUED DATE:

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For the Commission

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 0.040 million gallons per day (MGD) facilities the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.025 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 51 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency Sample Type
Flow, MGD	Report	N/A	Report	N/A	Five/week Instantaneous
Biochemical Oxygen Demand (5-day)	20 (4.2)	30	45	65	One/week Grab
Total Suspended Solids	20 (4.2)	30	45	65	One/week Grab
Ammonia Nitrogen	Report (Report)	N/A	N/A	Report	One/week Grab
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399	One/quarter Grab

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

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 0.040 million gallons per day (MGD) facilities and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.040 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 139 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Min. Self-Monitoring Requirements</u>		
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Biochemical Oxygen Demand (5-day)	20 (6.7)	30	45	65	One/week	Grab
Total Suspended Solids	20 (6.7)	30	45	65	One/week	Grab
Ammonia Nitrogen	Report (Report)	N/A	N/A	Report	One/week	Grab
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399	One/quarter	Grab

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

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

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

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

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

**DEFINITIONS AND STANDARD PERMIT CONDITIONS**

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

**1. Flow Measurements**

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

**2. Concentration Measurements**

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
  - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

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

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

- e. Bacteria concentration (*E. coli* or Enterococci) - Colony Forming Units (CFU) or Most Probable Number (MPN) of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the  $n$ th root of the product of all measurements made in a calendar month, where  $n$  equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
- f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
- g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.

### 3. Sample Type

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

- b. Grab sample - an individual sample collected in less than 15 minutes.
4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.
6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

## MONITORING AND REPORTING REQUIREMENTS

### 1. Self-Reporting

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

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

### 2. Test Procedures

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

### 3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.

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

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

#### 4. Additional Monitoring by Permittee

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

#### 5. Calibration of Instruments

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

#### 6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later

than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

7. Noncompliance Notification

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

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

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D,

Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

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

#### 10. Signatories to Reports

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

#### 11. All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Executive Director of the following:

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

**PERMIT CONDITIONS**

## 1. General

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

## 2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
- b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.
- c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.
- e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.

- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and TWC§ 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
  - g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.
  - h. In accordance with 30 TAC § 305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility which does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
  - i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).
3. Inspections and Entry
- a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC § 361.
  - b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC § 7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

## 4. Permit Amendment and/or Renewal

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

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

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy.

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

- i. the permittee;
  - ii. an entity (as that term is defined in 11 USC, § 101(14)) controlling the permittee or listing the permit or permittee as property of the estate; or
  - iii. an affiliate (as that term is defined in 11 USC, § 101(2)) of the permittee.
- b. This notification must indicate:
- i. the name of the permittee and the permit number(s);
  - ii. the bankruptcy court in which the petition for bankruptcy was filed; and
  - iii. the date of filing of the petition.

### **OPERATIONAL REQUIREMENTS**

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.
2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§ 319.21 - 319.29 concerning the discharge of certain hazardous metals.
3. Domestic wastewater treatment facilities shall comply with the following provisions:
  - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
  - b. The permittee shall submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.
4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under TWC § 7.302(b)(6).
7. Documentation

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

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

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

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.
  - c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
  10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.
  11. Facilities that generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
    - a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
    - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
    - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Environmental Cleanup Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.

- d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Registration, Review, and Reporting Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.
- e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
- f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC § 335 and must include the following, as it pertains to wastewater treatment and discharge:
  - i. Volume of waste and date(s) generated from treatment process;
  - ii. Volume of waste disposed of on-site or shipped off-site;
  - iii. Date(s) of disposal;
  - iv. Identity of hauler or transporter;
  - v. Location of disposal site; and
  - vi. Method of final disposal.

The above records shall be maintained on a monthly basis. The records shall be retained at the facility site, or shall be readily available for review by authorized representatives of the TCEQ for at least five years.

12. For industrial facilities to which the requirements of 30 TAC § 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with THSC § 361.

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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 with the TCEQ. This provision does not authorize Distribution and Marketing of sludge. This provision does not authorize land application of Class A Sludge. This provision does not authorize the permittee to land apply sludge on property owned, leased or under the direct control of the permittee.**

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

#### A. General Requirements

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

#### B. Testing Requirements

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

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 4) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

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

TABLE 1

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

\* Dry weight basis

3. Pathogen Control

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

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

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

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

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

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

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

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

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

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

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

Alternative 1

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

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

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

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

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

- iv. The Executive Director will accept from the U.S. Environmental Protection Agency a finding of equivalency to the defined PSRP; and
- v. If the sewage sludge is generated from a mixture of sources resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the Processes to Significantly Reduce Pathogens, and shall meet the certification, operation, and record keeping requirements of this paragraph.

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

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

#### 4. Vector Attraction Reduction Requirements

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

- Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38%.
- Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30° and 37° Celsius. Volatile solids must be reduced by less than 17% to demonstrate compliance.
- Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20° Celsius. Volatile solids must be reduced by less than 15% to demonstrate compliance.
- Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° Celsius.
- Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40° Celsius and the average temperature of the sewage sludge shall be higher than 45° Celsius.
- Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container.
- Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- Alternative 9 -
- i. Sewage sludge shall be injected below the surface of the land.
  - ii. No significant amount of the sewage sludge shall be present on

the land surface within one hour after the sewage sludge is injected.

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

Alternative 10-

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

**C. Monitoring Requirements**

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

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

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

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

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

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

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

**A. Pollutant Limits**

Table 2

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

Table 3

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

\*Dry weight basis

**B. Pathogen Control**

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

### C. Management Practices

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

### D. Notification Requirements

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

### E. Record keeping Requirements

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

the facility site and/or shall be readily available for review by a TCEQ representative for a period of five years. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply.

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

“I certify, under penalty of law, that the applicable pathogen requirements in 30 TAC § 312.82(a) or (b) and the vector attraction reduction requirements in 30 TAC § 312.83(b) have been met for each site on which bulk sewage sludge is applied. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices have been met. I am aware that there are significant penalties for false certification including fine and imprisonment.”
6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained. The person who applies bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply:
  - a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii), as applicable, and to the permittee's specific sludge treatment activities.
  - b. The location, by street address, and specific latitude and longitude, of each site on which sludge is applied.
  - c. The number of acres in each site on which bulk sludge is applied.
  - d. The date and time sludge is applied to each site.

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

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

## F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 4) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30 of each year the following information:

1. Results of tests performed for pollutants found in either Table 2 or 3 as appropriate for the permittee's land application practices.
2. The frequency of monitoring listed in Section I.C. that applies to the permittee.
3. Toxicity Characteristic Leaching Procedure (TCLP) results.
4. Identity of hauler(s) and TCEQ transporter number.
5. PCB concentration in sludge in mg/kg.
6. Date(s) of disposal.
7. Owner of disposal site(s).
8. Texas Commission on Environmental Quality registration number, if applicable.
9. Amount of sludge disposal dry weight (lbs/acre) at each disposal site.
10. The concentration (mg/kg) in the sludge of each pollutant listed in Table 1 (defined as a monthly average) as well as the applicable pollutant concentration criteria (mg/kg) listed in Table 3 above, or the applicable pollutant loading rate limit (lbs/acre) listed in Table 2 above if it exceeds 90% of the limit.
11. Level of pathogen reduction achieved (Class A or Class B).
12. Alternative used as listed in Section I.B.3.(a. or b.). Alternatives describe how the pathogen reduction requirements are met. If Class B sludge, include information on how site restrictions were met.
13. Vector attraction reduction alternative used as listed in Section I.B.4.
14. Annual sludge production in dry tons/year.
15. Amount of sludge land applied in dry tons/year.
16. The certification statement listed in either 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge treatment activities, shall be attached to the annual reporting form.

17. When the amount of any pollutant applied to the land exceeds 90% of the cumulative pollutant loading rate for that pollutant, as described in Table 2, the permittee shall report the following information as an attachment to the annual reporting form.
  - a. The location, by street address, and specific latitude and longitude.
  - b. The number of acres in each site on which bulk sewage sludge is applied.
  - c. The date and time bulk sewage sludge is applied to each site.
  - d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk sewage sludge applied to each site.
  - e. The amount of sewage sludge (i.e., dry tons) applied to each site.

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

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

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

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

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 4) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 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 4) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year the following information:

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

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

**OTHER REQUIREMENTS**

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

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

2. The facility is not located in the Coastal Management Program boundary.
3. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 0814 of the Trinity River Basin and any subsequent updating of the water quality model for Segment No. 0814, in order to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC § 305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.
4. Issuance of this permit includes a variance to the buffer zone requirements in accordance with 30 TAC § 309.13(f) based on inability to purchase the necessary land, inability to secure legal restrictions on the use of adjacent tracts, and inability to provide nuisance odor prevention. The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). (See Attachment A.)
5. Facilities for the retention of treated or untreated wastewater shall be adequately lined to control seepage. The following methods of pond lining are acceptable.
  - a. In-situ clay soils or placed and compacted clay soils meeting the following requirements:
    - 1) More than 30% passing a No. 200 mesh sieve
    - 2) Liquid limit greater than 30%
    - 3) Plasticity index greater than 15
    - 4) A minimum thickness of 2 feet
    - 5) Permeability equal to or less than  $1 \times 10^{-7}$  cm/sec (\*)
    - 6) Soil compaction will be 95% standard proctor at optimum moisture content (\*)

(\*) For new and/or modified ponds only.
  - b. Membrane lining with a minimum thickness of 40 mils, and an underdrain leak detection system.
  - c. An alternate method of pond lining may be utilized with prior approval from the Executive Director.

The permittee shall furnish certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria above prior to utilization of the facilities. The certification shall be sent to the TCEQ Regional Office (MC Region 4 - Arlington) and the Database and Administration Team (MC 224) of the Enforcement Division.

6. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
7. The Avalon Wastewater Treatment Facility was previously permitted under TNRCC Permit No. 11022-001, which was allowed to expire.
8. A certified operator shall inspect the facility daily and maintain at the plant site a record of these inspections. These records shall be available at the plant site for inspection by authorized representatives of the commission for at least three years.
9. In accordance with 30 TAC §319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee will be given a less frequent measurement schedule. For this permit, 1/quarter will be reduced to 1/6 months in the Interim phase and 1/quarter will be reduced to 1/6 months in the Final phase. **A violation of any bacteria limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return to the standard frequency schedule**, and the permittee may not apply for another reduction in measurement frequency for at least 24 months from the date of the last violation. The Executive Director may establish a more frequent measurement schedule if necessary to protect human health or the environment.
10. The operator requirements for this Category D wastewater treatment facility have been reclassified as Category C based on 30 TAC § 30.350(h).
11. The permittee shall submit quarterly progress reports, which shall include (1) progress toward restoring the function of the existing oxidation ditch, (2) progress toward installing a larger clarifier for improved solids management, and (3) records of maintenance performed on Hydroxyl system during the quarter, in accordance with the following schedule. The requirement to submit quarterly is effective for the duration of this permit.

PROGRESS REPORT DATES: January 1, April 1, July 1, October 1.

The quarterly progress reports must contain a discussion of the items listed above and their effect, if any, on the permittee's compliance with effluent limitations for BOD, TSS, *E. coli*, and pH.

All reports must be submitted to the TCEQ Regional Office (MC Region 3) and Wastewater Permitting Section of the Water Quality Division (MC 148) of the TCEQ.

**THE PERMITTEE IS REQUIRED TO MEET ALL EFFLUENT LIMITATIONS AND ANY CONDITIONS/PROVISIONS OF THIS PERMIT. THIS PROVISION DOES NOT RESTRICT THE TCEQ'S ABILITY TO TAKE ENFORCEMENT OR OTHER CORRECTIVE ACTION BASED ON NON-COMPLIANCE WITH THE EFFLUENT LIMITATIONS ESTABLISHED IN THIS PERMIT OR ANY OTHER PROVISION CONTAINED IN THIS PERMIT.**

12. Prior to a change in function or use of any existing facilities and prior to construction of the Final phase treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary submittal letter in accordance with the requirements in 30 TAC Section 217.6(c). If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and a final engineering design report which comply with 30 TAC Chapter 217, Design Criteria for Wastewater Treatment Systems. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2a of the permit.
13. The permittee shall notify the TCEQ Regional Office (MC Region 4) and the Applications Review and Processing Team (MC 148) of the Water Quality Division in writing at least forty-five (45) days prior to the completion of the Final phase facilities on Notification of Completion Form 20007.

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**Attachment A**  
**TPDES Permit No. WQ0013981001**  
**Avalon Water Supply and Sewer**  
**Service Corporation**

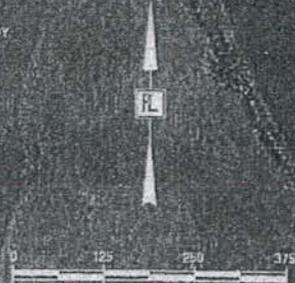
OWNER:  
ROBERT W BALL  
PROPERTY ID: 183094

OWNER:  
MARY GRACE ETAL BATES  
PROPERTY ID: 183054

OWNER:  
TOMMIE F WORTHY  
PROPERTY ID: 179244

OWNER:  
MARY GRACE ETAL BATES  
PROPERTY ID: 183054

OWNER:  
CECIL W & MELVA C KENNEDY  
PROPERTY ID: 708975



**LEGEND**

- EXISTING BUFFER ZONE REQUIREMENT BASED ON UNAERATED EMERGENCY PONDS
- FUTURE BUFFER ZONE REQUIREMENT BASED ON AERATED EMERGENCY PONDS
- EXISTING PROPERTY BOUNDARY
- EXISTING UNIT BOUNDARY
- EXISTING BUFFER ZONE DIMENSION
- FUTURE BUFFER ZONE DIMENSION
- EXISTING DIMENSIONS

**RECEIVED**

FEB 09 2012

Water Quality Applications Team

**REFERENCE DOMESTIC**  
**ADMINISTRATIVE REPORT 1.1**

**BUFFER ZONE REQUIREMENTS**

**AVALON WATER SUPPLY & SEWER**  
**SERVICE CORPORATION**



**FLOWERS & LEIST, INC.**  
TX FIRM NO. F-9676

DESIGNED BY:	CHL	DATE:	30 MAY 2011
DRAWN BY:	CHL	PROJECT NO.:	999000.05
CHECKED BY:	BPF	SHEET NO.	PAGE 16A

# ATTACHMENT C



# Compliance History Report

**PENDING** Compliance History Report for CN600788590, RN101511863, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600788590, Avalon Water Supply And Sewer Service Corporation	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 13.35
<b>Regulated Entity:</b>	RN101511863, AVALON WATER SUPPLY & SEWER SERVICE	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 13.35
<b>Complexity Points:</b>	5	<b>Repeat Violator:</b> NO	
<b>CH Group:</b>	08 - Sewage Treatment Facilities		
<b>Location:</b>	1100 FT W OF SH 55 AND APPROX 1900 FT S OF INTX OF SH 35 AND SH 55 IN AVALON ELLIS, TX, ELLIS COUNTY		
<b>TCEQ Region:</b>	REGION 04 - DFW METROPLEX		
<b>ID Number(s):</b>	WASTEWATER PERMIT WQ0013981001 WASTEWATER EPA ID TX0020567		
<b>Compliance History Period:</b>	September 01, 2008 to August 31, 2013	<b>Rating Year:</b> 2013	<b>Rating Date:</b> 09/01/2013
<b>Date Compliance History Report Prepared:</b>	October 14, 2013		
<b>Agency Decision Requiring Compliance History:</b>	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
<b>Component Period Selected:</b>	September 01, 2008 to August 31, 2013		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	TCEQ Staff Member	<b>Phone:</b>	(512) 239-1000

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 03/23/2009 ADMINORDER 2008-1716-MWD-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Effluent Limits PERMIT  
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
Rqmt Prov: Sludge Reporting Requirements PERMIT  
Description: Failure to submit sludge monitoring results at the intervals specified in the permit as documented by a TCEQ record review.
- 2 Effective Date: 11/11/2012 ADMINORDER 2011-1488-MWD-E (Findings Order-Agreed Order Without Denial)  
Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Operational Requirements No. 1 PERMIT

Description: Failure ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the lift station is not provided with an adequate audio-visual system as the system is inside an enclosed structure and there is no emergency phone number provided to contact the operator in case of an emergency.  
Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Agreed Order Docket No. 2008-1716-MWD-E ORDER  
Effluent Limitations PERMIT

Description: Failure to maintain compliance with the permitted effluent limits.  
Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Operational Requirements no. 1 PERMIT

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the rotor at the racetrack/equalization basin was not functional and there were excessive floating and settled solids throughout the basin and the inside wall was cracked.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	September 26, 2008	(711093)
Item 2	October 20, 2008	(727742)
Item 3	October 30, 2008	(711092)
Item 4	November 17, 2008	(727743)
Item 5	December 19, 2008	(727744)
Item 6	January 26, 2009	(750586)
Item 7	March 25, 2009	(768570)
Item 8	April 20, 2009	(768571)
Item 9	May 20, 2009	(768572)
Item 10	June 19, 2009	(805509)
Item 11	July 20, 2009	(805510)
Item 12	August 17, 2009	(805511)
Item 13	September 22, 2009	(805512)
Item 14	December 18, 2009	(805515)
Item 15	March 29, 2010	(831181)
Item 16	September 29, 2010	(866936)
Item 17	August 22, 2011	(959408)
Item 18	September 21, 2011	(965435)
Item 19	October 24, 2011	(971476)
Item 20	December 27, 2011	(984402)
Item 21	February 28, 2012	(998066)
Item 22	April 12, 2012	(1010154)
Item 23	June 12, 2012	(1016547)
Item 24	June 13, 2012	(1016549)
Item 25	June 14, 2012	(1024272)
Item 26	July 16, 2012	(1031662)
Item 27	August 20, 2012	(1038037)
Item 28	September 07, 2012	(1029081)
Item 29	September 20, 2012	(1046775)
Item 30	October 15, 2012	(1061178)
Item 31	November 15, 2012	(1061179)
Item 32	December 21, 2012	(1061180)
Item 33	January 31, 2013	(1079174)
Item 34	February 13, 2013	(1079173)
Item 35	March 12, 2013	(1089404)
Item 36	April 12, 2013	(1095792)
Item 37	May 14, 2013	(1106722)
Item 38	June 17, 2013	(1110397)

**Pending Compliance History Report for CN600788590, RN101511863, Rating Year 2013 which includes Compliance History (CH) components from September 01, 2008, through August 31, 2013.**

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	09/28/2012 (1030440)	CN600788590	
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.126(a) TPDES Permit WQ0013981001 PERMIT		
	Description:	Failure to adhere to the 75/90 rule for flow.		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 319, SubChapter A 319.7(c) TPDES Permit WQ0013981-001 PERMIT		
	Description:	Failure to submit monthly DMR's on time.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(11)(B) TPDES Permit WQ0013898-001 PERMIT		
	Description:	Failure to make sludge hauler manifests available for review.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
	Description:	Failure to make available facility and maintenance records.		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 319, SubChapter A 319.7(a) TPDES Permit WQ0013981001 PERMIT		
	Description:	Failure to maintain complete sampling records.		

**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

TCEQ INTERAGENCY TRANSMITTAL MEMO

DATE: July 10, 2013

TO: Bridget Bohac  
OFFICE OF THE CHIEF CLERK  
BUILDING F, MC-105

FROM: Celia Castro  
ENVIRONMENTAL LAW DIVISION  
BUILDING A, MC-173

**Attached:** Executive Director's Response to Comments

Application Information:

- Air Permit No.: \_\_\_\_\_ Name: \_\_\_\_\_ If known, Docket or CCO Tracking #: \_\_\_\_\_
- Waste Permit No.: \_\_\_\_\_ Name: \_\_\_\_\_ If known, Docket or CCO Tracking #: \_\_\_\_\_
- Water Permit No. 0013981001 Name: Avalon Water Supply & Sewer Service Corp. If known, Docket or CCO Tracking #: \_\_\_\_\_

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
 CHIEF CLERK'S OFFICE  
 2013 JUL 10 AM 3:47

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

FOR WASTE & WATER:

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

FOR AIR:

- Send Response to Comments Letter which solicits hearing requests and requests for reconsideration to those on the attached list AND the mailing list in your files  
*For Air applications this would occur only when there are pending hearing requests*
- Place in File - no further action required by OCC  
*For Air applications this would occur when the matter is uncontested but comments were received, ED will send a copy with MTO letter*  
*For Waste and Water this would not occur*
- Hold until a Commission Agenda date is requested and then enclose with the Agenda Setting Letter  
*For Air applications this would occur when the executive director's position is that the matter meets TCAA '382.056(g) & (o)*
- Other Instructions: \_\_\_\_\_

TPDES Permit No. WQ0013981001

APPLICATION BY AVALON § BEFORE THE  
WATER SUPPLY AND SEWER § TEXAS COMMISSION ON  
SERVICE CORPORATION § ENVIRONMENTAL QUALITY

TEXAS  
COMMISSION ON  
ENVIRONMENTAL  
QUALITY  
2013 JUN 10 PM 3:48  
CHIEF CLERKS OFFICE

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

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The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the Avalon Water Supply and Sewer Service Corporation's (Applicant) application for a major amendment to TPDES permit WQ0013981001, and the ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comments from Carol Gillespie<sup>1</sup> (representing herself and her sisters, Mary Grace Gillespie Bates and Marcia Gillespie). This response addresses all such timely public comments received, whether or not withdrawn.

If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

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<sup>1</sup> Ms. Gillespie is now represented by counsel: Gregory E. Wilhelm, 200 South Rogers St., Suite C, Waxahachie, Texas 75165.

## **BACKGROUND**

### Description of Facility

The Applicant has applied to the TCEQ for a major amendment that would authorize a variance to the buffer zone requirements, reactivation of an existing oxidation ditch which is currently being used as an equalization basin, installation of an additional clarifier, and an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 25,000 gallons per day (gpd) in the Interim phase (current existing phase) to a daily average flow not to exceed 40,000 gpd in the Final Phase. The existing wastewater treatment facility, the Avalon Wastewater Treatment Facility, serves the community of Avalon. The facility is located approximately 1,100 feet west of Farm to Market Road 55 and approximately 1,900 feet south of the intersection of Farm-to-Market Road 55 and State Highway 34 in Ellis County, Texas.

The facility is a proprietary moving-bed bioreactor system designed by Hydroxyl Systems, Inc. The facility retained the pre-existing oxidation ditch and stabilization ponds for equalization and emergency storage. Treatment units in the Interim phase include a bar screen, an equalization basin (formerly an oxidation ditch), two emergency storage ponds, a primary dissolved air flotation (DAF) unit, a fixed-bed bioreactor, a moving-bed bioreactor, a secondary DAF unit, a polymer feed system, two cone-bottom clarifier tanks, an aerobic sludge digester, and a chlorine contact chamber. Treatment

units in the Final phase will also include an oxidation ditch, and a final clarifier. The facility is currently operating in the Interim phase.

The effluent limitations in both the Interim and Final phases of the draft permit, based on a 30-day average, are 20 mg/l Biochemical Oxygen Demand (BOD<sub>5</sub>), 20 mg/l Total Suspended Solids (TSS), Report mg/l Ammonia-Nitrogen (NH<sub>3</sub>-N), 126 CFU or MPN of *E. coli* per 100 ml and 4.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow. The effluent limitations in the draft permit will maintain and protect the existing instream uses.

The treated effluent is discharged through a pipe approximately 100 feet to an unnamed tributary; then to an unnamed reservoir; then to an unnamed tributary; then to Chambers Creek Above Richland Chambers Reservoir in Segment No. 0814 of the Trinity River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary and high aquatic life use for the unnamed reservoir. The designated uses for Segment No. 0814 are high aquatic life use, public water supply, and primary contact recreation.

The 2010 Clean Water Act Section 303(d) list, the State's inventory of impaired and threatened waters, does not currently list Segment No. 0814. However, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent

limitation of 126 CFU or MPN of *E. coli* per 100 ml has been added to the draft permit in accordance with the recent amendments to 30 TAC Chapters 309 and 319.

### Procedural Background

The permit application for a renewal, originally received on June 14, 2011, was withdrawn on February 9, 2012 and replaced with a permit application for a major amendment on the same date. It was declared administratively complete on March 26, 2012. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in the *Waxahachie Daily Light* on April 4, 2012. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published in the *Waxahachie Daily Light* on October 25, 2012. The original public comment period ended on November 26, 2012. Because the application documents were not located at the same address as stated in the published notices, the Applicant subsequently re-noticed this application. A combined NORI/NAPD was published in the *Waxahachie Daily Light* on April 10, 2013 and the extended comment period ended on May 10, 2013. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

### Access to Rules, Laws and Records

The following websites may be useful:

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

TCEQ rules in Title 30 of the Texas Administrative Code:

[www.sos.state.tx.us/tac/](http://www.sos.state.tx.us/tac/)

select TAC Viewer on the right, then Title 30 Environmental Quality)

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

TCEQ website: <http://www.tceq.state.tx.us/rules/index.html>  
(for downloadable rules in Microsoft Word or Adobe PDF formats, select "Rules," then "Current Rules and Regulations," then "Download TCEQ Rules")  
Federal rules in Title 40 of the Code of Federal Regulations:  
<http://www.epa.gov/lawsregs/search/40cfr.html>  
Federal environmental laws: <http://www.epa.gov/lawsregs/>

Commission records for this facility are available for viewing and copying at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1<sup>st</sup> Floor (Office of Chief Clerk, for the current application until final action is taken), or Building E, Room 103 (Central Records, for existing or past permits). The application for this facility has been available for viewing and copying at the S.M. Dunlap Public Library at 300 Main Street in Italy, Texas, since publication of the combined NORI/NAPD. The draft permit, statement of basis/technical summary, and the ED's preliminary decision have been available for review and copying at the same location since publication of the combined NORI/NAPD.

## **COMMENTS AND RESPONSES**

### **COMMENT 1:**

Ms. Gillespie wanted clarification of the TCEQ's buffer zone requirements, especially as they relate to the use of her property and to the Applicant's investigation of eminent domain. Ms. Gillespie noted that the Applicant is investigating eminent domain for an area of 500 feet to 800 feet around the property. Ms. Gillespie also stated that there are inaccurate assertions in the application as to Applicant's attempts to obtain restrictive easements. She claimed that the Applicant has not offered to purchase restrictive easements or to purchase the property.

**RESPONSE 1:**

The TCEQ's rules require buffer zones or odor control plans for abatement of nuisance odor. Residential structures are prohibited within the buffer zones, but property use is not limited by these rules in any other way. The buffer zone distance for un-aerated wastewater treatment units with anaerobic zones is 500 feet. Based on the application, the 500 foot distance would apply to the emergency holding ponds. All other treatment units require a buffer zone distance of 150 feet. Based on the application, the 150 foot distance would apply to all other treatment units.

There are three ways to meet the nuisance odor requirements. The options include ownership or interest in the property, nuisance odor prevention developed by a licensed professional engineer, and legal restrictions that prohibit residential structures. Based on the application, the Applicant cannot meet the requirements using any of these options. See Item 3.e in the Domestic Technical Report 1.0 where the Applicant stated that "The current landowners are unwilling to grant restrictive buffer zone easements and are requesting that the permittee purchase their entire tracts of land. Due to the cost-prohibitive nature of the land purchase, Avalon Water Supply and Sewer Service Corporation would like to request a variance to the buffer zone requirements." An August 15, 2012 letter from the Applicant's representative explained that the Applicant does not own the buffer zone, does not have sufficient legal restrictions, and does not believe that nuisance odor control is practically possible for this facility.

An Applicant for a domestic wastewater permit may apply for a variance from the buffer zone requirements. Pursuant to 30 TAC § 309.13(f), the Applicant is requesting and ED staff is recommending, in Other Requirement No. 4, a variance to the buffer zone requirements based on the lack of alternatives set out in 30 TAC § 309.13(e): an applicant's inability to purchase the necessary land, to secure legal restrictions on the use of adjacent tracts, and to provide nuisance odor prevention. 30 TAC § 309.13(f) states:

(f) For a facility for which a permit application, other than a renewal application, is made after October 8, 1990, if the facility will not meet the buffer zone requirement by one of the alternatives described in subsection (e) of this section, the applicant shall include in the application for the discharge permit a request for a variance. A variance will be considered on a case-by-case basis and, if granted by the commission, shall be included as a condition in the permit. This variance may be granted by the commission, consistent with the policies set out in Texas Water Code, §26.003.

If the Applicant's request for a variance is granted, the buffer zone distances and prohibitions on residential structures within the buffer zone will not apply to this facility.

**COMMENT 2:**

Ms. Gillespie was concerned because the Applicant requested to increase daily average flow from 25,000 gallons per day to 40,000 gallons per day. Ms. Gillespie questioned the need for additional flow, based on the population trends in the area.

**RESPONSE 2:**

The Applicant's existing permit limits the daily average flow to 25,000 gallons per day. The daily average flow from this facility ranged between 11,000 gallons per day and 32,000 gallons per day between February 2007 and January 2012, based on monthly monitoring report data. The existing permit requires that whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities.

During the last permit term, the facility discharged more than 90% of the permitted flow for at least three consecutive months. The Applicant proposed returning the oxidation ditch to service (the oxidation ditch was being used as an equalization basin). If the oxidation ditch is returned to service, the facility is predicted to be capable of treating more than 40,000 gallons per day. The oxidation ditch was previously in service under permit number WQ0011022001, which authorized a discharge of 41,000 gallons per day.

**COMMENT 3:**

Ms. Gillespie was concerned that increased flow from this facility will cause flooding on her property.

**RESPONSE 3:**

TPDES permits establish terms and conditions that are intended to provide water quality pollution control. Therefore, the TCEQ's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. The TCEQ does not have jurisdiction to address flooding in the wastewater permitting process, unless there is an associated water quality concern. The proposed permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. *See Other Requirement No. 6* that requires the Applicant to protect the wastewater treatment facility from a 100-year flood.

Additionally, the Federal Emergency Management Agency (FEMA) has programs that are designed to mitigate damage caused by flooding. You can contact your local floodplain administrator if you have additional flooding concerns.

**COMMENT 4:**

Ms. Gillespie commented that the Applicant failed to maintain an influent pipeline easement on her property, and that a permit should not be issued until this matter is resolved. In a related comment, Ms. Gillespie commented that the Applicant does not have any easement for the discharge pipe that crosses her property, and that the Applicant should pay for an easement, move the pipe, or buy the property.

**RESPONSE 4:**

The TCEQ is not a party to any easement agreement relating to any property being used by the Applicant in connection with this permit. TPDES permits establish terms and conditions that are intended to provide water quality pollution control. Therefore, the TCEQ's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. The TCEQ does not have jurisdiction to address this concern in the wastewater permitting process. The TCEQ does not have authority to require the Applicant to move the existing discharge pipe or buy property. However, Ms. Gillespie may use other common law remedies in court to address any trespass or infringements on her property.

The issuance of this permit does not grant the Applicant the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does the permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the Applicant to acquire property rights as may be necessary to use the discharge route.

**COMMENT 5:**

Ms. Gillespie commented that this facility's collection system is in a state of disrepair, and that a permit authorizing an increase in flow should not be granted until the issue is resolved.

**RESPONSE 5:**

The proposed permit requires that a permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. The TCEQ can enforce against the Applicant for violating terms of a permit. However, the enforcement process is separate from the permitting process.

The existing permit required that whenever the flow reaches 90% of the permitted daily average or annual average flow for three consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities. During the last permit term, the facility discharged more than 90% of the permitted flow for at least three consecutive months. However, the Applicant demonstrated that existing resources at the facility can be used to treat the additional flow. As noted in Response 2, if the oxidation ditch is returned to service, the facility is predicted to be capable of treating more than 40, 000 gallons per day. In addition, Other Requirement No. 11 requires the Applicant to submit quarterly progress reports, which shall include (1) progress toward restoring the function of the existing oxidation ditch, (2) progress toward installing a larger clarifier for improved solids management, and (3) records of maintenance performed on the Hydroxyl system. This should allow the Applicant to focus more of its resources on maintaining and improving the collection system.

**COMMENT 6:**

Ms. Gillespie was concerned because the facility operator listed in the application is a full-time employee of another city.

**RESPONSE 6:**

TCEQ rules require the Applicant to employ a licensed wastewater operator and the chief operator for the facility is required to hold a specific level of license based on the type of treatment and permitted daily average flow. The rules state that the chief operator or an operator with the required level of license or higher must be present at the facility five days per week and available by phone or pager seven days per week. The amount of time per day that the operator is required to be onsite is not stipulated in the rules. The Applicant may contract with an individual operator, company, or other entity to operate the facility. Other Requirement No. 10 reclassifies the operator requirements for this particular facility as Class C or higher. This classification calls for a higher level of license as authorized in 30 TAC § 30.350(h) for a facility that includes unusually complex processes or presents unusual operation or maintenance conditions.

**COMMENT 7:**

Ms. Gillespie was concerned because the application stated that sludge from the facility would be hauled to the City of Italy's wastewater treatment facility for further processing. However, the required acknowledgement from the City of Italy was not included in the application.

**RESPONSE 7:**

Ms. Gillespie's comment was received in an attachment to her May 1, 2012 letter. The TCEQ received the City of Italy's statement about accepting sludge from the Applicant on July 30, 2012.

**COMMENT 8:**

Ms. Gillespie stated that the part of her land that is closest to the facility is used for pasture and is concerned that effluent, and therefore a high level of contamination, is entering the stream used as water supply for her livestock.

**RESPONSE 8:**

The Texas Surface Water Quality Standards (TSWQS) in 30 TAC § 307.6(4) specifically states that "Water in the state shall be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three." The effluent limitations and conditions in the draft permit comply with the TSWQS, 30 TAC §§ 307.1 - 307.10. If the Applicant operates the facility in accordance with the TCEQ rules and the provisions of the proposed permit, aquatic life, livestock and the environment will be protected.

**COMMENT 9:**

Ms. Gillespie commented that neither the TCEQ nor the Applicant notified her of past effluent limit violations.

**RESPONSE 9:**

Effluent data is always available to the public. Effluent data can be obtained free of charge from the EPA's Enforcement & Compliance History Online database. Commission records for this facility are available for viewing and copying and are located at TCEQ's main office in Austin, 12100 Park 35 Circle, Building E, Room 103 (Central Records).

**COMMENT 10:**

Ms. Gillespie commented that she was not notified about applications for this facility in 1999 and 2001.

**RESPONSE 10:**

The 1999 and 2001 applications were both for renewals. 30 TAC §§ 39.551(b)(2)(A) and 39.551(c)(5)(A) state that mailed notice to adjacent and downstream landowners is not required for an application to renew a permit. As to public notice for renewal applications, the agency prepares two public notices: the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI), and the Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD). The Applicant is required by 30 TAC § 39.405(f)(1) to publish these notices in a local newspaper. In addition, 30 TAC § 39.405(g) requires the Applicant to provide a copy of the application, proposed draft permit, and the ED's Preliminary Decision in a public place in the county where the facility is located for viewing and copying. The TCEQ verifies that the notices were published as required.

For new permit applications and for major amendment applications, the Applicant must provide a list of affected landowners. Affected landowners are those landowners located adjacent to the wastewater treatment plant site and landowners with property on either side of the receiving stream for one mile downstream from the point of discharge. The Chief Clerk is required to mail notice of new and major amendment applications to adjacent and downstream landowners.<sup>2</sup>

**COMMENT 11:**

Ms. Gillespie commented that the Applicant's board violated the Texas Open Meetings Act during board meetings.

**RESPONSE 11:**

The TCEQ does not have jurisdiction to address this concern in the wastewater permitting process. TPDES permits establish terms and conditions that are intended to provide water quality pollution control. Therefore, the TCEQ's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state.

**COMMENT 12:**

Ms. Gillespie commented that the Applicant displays a pattern of dishonest, unethical, and illegal behavior. Ms. Gillespie provided several examples, including concern about the Applicant's conduct in board meetings, concern about the Applicant's pursuit of her property, concern that the Applicant's representations to inspectors in the

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<sup>2</sup> See 30 TAC §39.418(b)(2), 39.419(c), and 39.551(c)(2).

TCEQ's Dallas/Ft. Worth regional office were not accurate, and concern that representations in the application were not accurate (specifically related to the Applicant's failure to offer to purchase the land, failure to identify the owner of the effluent disposal site on page 12 of the Administrative Report, and an incorrect facility construction date in Item 13 of the Supplemental Permit Information Form).

**RESPONSE 12:**

TPDES permits are reviewed under applicable sections of the Texas Water Code, TCEQ rules, Procedures to Implement the Texas Surface Water Quality Standards, and EPA rules. The TCEQ does not have jurisdiction to address these concerns in the wastewater permitting process. However, the Commission may deny, revoke, suspend, or modify a permit pursuant to 30 TAC Chapter 305, Subchapter D to remedy decisions based on incomplete or inaccurate information provided in an application.

In response to specific concerns about the application, the TCEQ cannot require the Applicant to purchase easements or property. The question about the owner of the effluent disposal site in the application (Item 7(l) in Domestic Administrative Report 1.0) refers to irrigation sites for beneficial land disposal of effluent. The question does not apply to this facility because the Applicant applied to discharge treated effluent to water in the State. The TCEQ routes the Supplemental Permit Information Form (SPIF) to other agencies for review so that they can comment on the application. The Texas Historical Commission reviews Item 13 in the SPIF, but did not make any comments on this application.

**COMMENT 13:**

Ms. Gillespie was concerned that the application was not displayed in a convenient location.

**RESPONSE 13:**

30 TAC § 39.405(g) requires the Applicant to make a copy of the application available for review and copying at a public place in the county in which the facility is located or proposed to be located and § 39.405 (g)(2) states that “a copy of the complete application (including any subsequent revisions to the application) and executive director's preliminary decision must be available for review and copying beginning on the first day of newspaper publication required by this section and remain available until the commission has taken action on the application or the commission refers issues to [the] State Office of Administrative Hearings.”

In her comments attached to her May 1, 2012 letter, Ms. Gillespie noted that the County Records Building in Waxahachie, Texas, a prior viewing location utilized by the Applicant, was inconvenient and lacking in certain amenities that the Dunlap Library in Italy, Texas, possessed including convenient hours, proximity, and seating accommodations. Because the viewing documents were not located at the same address as stated in the prior published notices, the Applicant subsequently re-noticed this application. Although TCEQ rules do not mandate a specific public place where the application should be placed for review and copying, the viewing documents were in fact

relocated to the Dunlap Library in Italy after the combined NORI/NAPD was published on April 10, 2013.

**COMMENT 14:**

Ms. Gillespie commented that the Applicant and a TCEQ representative trespassed on her property during an inspection, and that the issue needs to be resolved before a permit is issued.

**RESPONSE 14:**

The inspection authority of the Commission can be found in TWC § 26.014. This section authorizes members of the commission and employees and agents of the commission to enter any public and private property for the purpose of inspecting and investigating conditions relating to water quality. Section 26.014 states in pertinent parts that:

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.

In Jackson County Vacuum Truck Service, Inc. v. Lavaca-Navidad River Authority,<sup>3</sup> the court upheld the TCEQ's predecessor agency's authority to enter and inspect public and private lands to investigate possible water pollution concerns.

The Wastewater Permitting Division generally does not conduct inspection or investigations of a wastewater treatment plant when reviewing a wastewater discharge permit application. Inspections and investigations are conducted by the TCEQ Regional Offices. In this case, the appropriate regional office that investigated complaints regarding the facility was the Dallas/Fort Worth office. The trespass issue raised by Ms. Gillespie in her comment is being handled through the Dallas/Fort Worth office.

**COMMENT 15:**

Ms. Gillespie questioned the TCEQ's inspection and complaint investigation procedures.

**RESPONSE 15:**

TPDES permits are reviewed under applicable sections of the Texas Water Code, TCEQ rules, Procedures to Implement the Texas Surface Water Quality Standards, and EPA rules. The TCEQ's process of inspecting facilities and investigating complaints is separate from the permitting process. Inspections and investigations are conducted by the TCEQ Regional Offices. In this case, the appropriate regional office in charge of investigating complaints regarding the facility is the Dallas/Fort Worth office. The office can be contacted at (817) 588-5800. Complaint about the facility concerning its

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<sup>3</sup> 701 S.W.2d 12, 14-15 (Tex.Ct.App. 1985).

compliance with provisions of its permit or TCEQ rules may also be filed by calling the TCEQ Environmental Complaints Hot Line at 1-888-777-3186. Citizen complaints may also be filed by sending an e-mail to [cmplnt@tceq.texas.gov](mailto:cmplnt@tceq.texas.gov) or online at the TCEQ web site (select "Reporting," then "Make an Environmental Complaint"). If the facility is found to be out of compliance, it may be subject to enforcement action.

**COMMENT 16:**

Ms. Gillespie questioned the Applicant's ability to pay enforcement penalties and therefore, their ability to make improvements to the treatment facility.

**RESPONSE 16:**

The TCEQ's enforcement process, including inspecting facilities and investigating complaints, is separate from the permitting process. However, TCEQ does not issue, amend, or renew permits to an entity or person who is delinquent on any penalties or fees.<sup>4</sup> Final action is withheld on an application if it is discovered after the application is considered administratively complete that the owner or entity is delinquent on a fee or penalty until it is paid and the account is current. If fees are deferred, the application can still proceed, but the entity or person must comply with all provisions of an agreed order. According to a recent review of agency records on July 3, 2013, there are no current enforcement actions pending against the Applicant.

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<sup>4</sup> TCEQ Protocol and Procedures for Delinquent Fees and Penalties. Revised July 2012.

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

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

Respectfully submitted,

Texas Commission on Environmental  
Quality

Zak Covar  
Executive Director

Robert Martinez, Director  
Environmental Law Division



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Celia Castro, Staff Attorney  
Environmental Law Division  
State Bar No. 03997350  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
(512) 239-5692

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

I certify that on July 10, 2013, the Executive Director's Response to Public Comment for Permit No. WQ0013981001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

*Celia Castro*

---

Celia Castro, Staff Attorney  
Environmental Law Division  
State Bar No. 03997350

# ATTACHMENT E

# Avalon Water Supply and Sewer Service Corporation WQ0013981001 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  
October 21, 2013

0 0.05 0.1 0.2 0.3 0.4 0.5 Miles  
 Projection: Texas Centric Mapping System  
 Albers (TCMS-A), meters  
 Scale 1:22,304

## Legend

- Discharge Point
- 1 Stream-Mile Downstream
- Discharge Route
- 1-mile Radius Surrounding Applicant's Property
- Applicant's Property
- Requestor's Property-- Carol Gillespie
- Waterbody

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 background imagery of this map is from the current Microsoft Bing map service, as of the date of this map.



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.

PE Buschow CRF-409270a



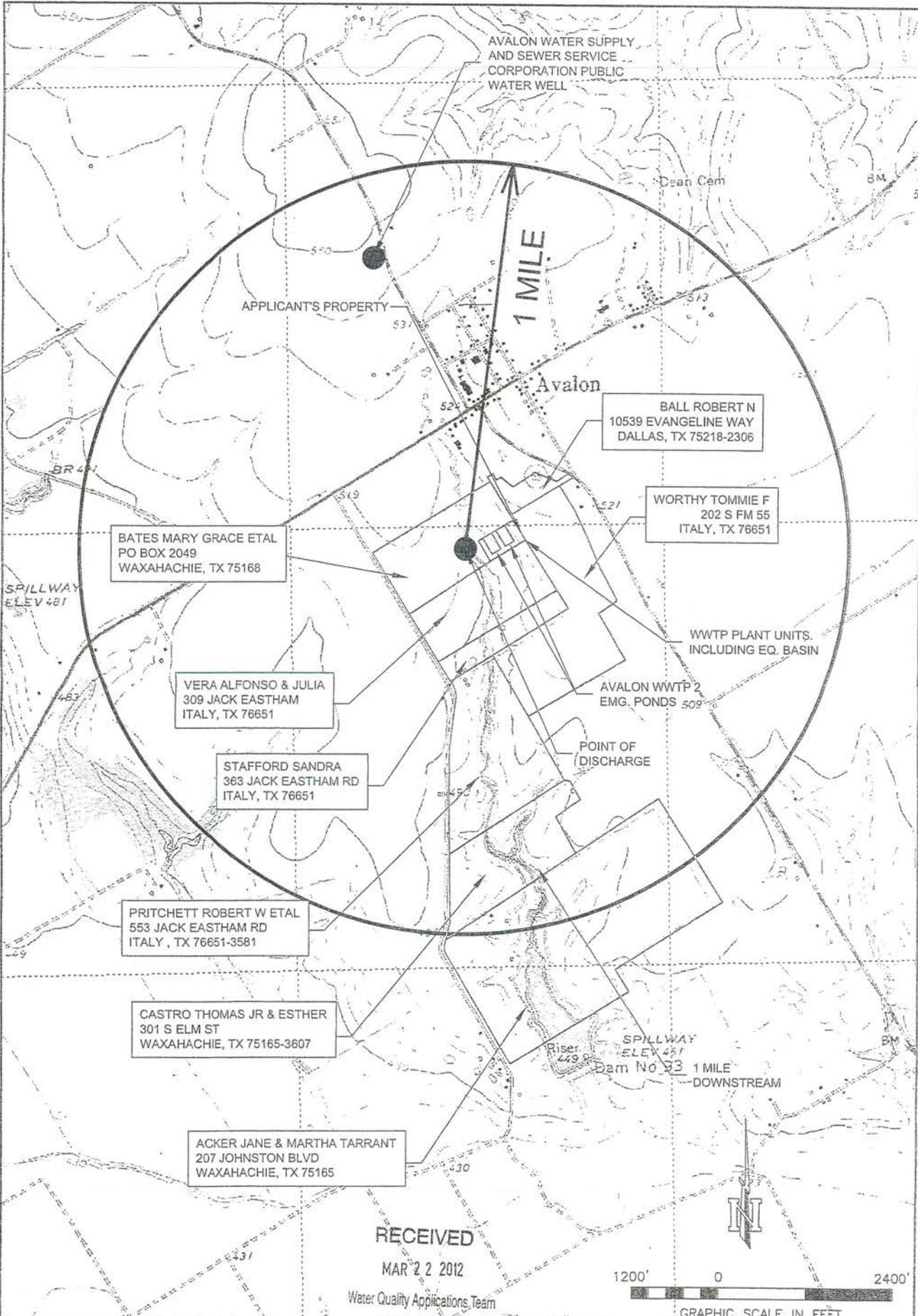
Ellis County

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

Map is courtesy of USGS State of Main Bear © AND © 2013, OME © AND

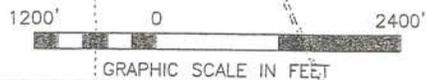


# ATTACHMENT F



RECEIVED  
MAR 22 2012

Water Quality Applications Team



 8873 Spring Dr., Addison, Texas 75001 T. 972.340.2911 F. 972.340.4791 www.ksaeng.com	DRAWN BY KRW	<b>AVALON WATER SUPPLY AND SEWER SERVICE CORPORATION</b>  <b>DOMESTIC ADMINISTRATIVE REPORT 1.1 ITEM 1.a.b</b>	PROJECT NAME _____
	DESIGNED BY SSH		SHEET NAME _____
	LATEST REVISION 3/20/2012		DATE _____
	REV. DATE COL. 002		DRAWING PATH NAME, LAYOUT, PLOT DATE/TIME _____

**Mary Bates**

PO Box 2049  
Waxahachie Texas 75168

**Robert N Ball**

10539 Evangeline Way  
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*Landowners*

*3-18-13*