

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

January 3, 2014

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

Re: Application by New Braunfels Utilities for TPDES Permit No. WQ0010232004;  
TCEQ Docket No. 2013-2151-MWD

Dear Ms. Bohac:

I have enclosed the Executive Director's Response to Hearing Request. Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Stefanie Skogen".

Stefanie Skogen  
Staff Attorney  
Environmental Law Division

Enclosure

cc: Mailing list

**TCEQ Docket No. 2013-2151-MWD**

<b>APPLICATION BY NEW BRAUNFELS UTILITIES FOR NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM (TPDES) PERMIT NO. WQ0010232004</b>	<b>§ § § § §</b>	<b>BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</b>
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**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST**

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Hearing Request on New Braunfels Utilities' (NBU's) application for new TPDES Permit No. WQ0010232004. Irene Alberti filed a hearing request.

Attached for Commission consideration are the following:

- Attachment A – Satellite map of the area
- Attachment B – Fact Sheet and ED's Preliminary Decision
- Attachment C – Draft permit
- Attachment D – ED's Response to Public Comment (RTC)
- Attachment E – Compliance History Reports

**I. FACILITY DESCRIPTION**

NBU applied to the TCEQ for new TPDES Permit No. WQ0010232004 to authorize the discharge of treated domestic wastewater effluent at an annual average flow not to exceed 2.5 million gallons per day (MGD) in the Interim I phase, 4.9 MGD in the Interim II phase, 7.5 MGD in the Interim III phase, and 9.9 MGD in the Final phase. The wastewater treatment facility would be located approximately four miles southeast of the City of New Braunfels, 0.7 mile southwest of the intersection of State Highway 46 and Elley Lane, and 0.6 mile downstream from the Lake Dunlap Dam on the Guadalupe River in Guadalupe County, Texas 78103. The treated effluent would be discharged from Outfall 001 by pipeline to the Lake Dunlap Hydroelectric Plant Canal, then to the Guadalupe River Below Comal River in Segment No. 1804 of the Guadalupe River Basin. The treated effluent would be discharged from Outfall 002 by pipeline to the Guadalupe River Below Comal River in Segment No. 1804 of the Guadalupe River Basin. The designated uses for Segment No. 1804 are high aquatic life use, public water supply, aquifer protection, and primary contact recreation.

**II. BACKGROUND**

The TCEQ received the application on September 12, 2011, and declared it administratively complete on October 24, 2011. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English on November 13, 2011, in the *New Braunfels Herald-Zeitung* and in Spanish on December 16, 2011, in *La Voz*

*de Guadalupe County*. ED staff completed the technical review of the application on April 27, 2012, and prepared a draft permit. The Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published in English on May 8, 2013, in the *New Braunfels Herald-Zeitung* and in Spanish on May 30, 2013, in *La Voz de Guadalupe County*. The public comment period initially ended on July 1, 2013. To correct a publication error with the English NORI, a combined NORI/NAPD was published in English on September 8, 2013, in the *Seguin Gazette*. The public comment period was extended to October 8, 2013. The ED filed its RTC on October 16, 2013. The hearing request and request for reconsideration period ended on December 5, 2013.

### **III. THE EVALUATION PROCESS FOR HEARING REQUESTS**

House Bill (HB) 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment and for the Commission's consideration of hearing requests. The application in this case was declared administratively complete on October 24, 2011. Therefore, it is subject to the HB 801 requirements. The Commission implemented HB 801 by adopting procedural rules in title 30, chapters 39, 50, and 55 of the Texas Administrative Code.

#### **A. Response to Requests**

"The ED, the public interest counsel, and the applicant may submit written responses to [hearing] requests . . . ."<sup>1</sup>

According to section 55.209(e), responses to hearing requests must specifically address the following:

- (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 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 ED's RTC;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.

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

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements. As noted in section 55.201(c), "A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided . . . and may not be

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<sup>1</sup> 30 TEX. ADMIN. CODE § 55.209(d) (West 2013).

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 ED's RTC."

According to section 55.201(d), a hearing request must substantially comply with the following:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the ED'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.

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

To grant a contested case hearing, the Commission must determine that a requestor is an affected person. The factors to consider in making this determination are found in section 55.203 as follows:

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

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

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

Section 50.115(b) details how the Commission refers a matter to SOAH: “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.” Section 50.115(c) further states, “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.”

### **IV. HEARING REQUEST ANALYSIS**

#### **A. Whether the Requestor Complied with Section 55.201(c) and (d)**

Irene Alberti submitted a timely written hearing request on May 16, 2013, that raised issues presented during the public comment period that have not been withdrawn. She provided her address and her contact person’s telephone number and requested a contested case hearing. She identified herself as a person with what she believed to be a personal justiciable interest affected by the application and provided a list of disputed issues of fact that were raised during the public comment period, both of which will be discussed in greater detail below. The ED concludes that the hearing request substantially complies with the section 55.201(c) and (d) requirements.

#### **B. Whether the Requestor Meets the Affected Person Requirements**

Considering the affected person factors listed in section 55.203(c), Attachment A shows that Ms. Alberti’s property is located directly across the Lake Dunlap Hydroelectric Plant Canal from the proposed wastewater treatment plant site, Outfall 001 would discharge to the canal between Ms. Alberti’s and NBU’s properties, and Outfall 002 would discharge to the Guadalupe River just south of Ms. Alberti’s property. In her hearing request, Ms. Alberti described her property as fronting the Guadalupe River and being located across a canal, i.e. twenty yards, from the proposed treatment plant and outfall. She also stated that the installation of the facility and the effluent discharge would devalue her property and limit any future use or development. Property value and development are not interests protected by the law under which a wastewater discharge permit application is considered and, therefore, do not provide bases for

determining that someone is an affected person.<sup>2</sup> While use of property can be an interest protected by the law under which a wastewater discharge permit application is considered, Ms. Alberti did not articulate in what way her use of her property would be affected.<sup>3</sup> Without knowing how her use of her property would be impacted, the ED cannot determine if she has a protected interest in this case, which leads to the conclusion that Ms. Alberti does not have personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Therefore, Ms. Alberti has not met the section 55.203 requirements.

The ED recommends that the Commission hold that Irene Alberti is not an affected person.

### **C. Whether Issues Raised Are Referable to SOAH for a Contested Case Hearing**

The ED analyzed the issues raised in the hearing request in accordance with the applicable regulatory criteria and provides the following recommendations regarding whether the issues can be referred to SOAH if the Commission grants the hearing request. All issues were raised during the public comment period, and none of the issues were withdrawn. All identified issues are considered disputed unless otherwise noted.

#### *1. Whether the proposed facility would adversely affect Ms. Alberti's property's value and future development. (RTC No. 1)*

This is an issue of fact. However, as discussed in Section IV.B above, the proposed facility's potential impact on Ms. Alberti's property's value or future development is not relevant and material to a decision on the application. The ED does not recommend referring this issue to SOAH.

#### *2. Whether the proposed facility would adversely affect Ms. Alberti's future use of her property. (RTC No. 2)*

This is an issue of fact. However, because Ms. Alberti did not state how her future use of her property would be affected, the issue is too vague to conclude that it is relevant and material to a decision on the application. The ED does not recommend referring this issue to SOAH.

Because Ms. Alberti has not identified any referable issues, there are no issues to refer to SOAH pursuant to section 50.115(c). Therefore, the ED recommends denying Ms. Alberti's hearing request.

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<sup>2</sup> *Id.* § 55.203(a), (c)(1).

<sup>3</sup> *Id.* § 55.201(d)(2) (requiring that the hearing request explain "in plain language . . . 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").

## **V. CONTESTED CASE HEARING DURATION**

If there is a contested case hearing on this application, the ED recommends that the duration of the hearing be six months, starting with the preliminary hearing and continuing until the presentation of a proposal for decision to the Commission.

## **VI. CONCLUSION**

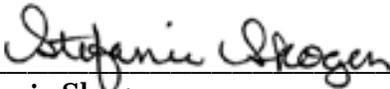
Because Irene Alberti has not met the hearing request requirements, the ED recommends denying her hearing request.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Zak Covar, Executive Director

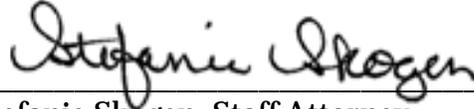
Robert Martinez, Director  
Environmental Law Division

By:  \_\_\_\_\_

Stefanie Skogen  
Staff Attorney  
Environmental Law Division  
State Bar of Texas No. 24046858  
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**CERTIFICATE OF SERVICE**

I certify that on January 3, 2014, a copy of the foregoing document was sent by first class mail or electronic mail to the persons on the attached mailing list.



Stefanie Skogen, Staff Attorney  
Environmental Law Division

**Mailing List  
New Braunfels Utilities  
TCEQ Docket No. 2013-2151-MWD**

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**HEARING REQUESTOR:**

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**OFFICE OF THE CHIEF CLERK:**

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# **ATTACHMENT A**

# New Braunfels Utilities

## WQ0010232004

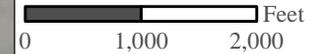
Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087

December 18, 2013

Projection: Texas Centric Mapping System  
Albers (TCMS-A), meters  
Scale 1:19,800



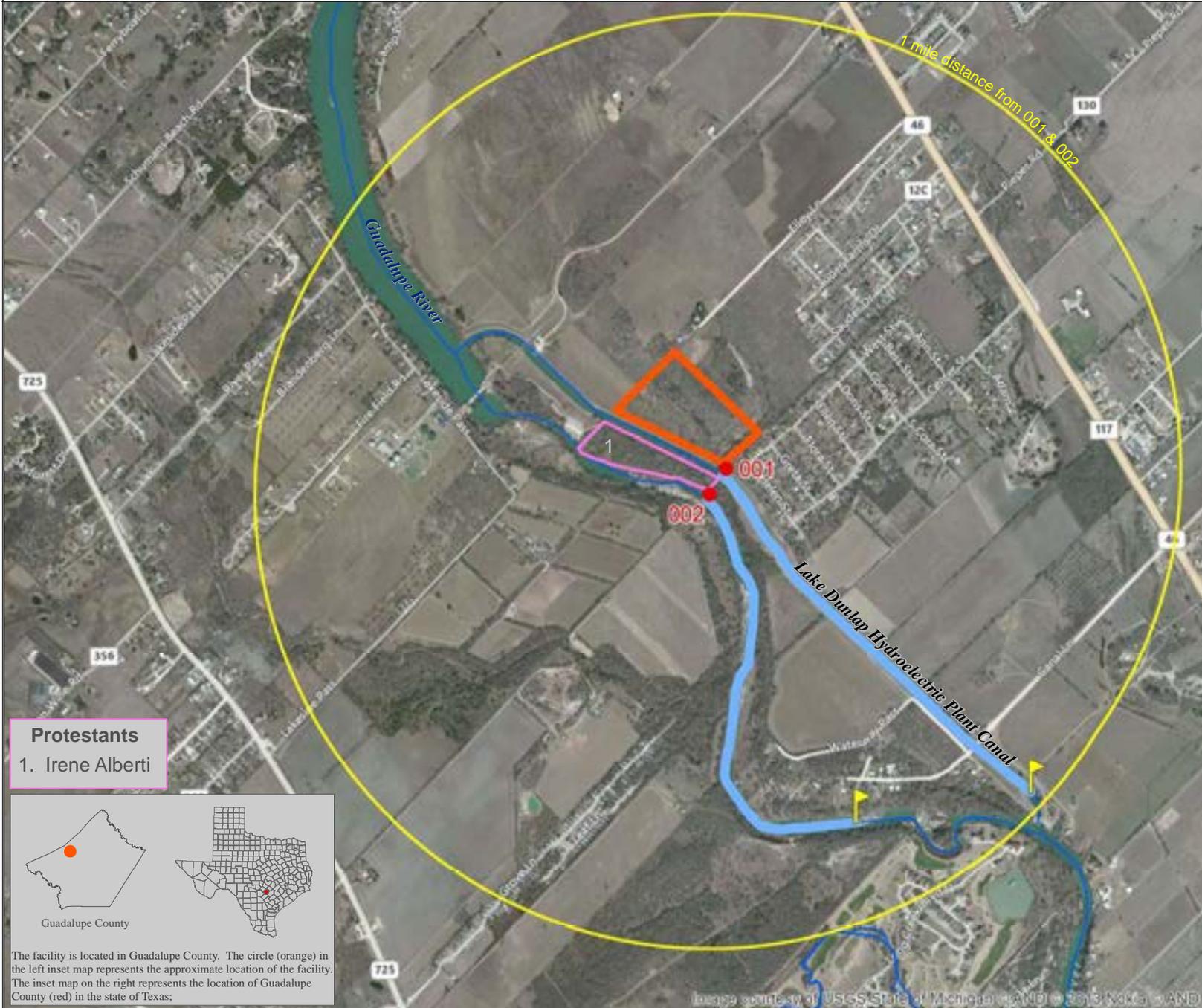
### Legend

- Wastewater Outfall
- ▶ 1 mile downstream from outfall
- Discharge Route
- New Braunfels Utilities
- Protestant's Parcel
- Watercourse

Source: The location of the facility and wastewater outfalls were 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.



**Protestants**  
1. Irene Alberti



The facility is located in Guadalupe County. The circle (orange) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Guadalupe County (red) in the state of Texas;

# **ATTACHMENT B**

## FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

For Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010232004, TX0133248 to discharge to water in the State.

Issuing Office: Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Applicant: New Braunfels Utilities  
263 Main Plaza  
New Braunfels, Texas 78130

Prepared By: Larry Diamond  
Municipal Permits Team  
Wastewater Permitting Section (MC 148)  
Water Quality Division  
(512) 239-0037

Date: February 21, 2013

Permit Action: New Permit

### 1. 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 **February 1, 2017** according to 30 Texas Administrative Code (TAC) § 305.71, Basin Permitting.

### 2. APPLICANT ACTIVITY

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at an annual average flow not to exceed 2.5 million gallons per day in the Interim I phase, an annual average flow not to exceed 4.9 million gallons per day in the Interim II phase, an annual average flow not to exceed 7.5 million gallons per day in the Interim III phase, and an annual average flow not to exceed 9.9 million gallons per day in the Final phase. The proposed wastewater treatment facility will serve the City of New Braunfels.

### 3. FACILITY AND DISCHARGE LOCATION

The plant site will be located approximately 4.0 miles southeast of the City of New Braunfels, 0.7 mile southwest of the intersection of State Highway 46 and Elley Lane, and 0.6 mile downstream from the Lake Dunlap Dam on the Guadalupe River in Guadalupe County, Texas 78130.

The treated effluent will be discharged from the plant site from Outfall 001 via pipeline to the Lake Dunlap Hydroelectric Plant Canal; thence to the Guadalupe River Below Comal River; and from Outfall 002 via pipeline directly to the Guadalupe River Below Comal River in Segment No. 1804 of the Guadalupe River Basin (See Attachment A). The designated uses for Segment No. 1804 are high aquatic life use, public water supply, aquifer protection, and contact recreation.

**4. TREATMENT PROCESS DESCRIPTION AND SEWAGE SLUDGE DISPOSAL**

The Sam C. McKenzie, Jr. Water Reclamation Facility will be an activated sludge process plant operated in the complete mix mode with single-stage nitrification. Treatment units in the Interim I phase will include a lift station, two screening channels, aerated grit chamber, two anoxic basins, two anaerobic basins, two aerations basins, two final clarifiers, two tertiary filters, two aerobic sludge digesters, a belt filter press, and UV disinfection chamber. Treatment units in the Interim II phase will include a lift station, two screening channels, aerated grit chamber, four anoxic basins, four anaerobic basins, four aerations basins, four final clarifiers, three tertiary filters, four aerobic sludge digesters, a belt filter press, and two UV disinfection chambers. Treatment units in the Interim III phase will include a lift station, two screening channels, two aerated grit chambers, six anoxic basins, six anaerobic basins, five aeration basins, five final clarifiers, four tertiary filters, six aerobic sludge digesters, two belt filter presses, and three UV disinfection chambers. Treatment units in the Final phase will include a lift station, two screening channels, two aerated grit chambers, eight anoxic basins, eight anaerobic basins, six aeration basins, six final clarifiers, five tertiary filters, eight aerobic sludge digesters, two belt filter presses, and three UV disinfection chambers. The facility has not been constructed.

Sludge generated from the treatment facility will be hauled by a registered transporter and disposed of at a TCEQ permitted landfill, Mesquite Creek Landfill, Permit No. 66B, in Comal and Guadalupe Counties. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

**5. INDUSTRIAL WASTE CONTRIBUTION**

The draft permit includes pretreatment requirements that are appropriate for a facility of this size and complexity. The New Braunfels Utilities - Sam C. McKenzie, Jr. Water Reclamation Facility will receive significant industrial wastewater contributions.

**6. SUMMARY OF SELF-REPORTED EFFLUENT ANALYSES**

Self-reporting data is not available since the facility is not in operation.

**7. PROPOSED PERMIT CONDITIONS AND MONITORING REQUIREMENTS**

The proposed effluent limitations and monitoring requirements for those parameters that are limited in the draft permit are as follows:

**A. INTERIM I PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS OUTFALL 001**

The annual average flow of effluent shall not exceed 2.5 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 6,944 gallons per minute (gpm).

New Braunfels Utilities TPDES Permit No. WQ0010232004  
 Fact Sheet and Executive Director's Preliminary Decision

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day</u>	<u>Daily</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>Average</u> <u>mg/l</u>	<u>Maximum</u> <u>mg/l</u>
CBOD <sub>5</sub>	10	209	15	25
TSS	15	313	25	40
NH <sub>3</sub> -N	3	63	6	10
Total Phosphorus	1	21	2	4
DO (minimum)	4.0	N/A	N/A	N/A
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per week by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Two/week
TSS	Two/week
NH <sub>3</sub> -N	Two/week
Total P	Two/week
DO	Two/week
<i>E. coli</i>	Daily

B. INTERIM I PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS OUTFALL 002

The annual average flow of effluent shall not exceed 2.5 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 6,944 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day</u>	<u>Daily</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>Average</u> <u>mg/l</u>	<u>Maximum</u> <u>mg/l</u>
CBOD <sub>5</sub>	10	209	15	25
TSS	15	313	25	40
NH <sub>3</sub> -N	3	63	6	10
Total Phosphorus	1	21	2	4
DO (minimum)	4.0	N/A	N/A	N/A
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per week by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Two/week
TSS	Two/week
NH <sub>3</sub> -N	Two/week
Total P	Two/week
DO	Two/week
<i>E. coli</i>	Daily

C. INTERIM I PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS OUTFALL 003

Outfall 003 is defined as the combined annual average flow and combined daily average loading from Outfall 001 and Outfall 002. The annual average combined flow of effluent shall not exceed 2.5 million gallons per day (MGD); nor shall the average combined discharge during any two-hour period (2-hour peak) exceed 6,944 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>	
	<u>mg/l</u>	<u>lbs/day</u>
CBOD <sub>5</sub>		209
TSS		313
NH <sub>3</sub> -N		63
Total Phosphorus		21

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Two/week
TSS	Two/week
NH <sub>3</sub> -N	Two/week
Total P	Two/week

D. INTERIM II PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS OUTFALL 001

The annual average flow of effluent shall not exceed 4.9 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 13,611 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day Average</u>	<u>Daily Maximum</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>mg/l</u>	<u>mg/l</u>
CBOD <sub>5</sub>	10	409	15	25
TSS	15	613	25	40
NH <sub>3</sub> -N	3	123	6	10
Total Phosphorus	1	41	2	4

New Braunfels Utilities TPDES Permit No. WQ0010232004  
 Fact Sheet and Executive Director's Preliminary Decision

DO (minimum)	4.0	N/A	N/A	N/A
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per week by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Two/week
TSS	Two/week
NH <sub>3</sub> -N	Two/week
Total P	Two/week
DO	Two/week
<i>E. coli</i>	Daily

E. INTERIM II PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS OUTFALL 002

The annual average flow of effluent shall not exceed 4.9 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 13,611 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day</u>	<u>Daily</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>Average</u> <u>mg/l</u>	<u>Maximum</u> <u>mg/l</u>
CBOD <sub>5</sub>	10	409	15	25
TSS	15	613	25	40
NH <sub>3</sub> -N	3	123	6	10
Total Phosphorus	1	41	2	4
DO (minimum)	4.0	N/A	N/A	N/A
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per week by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Two/week
TSS	Two/week
NH <sub>3</sub> -N	Two/week
Total P	Two/week
DO	Two/week
<i>E. coli</i>	Daily

F. INTERIM II PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS OUTFALL 003

Outfall 003 is defined as the combined annual average flow and combined daily average loading from Outfall 001 and Outfall 002. The annual average flow of effluent shall not exceed 4.9 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 13,611 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>
	<u>lbs/day</u>
CBOD <sub>5</sub>	409
TSS	613
NH <sub>3</sub> -N	123
Total Phosphorus	41

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Two/week
TSS	Two/week
NH <sub>3</sub> -N	Two/week
Total P	Two/week

G. INTERIM III PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS OUTFALL 001

The annual average flow of effluent shall not exceed 7.5 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 20,833 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day</u>	<u>Daily</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>Average</u>	<u>Maximum</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>mg/l</u>	<u>mg/l</u>
CBOD <sub>5</sub>	10	626	15	25
TSS	15	938	25	40
NH <sub>3</sub> -N	3	188	6	10
Total Phosphorus	0.75	47	1.5	3
DO (minimum)	4.0	N/A	N/A	N/A
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored five times per week by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Five/week
TSS	Five/week
NH <sub>3</sub> -N	Five/week
Total P	Five/week
DO	Five/week
<i>E. coli</i>	Daily

H. INTERIM III PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS OUTFALL 002

The annual average flow of effluent shall not exceed 7.5 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 20,833 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day</u>	<u>Daily</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>Average</u>	<u>Maximum</u>
	<u>mg/l</u>		<u>mg/l</u>	<u>mg/l</u>
CBOD <sub>5</sub>	10	626	15	25
TSS	15	938	25	40
NH <sub>3</sub> -N	3	188	6	10
Total Phosphorus	0.75	47	1.5	3
DO (minimum)	4.0	N/A	N/A	N/A
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored five times per week by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Five/week
TSS	Five/week
NH <sub>3</sub> -N	Five/week
Total P	Five/week

DO Five/week  
*E. coli* Daily

I. INTERIM III PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS OUTFALL 003

Outfall 003 is defined as the combined annual average flow and combined daily average loading from Outfall 001 and Outfall 002. The annual average flow of effluent shall not exceed 7.5 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 20,833 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>
	<u>lbs/day</u>
CBOD <sub>5</sub>	626
TSS	938
NH <sub>3</sub> -N	188
Total Phosphorus	47

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Five/week
TSS	Five/week
NH <sub>3</sub> -N	Five/week
Total P	Five/week

J. FINAL PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS OUTFALL 001

The annual average flow of effluent shall not exceed 9.9 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 27,500 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day</u>	<u>Daily</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>Average</u>	<u>Maximum</u>
	<u>mg/l</u>		<u>mg/l</u>	<u>mg/l</u>
CBOD <sub>5</sub>	10	826	15	25
TSS	15	1,238	25	40
NH <sub>3</sub> -N	3	248	6	10
Total Phosphorus	0.5	41	1	2
DO (minimum)	4.0	N/A	N/A	N/A
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored five times per week by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Five/week
TSS	Five/week
NH <sub>3</sub> -N	Five/week
Total P	Five/week
DO	Five/week
<i>E. coli</i>	Daily

K. FINAL PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS OUTFALL 002

The annual average flow of effluent shall not exceed 9.9 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 27,500 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day</u>	<u>Daily</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>Average</u>	<u>Maximum</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>mg/l</u>	<u>mg/l</u>
CBOD <sub>5</sub>	10	826	15	25
TSS	15	1,238	25	40
NH <sub>3</sub> -N	3	248	6	10
Total Phosphorus	0.5	41	1	2
DO (minimum)	4.0	N/A	N/A	N/A
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored five times per week by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Five/week
TSS	Five/week
NH <sub>3</sub> -N	Five/week
Total P	Five/week
DO	Five/week
<i>E. coli</i>	Daily

L. FINAL PHASE EFFLUENT LIMITATIONS AND MONITORING  
REQUIREMENTS OUTFALL 003

Outfall 003 is defined as the combined annual average flow and combined daily average loading from Outfall 001 and Outfall 002. The annual average flow of effluent shall not exceed 9.9 million gallons per day (MGD); nor shall the average discharge during any two-hour period (2-hour peak) exceed 27,500 gallons per minute (gpm).

<u>Parameter</u>	<u>30-Day Average</u> <u>lbs/day</u>
CBOD <sub>5</sub>	826
TSS	1,238
NH <sub>3</sub> -N	248
Total Phosphorus	41

<u>Parameter</u>	<u>Monitoring Requirement</u>
Flow, MGD	Continuous
CBOD <sub>5</sub>	Five/week
TSS	Five/week
NH <sub>3</sub> -N	Five/week
Total P	Five/week

M. SEWAGE SLUDGE REQUIREMENTS

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 will be hauled by a registered transporter and disposed of at a TCEQ permitted landfill, Mesquite Creek Landfill, Permit No. 66B, in Comal and Guadalupe Counties. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

N. PRETREATMENT REQUIREMENTS

Permit requirements for pretreatment are based on TPDES regulations contained in 30 TAC Chapter 315 which references 40 CFR Part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution" [*rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798*]. The permit includes specific requirements that establish responsibilities of local government, industry, and the public to implement the standards to control pollutants which pass through or interfere with treatment processes in publicly owned treatment works or which may contaminate the sewage sludge. This permit has appropriate pretreatment language for a facility of this size and complexity.

The permittee has a pretreatment program which was approved on **December 4, 1992**, and modified on **September 30, 1993**, and **August 19, 2011**. The permittee is required, under the conditions of the approved pretreatment program, to prepare annually a list of Industrial Users which during the preceding twelve months were in significant noncompliance with applicable pretreatment requirements for those facilities covered under the program which

receive industrial wastewaters. This list is to be published annually during the month of **December** in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW.

The permittee is under a continuing duty to: establish and enforce specific local limits, to implement the provisions of 40 CFR §403.5, to develop and enforce local limits as necessary, and to modify the approved POTW pretreatment program as necessary to comply with federal, state, and local law, as amended. The permittee is required to effectively enforce such limits and to modify their pretreatment program, including the Legal Authority, Enforcement Response Plan and/or Standard Operating Procedures, if required by the Executive Director to reflect changing conditions at the POTW.

The legal authority and the POTW's pretreatment program are not in compliance with current 40 CFR Part 403 regulations [*rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798*] and 30 TAC Chapter 315, as amended. The permittee submitted a modification to their pretreatment program containing some or all of the required [*i.e.* more stringent] Streamlining Rule provisions to the TCEQ on December 20, 2011. The Executive Director is currently reviewing this modification. If after review of the modification submission, the Executive Director determines that the submission does not comply with applicable requirements, including 40 CFR §§403.8 and 403.9, the Executive Director will notify the permittee. According to 40 CFR §403.11(c) or §403.18(b)(3), the notification will include suggested revisions to bring the modification submission into compliance with applicable requirements, including 40 CFR §§403.8(b) and (f), and/or 40 CFR §403.9(b). In such a case, revised information will be necessary for the Executive Director to make a determination on whether to accept, approve, or deny the permittee's modification submission, as applicable.

All of the changes related to the Streamlining Rule may be treated as nonsubstantial if the changes to a POTW's legal authority to incorporate the changes directly reflect the federal requirements. The current regulations provide that modifications that relax a POTW's legal authorities are substantial modifications "except for modifications that directly reflect a revision to [40 CFR] Part 403 or to 40 CFR Chapter I, subchapter N, and are reported pursuant to paragraph (d) of this section." 40 CFR §403.18(b)(1). The EPA further "excludes from the definition of 'substantial modification' those changes in POTW legal authority that result in less prescriptive programs, but which directly reflect a revision to the Federal Pretreatment Regulations (for example, if the federal regulations are streamlined). 40 CFR §403.18(b)(1). Such modifications would have already undergone public notice and comment when promulgated by EPA. As long as the POTW's local ordinance is revised to directly reflect the new federal requirements, further public notice would be unnecessary." *Federal Register / Vol. 62 / July 17, 1997 / pages 38406, 38409.*

#### O. WHOLE EFFLUENT TOXICITY (BIOMONITORING) REQUIREMENTS

- (1) The draft permit includes 7-day chronic freshwater biomonitoring requirements as follows. The permit requires five dilutions in addition to the control (0% effluent) to be used in the toxicity tests. These additional effluent concentrations

shall be 2%, 3%, 4%, 5%, and 7%. The low-flow effluent concentration (critical dilution) is defined as 5% effluent.

- (a) Chronic static renewal 7-day survival and reproduction test using the water flea (*Ceriodaphnia dubia*). The frequency of the testing is once per quarter at least the first year of testing, after which the permittee may apply for a testing frequency reduction.
  - (b) Chronic static renewal 7-day larval survival and growth test using the fathead minnow (*Pimephales promelas*). The frequency of the testing is once per quarter at least the first year of testing, after which the permittee may apply for a testing frequency reduction.
- (2) The draft permit includes the following minimum 24-hour acute freshwater biomonitoring requirements at a frequency of once per six months:
- (a) Acute 24-hour static toxicity test using the water flea (*Daphnia pulex* or *Ceriodaphnia dubia*).
  - (b) Acute 24-hour static toxicity test using the fathead minnow (*Pimephales promelas*).

**P. BUFFER ZONE REQUIREMENTS**

The permittee has obtained legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the permittee which extends into a buffer zone easement that is owned by the Guadalupe Blanco River Authority according to 30 TAC § 309.13(e)(3). (See Attachment B).

**Q. SUMMARY OF CHANGES FROM APPLICATION**

The permittee requested effluent limits of 1.0 mg/l Total Phosphorus. However, the draft permit includes Total Phosphorus limits of 1.0 mg/l in the 2.5 MGD and 4.9 MGD phases. A Total Phosphorus limit of 0.75 mg/l limit in the 7.5 MGD phase and a Total Phosphorus limit of 0.50 mg/l in the 9.9 MGD phase.

**R. SUMMARY OF CHANGES FROM EXISTING PERMIT**

N/A

**8. DRAFT PERMIT RATIONALE**

**A. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS**

Regulations promulgated in Title 40 of the Code of Federal Regulations (CFR) require technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, or on best professional judgment (BPJ) in the absence of guidelines.

Effluent limitations for maximum and minimum pH are in accordance with 40 CFR Part 133.102(c) and 30 TAC § 309.1(b).

Texas Surface Water Quality Standards (TSWQS) at 30 TAC Chapter 307 allow for consideration of the mixing of effluent and receiving water when evaluating discharge compliance with water quality criteria for pH. The discharge authorized by this permit shall meet the TSWQS pH criterion for Segment No. 1804 of 6.5 to 9.0 standard units at the edge of the chronic mixing zone.

A mixing zone evaluation for pH is included within Attachment 1 (Outfall 001) and Attachment 2 (Outfall 002) of this Fact Sheet. The evaluation has demonstrated that the technology based pH limitations of 6.0 to 9.0 standard units will ensure compliance with the TSWQS pH criterion at the edge of the chronic mixing zone.

**B. WATER QUALITY SUMMARY AND COASTAL MANAGEMENT PLAN**

**(1) WATER QUALITY SUMMARY**

The treated effluent will be discharged from the plant site via Outfall 001 to the Lake Dunlap Hydroelectric Plant Canal; thence to the Guadalupe River Below Comal River; and from Outfall 002 via pipeline directly to the Guadalupe River Below Comal River in Segment No. 1804 of the Guadalupe River Basin. The designated uses for Segment No. 1804 are high aquatic life use, public water supply, aquifer protection, and contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with §307.5 and the TCEQ implementation procedures (January 2003) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in the Diversion Canal to the Guadalupe River and to the mainstem of the Guadalupe River, which have 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.

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 1804 is not currently listed on the State's inventory of impaired and threatened waters, the 2010 Clean Water Act Section 303(d) list.

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.

(2) CONVENTIONAL PARAMETERS

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 limits recommended above have been reviewed for consistency with WQMP. The recommended limits are not contained in the approved WQMP. However, these limits will be included in the next WQMP update. A Waste Load Evaluation has not been prepared for Segment 1804.

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.

(3) COASTAL MANAGEMENT PLAN

The facility is not located in the Coastal Management Program boundary.

C. WATER QUALITY-BASED EFFLUENT LIMITATIONS/CONDITIONS

(1) GENERAL COMMENTS

The Texas Surface Water Quality Standards (30 TAC Chapter 307) state that "surface waters will not be toxic to man, or to terrestrial or aquatic life." The methodology outlined in the "Procedures to Implement the Texas Surface Water Quality Standards, January 2003" is designed to ensure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater that: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation that threatens human health.

(2) AQUATIC LIFE CRITERIA

(a) SCREENING

Water quality-based effluent limitations are calculated from freshwater aquatic life criteria found in Table 1 of the Texas Surface Water Quality Standards (30 TAC Chapter 307).

Acute freshwater criteria are applied at the edge of the zone of initial dilution (ZID) and chronic freshwater criteria are applied at the edge of the aquatic life mixing zone. The ZID for this discharge is defined as 20 feet upstream and 60 feet downstream from the point where the discharge enters the Lake Dunlap Hydroelectric Plant Diversion Canal (for Outfall 001) and where the discharge enters the Guadalupe River (for Outfall 002). The aquatic life mixing zone for this discharge is defined as 100 feet upstream and 300 feet downstream from the point where the discharge enters the Lake Dunlap Hydroelectric Plant Diversion Canal (for Outfall 001) and where the discharge enters the Guadalupe River (for Outfall 002)

TCEQ uses the mass balance equation to estimate dilutions at the edges of the ZID and aquatic life mixing zone during critical conditions. The estimated dilution at the edge of the aquatic life mixing zone is calculated using the final permitted flow of 9.9 MGD and the 7-day, 2-year (7Q2) flow of 294.19 cfs for the Lake Dunlap Hydroelectric Plant Diversion Canal (Outfall 001) and 323.59 cfs for the Guadalupe River (Outfall 002). The estimated dilution at the edge of the ZID is calculated using the final permitted flow of 9.9 MGD and 25% of the 7Q2 flow. The following critical effluent percentages are being used:

Acute Effluent %:	17.24%	Chronic Effluent %:	4.95%
	(Outfall 001)		(Outfall 001)
	15.92%		4.52%
	(Outfall 002)		(Outfall 002)

Wasteload allocations (WLAs) are calculated using the above estimated effluent percentages, criteria outlined in the Texas Surface Water Quality Standards, and partitioning coefficients for metals (when appropriate and designated in the implementation procedures). The WLA is the end-of-pipe effluent concentration that can be discharged, when after mixing in the receiving stream, instream numerical criteria will not be exceeded. From the WLA, a long term average (LTA) is calculated using a log normal probability distribution, a given coefficient of variation (0.6), and a 90<sup>th</sup> percentile confidence level. The LTA is the long term average effluent concentration for which the WLA will never be exceeded using a selected percentile confidence level. The lower of the two LTAs (acute and chronic) is used to calculate a daily average and daily maximum effluent limitation for the protection of aquatic life using the same statistical considerations with the 99<sup>th</sup> percentile confidence level and a standard number of monthly effluent samples collected (12). Assumptions used in deriving the effluent limitations include segment values for hardness, chlorides, pH and Total Suspended Solids (TSS) according to the segment-specific values contained in the TCEQ guidance document, "Procedures to Implement the Texas Surface Water Quality Standards, January 2003." The segment values are 199 mg/l CaCO<sub>3</sub> for hardness, 20

mg/l Chlorides, 7.58 standard units for pH, and 5 mg/l for TSS. For additional details on the calculation of water quality-based effluent limitations, refer to the TCEQ guidance document.

TCEQ practice for determining significant potential is to compare the reported analytical data against percentages of the calculated daily average water quality-based effluent limitation. Permit limitations are required when analytical data reported in the application exceeds 85% of the calculated daily average water quality-based effluent limitation. Monitoring and reporting is required when analytical data reported in the application exceeds 70% of the calculated daily average water quality-based effluent limitation.

(b) PERMIT ACTION

No analytical data is available for screening against water quality-based effluent limitations since the facility is not in operation.

(3) AQUATIC ORGANISM BIOACCUMULATION CRITERIA

(a) SCREENING

Water quality-based effluent limitations for the protection of human health are calculated using criteria for the consumption of freshwater fish tissue and drinking water found in Table 3 of the Texas Surface Water Quality Standards (30 TAC Chapter 307). Freshwater fish tissue bioaccumulation and drinking water criteria are applied at the edge of the human health mixing zone. The human health mixing zone for this discharge is identical to the aquatic life mixing zone. TCEQ uses the mass balance equation to estimate dilution at the edge of the human health mixing zone during average flow conditions. The estimated dilution at the edge of the human health mixing zone is calculated using the final permitted flow of 9.9 MGD and the harmonic mean flow of 386.57 cfs for the Lake Dunlap Hydroelectric Plant Diversion Canal (Outfall 001) and 415.97 cfs for the Guadalupe River (Outfall 002). The following critical effluent percentage is being used:

Human Health Effluent %:	3.81%
	(Outfall 001)
	3.55%
	(Outfall 002)

Water quality-based effluent limitations for human health protection against the consumption of fish tissue are calculated using the same procedure as outlined for calculation of water quality-based effluent limitations for aquatic life protection. A 99<sup>th</sup> percentile confidence level in the long term average calculation is used with only one long term average value being calculated.

Significant potential is again determined by comparing reported analytical data against 70% and 85% of the calculated daily average water quality-based effluent limitation.

(b) PERMIT ACTION

No analytical data is available for screening against water quality-based effluent limitations since the facility is not in operation.

(4) DRINKING WATER SUPPLY PROTECTION

(a) SCREENING

Water Quality Segment No. 1804, which receives the discharge from this facility, is designated as a public water supply. The screening procedure used to calculate water quality-based effluent limitations and determine the need for effluent limitations or monitoring requirements is identical to the procedure outlined in the aquatic organism bioaccumulation section of this fact sheet. Criteria used in the calculation of water quality-based effluent limitations for the protection of a drinking water supply are outlined in Table 3 (Water and Fish) of the Texas Surface Water Quality Standards (30 TAC Chapter 307). These criteria are developed from either drinking water maximum contaminant level (MCL) criteria outlined in 30 TAC Chapter 290 or from the combined human health effects of exposure to consumption of fish tissue and ingestion of drinking water.

(b) PERMIT ACTION

No analytical data is available for screening against water quality-based effluent limitations since the facility is not in operation.

(5) WHOLE EFFLUENT TOXICITY (BIOMONITORING) CRITERIA

(a) SCREENING

TCEQ has determined that there may be pollutants present in the effluent that may have the potential to cause toxic conditions in the receiving stream. Whole effluent biomonitoring is the most direct measure of potential toxicity that incorporates the effects of synergism of effluent components and receiving stream water quality characteristics. Biomonitoring of the effluent is, therefore, required as a condition of this permit to assess potential toxicity.

The permit includes 7-day chronic freshwater biomonitoring requirements. The facility has yet to be constructed. Therefore, there is no WET testing history.

A reasonable potential (RP) determination was performed in accordance with 40 CFR §122.44(d)(1)(ii) to determine whether the discharge will reasonably be expected to cause or contribute to an exceedance of a state water quality standard or criterion within that standard. Each test species

is evaluated separately. The RP determination is based on representative data from the previous five years of chronic WET testing. The table below identifies the number of test failures required to necessitate that a WET limit be placed in the permit or the consideration of additional Best Professional Judgment (BPJ) factors, such as the duration and magnitude of the failures.

<b>WET Reasonable Potential Determination Thresholds</b>
More than 3 failures in the past five years = WET limit
3 failures with 2 or 3 occurring in the past 3 years = WET limit
1 to 3 failures in the past five years but 1 or less in last 3 years = BPJ
0 failures = No limit

With zero failures, a determination of no RP was made. If RP is not demonstrated, WET limits are not required and the test species are eligible for the testing frequency reduction.

(b) PERMIT ACTION

The test species are appropriate to measure the toxicity of the effluent consistent with the requirements of the State water quality standards. The biomonitoring frequency has been established to reflect the likelihood of ambient toxicity and to provide data representative of the toxic potential of the facility's discharge. This permit may be reopened to require effluent limits, additional testing, or other appropriate actions to address toxicity if biomonitoring data show actual or potential ambient toxicity to be the result of the permittee's discharge to the receiving stream or water body.

No analytical data is available since the facility is not in operation.

(6) WHOLE EFFLUENT TOXICITY CRITERIA (24 - HOUR ACUTE)

(a) SCREENING

The permit includes 24-hour acute freshwater biomonitoring language. The facility has yet to be constructed. Therefore, there is no WET testing history.

(b) PERMIT ACTION

The draft permit includes 24-hour 100% acute biomonitoring tests for the life of the permit.

**9. WATER QUALITY VARIANCE REQUESTS**

No variance requests have been received.

**10. PROCEDURES FOR FINAL DECISION**

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

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

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

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

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

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

For additional information about this application contact Larry Diamond at (512) 239-0037.

**11. ADMINISTRATIVE RECORD**

The following items were considered in developing the draft permit:

**A. APPLICATION**

Application received September 12, 2011 and additional information received October 18, 2011, January 20, 2012, April 17, 2012, September 10, 2012, November 20, 2012, December 21, 2012, and February 6, 2013.

**B. MEMORANDA**

Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division. Interoffice memorandum from the Storm Water & Pretreatment Team of the TCEQ Water Quality Division.

**C. MISCELLANEOUS**

Federal Clean Water Act, § 402; Texas Water Code § 26.027; 30 TAC Chapters 305, 309, 312, 319, 30; Commission policies; and EPA guidelines.

Texas Surface Water Quality Standards, 30 TAC §§ 307.1 - 307.10.

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

Texas 2010 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, August 25, 2010; approved by the EPA November 18, 2011.

"TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits", Document No. 98-001.000-OWR-WQ, May 1998.

New Braunfels Utilities TPDES Permit No. WQ0010232004  
Attachment 1

Calculation of pH of a mixture of two flows. Based on the procedure in EPA's DESCON program (EPA, 1988, Technical Guidance on Supplementary Stream Design Conditions for Steady State Modelling. USEPA Office of Water, Washington D.C.)

**TPDES Permit No. 10232-004 (Outfall 001), New Braunfels Utilities**

INPUT		OUTPUT	
1. DILUTION FACTOR AT MIXING ZONE BOUNDARY	20.200	20.200	20.200
RECEIVING WATER CHARACTERISTICS			
2. Temperature (deg C):	32.20	32.20	32.20
3. pH:	7.70	7.70	7.70
4. Alkalinity (mg CaCO3/L):	213.00	213.00	213.00
EFFLUENT CHARACTERISTICS			
5. Temperature (deg C):	31.00	31.00	31.00
6. pH:	6.00	6.00	9.00
7. Alkalinity (mg CaCO3/L):	20.00 *	20.00 *	426.00
1. IONIZATION CONSTANTS			
Upstream/Background pKa:	6.31	6.31	6.31
Effluent pKa:	6.32	6.32	6.32
2. IONIZATION FRACTIONS			
Upstream/Background Ionization Fraction:	0.96	0.96	0.96
Effluent Ionization Fraction:	0.32	0.32	1.00
3. TOTAL INORGANIC CARBON			
Upstream/Background Total Inorganic Carbon (mg CaCO3/L):	221.77	221.77	221.77
Effluent Total Inorganic Carbon (mg CaCO3/L):	61.74	61.74	426.89
4. CONDITIONS AT MIXING ZONE BOUNDARY			
Temperature (deg C):	32.14	32.14	32.14
Alkalinity (mg CaCO3/L):	203.45	203.45	223.54
Total Inorganic Carbon (mg CaCO3/L):	213.84	213.84	231.92
pKa:	6.31	6.31	6.31
<b>pH at Mixing Zone Boundary:</b>	<b>7.61</b>	<b>7.61</b>	<b>7.74</b>

\* Assume minimal total alkalinity at low effluent pH based on carbonate equilibrium chemistry of natural and treated waters

New Braunfels Utilities TPDES Permit No. WQ0010232004  
Attachment 2

Calculation of pH of a mixture of two flows. Based on the procedure in EPA's DESCOR program (EPA, 1988. Technical Guidance on Supplementary Stream Design Conditions for Steady State Modeling. USEPA Office of Water, Washington D.C.)

**TPDES Permit No. 10232-004 (Outfall 002), New Braunfels Utilities**

INPUT		OUTPUT	
1. DILUTION FACTOR AT MIXING ZONE BOUNDARY	22.100	22.100	22.100
RECEIVING WATER CHARACTERISTICS			
2. Temperature (deg C):	32.20	32.20	32.20
3. pH:	7.70	7.70	7.70
4. Alkalinity (mg CaCO3/L):	213.00	213.00	213.00
EFFLUENT CHARACTERISTICS			
5. Temperature (deg C):	31.00	31.00	31.00
6. pH:	6.00	9.00	9.00
7. Alkalinity (mg CaCO3/L):	20.00 *	426.00	426.00
1. IONIZATION CONSTANTS			
Upstream/Background pKa:	6.31	6.31	6.31
Effluent pKa:	6.32	6.32	6.32
2. IONIZATION FRACTIONS			
Upstream/Background Ionization Fraction:	0.96	0.96	0.96
Effluent Ionization Fraction:	0.32	1.00	1.00
3. TOTAL INORGANIC CARBON			
Upstream/Background Total Inorganic Carbon (mg CaCO3/L):	221.77	221.77	221.77
Effluent Total Inorganic Carbon (mg CaCO3/L):	61.74	426.89	426.89
4. CONDITIONS AT MIXING ZONE BOUNDARY			
Temperature (deg C):	32.15	32.15	32.15
Alkalinity (mg CaCO3/L):	204.27	222.64	222.64
Total Inorganic Carbon (mg CaCO3/L):	214.53	231.05	231.05
pKa:	6.31	6.31	6.31
<b>pH at Mixing Zone Boundary:</b>		<b>7.61</b>	<b>7.74</b>

\* Assume minimal total alkalinity at low effluent pH based on carbonate equilibrium chemistry of natural and treated waters

# **ATTACHMENT C**



TPDES PERMIT NO.  
WQ0010232004  
[For TCEQ office use only - EPA I.D.  
No. TX0133248]

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

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

New Braunfels Utilities

whose mailing address is

263 Main Plaza  
New Braunfels, Texas 78130

is authorized to treat and discharge wastes from the Sam C. McKenzie, Jr. Water Reclamation Facility, SIC Code 4952

located approximately 4.0 miles southeast of the City of New Braunfels, 0.7 mile southwest of the intersection of State Highway 46 and Elley Lane, and 0.6 mile downstream from the Lake Dunlap Dam on the Guadalupe River in Guadalupe County, Texas 78130

from the plant site from Outfall 001 via pipeline to the Lake Dunlap Hydroelectric Plant Canal; thence to the Guadalupe River Below Comal River; and from Outfall 002 via pipeline directly to the Guadalupe River Below Comal River in Segment No. 1804 of the Guadalupe River Basin (See Attachment A)

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

This permit shall expire at midnight, **February 1, 2017**.

ISSUED DATE:

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For the Commission

INTERIM I EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTSOutfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 4.9 million gallons per day (MGD) facilities, the permittee is authorized to discharge subject to the following effluent limitations:

The annual average flow of effluent shall not exceed 2.5 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 6,944 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Min. Self-Monitoring Requirements</u>		
	<u>Daily Avg</u> mg/l (lbs/day)	<u>7-day Avg</u> mg/l	<u>Daily Max</u> mg/l	<u>Report Daily Avg. &amp; Daily Max.</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (209)	15	25	35	Two/week	Composite
Total Suspended Solids	15 (313)	25	40	60	Two/week	Composite
Ammonia Nitrogen	3 (63)	6	10	15	Two/week	Composite
Total Phosphorus	1 (21)	2	4	6	Two/week	Composite
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	399	N/A	Daily	Grab

2. The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. 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 week 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 twice per week by grab sample.
7. The annual average flow and maximum 2-hour peak flow shall be reported monthly.

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 4.9 million gallons per day (MGD) facilities and lasting through the completion of expansion to the 7.5 MGD facilities, the permittee is authorized to discharge subject to the following effluent limitations:

The annual average flow of effluent shall not exceed 4.9 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 13,611 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	Report mg/l	Single Grab mg/l	Report Daily Avg. & Daily Max. Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (409)	15	25	35	35	Two/week	Composite
Total Suspended Solids	15 (613)	25	40	60	60	Two/week	Composite
Ammonia Nitrogen	3 (123)	6	10	15	15	Two/week	Composite
Total Phosphorus	1 (41)	2	4	6	6	Two/week	Composite
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	399	N/A	N/A	Daily	Grab

- The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
- The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per week by grab sample.
- There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
- Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
- The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored twice per week by grab sample.
- The annual average flow and maximum 2-hour peak flow shall be reported monthly.

INTERIM III EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 7.5 million gallons per day (MGD) facilities and lasting through the completion of expansion to the 9.9 MGD facilities, the permittee is authorized to discharge subject to the following effluent limitations:

The annual average flow of effluent shall not exceed 7.5 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 20,833 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Min. Self-Monitoring Requirements</u> Report Daily Avg. & Daily Max.	<u>Measurement Frequency</u>	<u>Sample Type</u>
	<u>Daily Avg</u> mg/l (lbs/day)	<u>7-day Avg</u> mg/l	<u>Daily Max</u> mg/l			
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (626)	15	25	35	Five/week	Composite
Total Suspended Solids	15 (938)	25	40	60	Five/week	Composite
Ammonia Nitrogen	3 (188)	6	10	15	Five/week	Composite
Total Phosphorus	0.75 (47)	1.5	3	4.5	Five/week	Composite
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	399	N/A	Daily	Grab

2. The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. 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 five times per week 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 five times per week by grab sample.
7. The annual average flow and maximum 2-hour peak flow shall be reported monthly.

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 9.9 million gallons per day (MGD) facilities and lasting through the date of permit expiration, the permittee is authorized to discharge subject to the following effluent limitations:
- The annual average flow of effluent shall not exceed 9.9 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 27,500 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	Measurement Frequency	Report Daily Avg. & Daily Max. Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (826)	15	25	35	Five/week	Composite
Total Suspended Solids	15 (1,238)	25	40	60	Five/week	Composite
Ammonia Nitrogen	3 (248)	6	10	15	Five/week	Composite
Total Phosphorus	0.5 (41)	1	2	3	Five/week	Composite
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	399	N/A	Daily	Grab

2. The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. 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 five times per week 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 five times per week by grab sample.
7. The annual average flow and maximum 2-hour peak flow shall be reported monthly.

INTERIM I EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 002\*

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 4.9 million gallons per day (MGD) facilities, the permittee is authorized to discharge subject to the following effluent limitations:

The annual average flow of effluent shall not exceed 2.5 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 6,944 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Min. Self-Monitoring Requirements</u> Report Daily Avg. & Daily Max.	<u>Measurement Frequency</u>	<u>Sample Type</u>
	<u>Daily Avg</u> mg/l (lbs/day)	<u>7-day Avg</u> mg/l	<u>Daily Max</u> mg/l			
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (209)	15	25	35	Two/week	Composite
Total Suspended Solids	15 (313)	25	40	60	Two/week	Composite
Ammonia Nitrogen	3 (63)	6	10	15	Two/week	Composite
Total Phosphorus	1 (21)	2	4	6	Two/week	Composite
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	399	N/A	Daily	Grab

\* See Other Requirement No. 12

- The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
- The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per week by grab sample.
- There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
- Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
- The effluent shall contain a minimum dissolved oxygen of 4.0 mg/l and shall be monitored twice per week by grab sample.
- The annual average flow and maximum 2-hour peak flow shall be reported monthly.

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 002\*

1. During the period beginning upon the completion of expansion to the 4.9 million gallons per day (MGD) facilities and lasting through the completion of expansion to the 7.5 MGD facilities, the permittee is authorized to discharge subject to the following effluent limitations:  
The annual average flow of effluent shall not exceed 4.9 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 13,611 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	Report mg/l	Single Grab mg/l	Report Daily Avg. & Daily Max. Measurement Frequency Sample Type
Flow, MGD	Report	N/A	Report	Report	N/A	Continuous Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (409)	15	25	25	35	Two/week Composite
Total Suspended Solids	15 (613)	25	40	40	60	Two/week Composite
Ammonia Nitrogen	3 (123)	6	10	10	15	Two/week Composite
Total Phosphorus	1 (41)	2	4	4	6	Two/week Composite
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	399	399	N/A	Daily Grab

\* See Other Requirement No. 12

2. The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. 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 week 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 twice per week by grab sample.
7. The annual average flow and maximum 2-hour peak flow shall be reported monthly.

INTERIM III EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 002\*

1. During the period beginning upon the completion of expansion to the 7.5 million gallons per day (MGD) facilities and lasting through the completion of expansion to the 9.9 MGD facilities, the permittee is authorized to discharge subject to the following effluent limitations:

The annual average flow of effluent shall not exceed 7.5 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 20,833 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	Report mg/l	Report Daily Avg. & Daily Max. Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (626)	15	25	35	Five/week	Composite
Total Suspended Solids	15 (938)	25	40	60	Five/week	Composite
Ammonia Nitrogen	3 (188)	6	10	15	Five/week	Composite
Total Phosphorus	0.75 (47)	1.5	3	4.5	Five/week	Composite
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	399	N/A	Daily	Grab

\* See Other Requirement No. 12

2. The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. 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 five times per week 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 five times per week by grab sample.
7. The annual average flow and maximum 2-hour peak flow shall be reported monthly.

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTSOutfall Number 002\*

1. During the period beginning upon the completion of expansion to the 9.9 million gallons per day (MGD) facilities and lasting through the date of permit expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The annual average flow of effluent shall not exceed 9.9 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 27,500 gallons per minute (gpm).

Effluent Characteristic	Discharge Limitations			Min. Self-Monitoring Requirements	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Daily Max. Measurement Frequency    Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (826)	15	25	35	Five/week Composite
Total Suspended Solids	15 (1,238)	25	40	60	Five/week Composite
Ammonia Nitrogen	3 (248)	6	10	15	Five/week Composite
Total Phosphorus	0.5 (41)	1	2	3	Five/week Composite
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	399	N/A	Daily Grab

\* See Other Requirement No. 12

2. The permittee shall utilize an Ultraviolet Light (UV) system for disinfection purposes. 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 five times per week 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 five times per week by grab sample.
7. The annual average flow and maximum 2-hour peak flow shall be reported monthly.

INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 003

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 4.9 million gallons per day (MGD) facilities, the permittee is authorized to discharge subject to the following effluent limitations:

The annual average flow of effluent shall not exceed 2.5 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 6,944 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>	<u>Min. Self-Monitoring Requirements</u>
	Daily Avg lbs/day	Report lbs/day
	Report	Measurement Frequency
		Sample Type
Flow, MGD		Continuous
Carbonaceous Biochemical Oxygen Demand (5-day)	209	Two/week
Total Suspended Solids	313	Two/week
Ammonia Nitrogen	63	Two/week
Total Phosphorus	21	Two/week
		Totalizing Meter
		Composite

2. Outfall 003 is defined as the combined flow and loadings from Outfall 001 and Outfall 002.

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 003

1. During the period beginning upon the completion of expansion to the 4.9 million gallons per day (MGD) facilities and lasting through the completion of expansion to the 7.5 MGD facilities, the permittee is authorized to discharge subject to the following effluent limitations:  
 The annual average flow of effluent shall not exceed 4.9 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 13,611 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Min. Self-Monitoring Requirements Report Daily Avg. &amp; Daily Max.</u>	<u>Sample Type</u>
	<u>Daily Avg</u> lbs/day	<u>7-day Avg</u> mg/l	<u>Daily Max</u> mg/l		
Flow, MGD	Report	N/A	Report	N/A	Continuous Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	409				Two/week Composite
Total Suspended Solids	613				Two/week Composite
Ammonia Nitrogen	123				Two/week Composite
Total Phosphorus	41				Two/week Composite

2. Outfall 003 is defined as the combined flow and loadings from Outfall 001 and Outfall 002.

INTERIM III EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 003

1. During the period beginning upon the completion of expansion to the 7.5 million gallons per day (MGD) facilities and lasting through the completion of expansion to the 9.9 MGD facilities, the permittee is authorized to discharge subject to the following effluent limitations:  
 The annual average flow of effluent shall not exceed 7.5 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 20,833 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>			<u>Min. Self-Monitoring Requirements</u>	
	<u>Daily Avg</u> lbs/day	<u>7-day Avg</u> mg/l	<u>Daily Max</u> mg/l	<u>Report Daily Avg. &amp; Daily Max.</u> Measurement Frequency	<u>Sample Type</u>
Flow, MGD	Report	N/A	Report	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	626			Five/week	Composite
Total Suspended Solids	938			Five/week	Composite
Ammonia Nitrogen	188			Five/week	Composite
Total Phosphorus	47			Five/week	Composite

2. Outfall 003 is defined as the combined flow and loadings from Outfall 001 and Outfall 002.

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS Outfall Number 003

1. During the period beginning upon the completion of expansion to the 9.9 million gallons per day (MGD) facilities and lasting through the date of permit expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The annual average flow of effluent shall not exceed 9.9 MGD; nor shall the average discharge during any two-hour period (2-hour peak) exceed 27,500 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>	<u>Min. Self-Monitoring Requirements</u>
Flow, MGD	Daily Avg lbs/day	Report Daily Avg. & Daily Max.
Carbonaceous Biochemical Oxygen Demand (5-day)	Report	Measurement Frequency Sample Type
	826	Continuous Totalizing Meter
Total Suspended Solids	1,238	Five/week Composite
Ammonia Nitrogen	248	Five/week Composite
Total Phosphorus	41	Five/week Composite

2. Outfall 003 is defined as the combined flow and loadings from Outfall 001 and Outfall 002.

## 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.



- 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 annually in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I Toxicity Characteristic Leaching Procedure (TCLP) or other method that receives the prior approval of the TCEQ for the contaminants listed in 40 CFR Part 261.24, Table 1. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal. Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division and the Regional Director (MC Region 13) within seven (7) days after failing the TCLP Test.

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

Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 13) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

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

TABLE 1

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

\* Dry weight basis

3. Pathogen Control

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

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

Alternative 1 - The temperature of the sewage sludge that is used or disposed shall be maintained at or above a specific value for a period of time. See 30 TAC § 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 - annually
- PCBs - annually

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

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

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

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

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

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

**A. Pollutant Limits**

Table 2

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

\*Dry weight basis

**B. Pathogen Control**

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

### **C. Management Practices**

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

### **D. Notification Requirements**

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

### **E. Record keeping Requirements**

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

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

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

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

6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained. The person who applies bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply:
  - a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii), as applicable, and to the permittee's specific sludge treatment activities.
  - b. The location, by street address, and specific latitude and longitude, of each site on which sludge is applied.
  - c. The number of acres in each site on which bulk sludge is applied.
  - d. The date and time sludge is applied to each site.
  - e. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.
  - f. The total amount of sludge applied to each site in dry tons.

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

#### **F. Reporting Requirements**

The permittee shall report annually to the TCEQ Regional Office (MC Region 13) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30 of each year the following information:

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

- a. The location, by street address, and specific latitude and longitude.
- b. The number of acres in each site on which bulk sewage sludge is applied.
- c. The date and time bulk sewage sludge is applied to each site.
- d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk sewage sludge applied to each site.
- e. The amount of sewage sludge (i.e., dry tons) applied to each site.

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

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

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

Following failure of any TCLP test, the management or disposal of sewage sludge at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division and the Regional Director (MC Region 13) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Registration, Review, and Reporting Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 13) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

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

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

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

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

#### G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 13) and Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year the following information:

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

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

**OTHER REQUIREMENTS**

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

This Category B facility must be operated by a chief operator or an operator holding a Category B 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. Chronic toxic criteria apply at the edge of the mixing zone. The mixing zone is defined as 300 feet downstream and 100 feet upstream from the point of discharge.
4. 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. 1804 of the Guadalupe River Basin and any subsequent updating of the water quality model for Segment No. 1804, 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.
5. The permittee has submitted sufficient evidence of legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the permittee according to 30 TAC § 309.13(e)(3). The evidence of legal restrictions was submitted to the Executive Director in care of the TCEQ Wastewater Permitting Section (MC 148). The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). (See Attachment B.)
6. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.
7. In accordance with 30 TAC §319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee may be given a less frequent measurement schedule. For this permit, daily may be reduced to 5/week. **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.

8. Within 120 days from the start-up of the facility, the permittee shall complete Attachment C with the analytical results for Outfall 001 or Outfall 002 whichever is in operation. The completed tables with the results of these analysis and laboratory reports shall be submitted to the Municipal Permits Team, Wastewater Permitting Section MC 148, TCEQ Water Quality Division. Based on a technical review of the submitted analytical results, an amendment may be initiated by TCEQ staff to include additional effluent limitations and monitoring requirements. Test methods utilized to complete the tables shall be according to the test procedures specified in the Definitions and Standard Permit Conditions section of the permit and sensitive enough to detect the parameters listed in Attachment C at the minimum analytical level (MAL).
9. Prior to construction of the Interim I, Interim II, Interim III, and 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 Pages 2 through Page 2k of the permit.
10. Reporting requirements according to 30 TAC Sections 319.1-319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge, whichever occurs first, from the facility described by this permit. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 13) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first and prior to completion of each additional phase on Notification of Completion Form 20007.
11. The permittee shall notify the TCEQ Regional Office (MC Region 13) and the Applications Review and Processing Team (MC 148) of the Water Quality Division, in writing at least forty-five (45) days prior to the completion of the new facilities on Notification of Completion Form 20007.
12. The use of Outfall 002 is subject to the following conditions: the primary discharge point is to be into the Lake Dunlap Hydroelectric Plant Canal at Outfall 001 and the secondary discharge point is to be into the Guadalupe River at Outfall 002. Outfall 002 is to be used only when the Lake Dunlap Hydroelectric Plant Canal is bypassed and all upstream flow is diverted to the river. All of the effluent shall be discharged at one or the other of the two outfalls without division of flow between them.

**CONTRIBUTING INDUSTRIES AND PRETREATMENT REQUIREMENTS**

1. The permittee shall operate an industrial pretreatment program in accordance with Sections 402(b)(8) and (b)(9) of the Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403) and the approved New Braunfels Utilities POTW pretreatment program submitted by the permittee. The pretreatment program was approved on **December 4, 1992**, and modified on **September 30, 1993**, and **August 19, 2011**.

The legal authority and the POTW's pretreatment program are not in compliance with the current 40 CFR Part 403 regulations [*rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798*] and the 30 TAC Chapter 315, as amended. In order to ensure that the permittee has a program to assure compliance with such pretreatment standards and requirements, the permittee submitted a modification to their pretreatment program containing all required [*i.e.* more stringent] Streamlining Rule provisions to the Executive Director care of the Storm Water & Pretreatment Team (MC148) of the Water Quality Division as required **TPDES Permit No.**

**WQ0010232003**. The Executive Director is currently reviewing this modification submitted on December 20, 2011.

The POTW pretreatment program is hereby incorporated by reference and shall be implemented in a manner consistent with the following requirements:

- a. Industrial user (IU) information shall be kept current according to 40 CFR §§403.8(f)(2)(i) and (ii) and updated at a frequency set forth in the approved pretreatment program to reflect accurate characterization of all IUs;
- b. The frequency and nature of IU compliance monitoring activities by the permittee shall be consistent with the approved POTW pretreatment program and commensurate with the character, consistency, and volume of waste. The permittee is required to inspect and sample the effluent from each significant industrial user (SIU) at least once per year, except as specified in 40 CFR §403.8 (f)(2)(v). This is in addition to any industrial self-monitoring activities;
- c. The permittee shall enforce and obtain remedies for IU noncompliance with applicable pretreatment standards and requirements and the approved POTW pretreatment program;
- d. The permittee shall control through permit, order, or similar means, the contribution to the POTW by each IU to ensure compliance with applicable pretreatment standards and requirements and the approved POTW pretreatment program. In the case of SIUs (identified as significant under 40 CFR §403.3 (v)), this control shall be achieved through individual permits or general control mechanisms, in accordance with 40 CFR §403.8(f)(1)(iii).

Both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:

- (1) Statement of duration (in no case more than five years);
- (2) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

- (3) Effluent limits, which may include enforceable best management practices (BMPs), based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and State and local law;
  - (4) Self-monitoring, sampling, reporting, notification and record keeping requirements, identification of the pollutants to be monitored (including, if applicable, the process for seeking a waiver for a pollutant neither present nor expected to be present in the IU's discharge in accordance with 40 CFR §403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR Part 403, categorical pretreatment standards, local limits, and State and local law;
  - (5) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond federal deadlines; and,
  - (6) Requirements to control slug discharges, if determined by the POTW to be necessary.
- e. For those IUs who are covered by a general control mechanism, in order to implement 40 CFR §403.8(f)(1)(iii)(A)(2), a monitoring waiver for a pollutant neither present nor expected to be present in the IU's discharge is not effective in the general control mechanism until after the POTW has provided written notice to the SIU that such a waiver request has been granted in accordance with 40 CFR §403.12(e)(2).
- f. The permittee shall evaluate, whether each SIU needs a plan or other action to control slug discharges, in accordance with 40 CFR §403.8(f)(2)(vi). If the POTW decides that a slug control plan is needed, the plan shall contain at least the minimum elements required in 40 CFR §403.8(f)(2)(vi);
- g. The permittee shall provide adequate staff, equipment, and support capabilities to carry out all elements of the pretreatment program; and,
- h. The approved program shall not be modified by the permittee without the prior approval of the Executive Director, according to 40 CFR §403.18.
2. The permittee is under a continuing duty to: establish and enforce specific local limits to implement the provisions of 40 CFR §403.5, develop and enforce local limits as necessary, and modify the approved pretreatment program as necessary to comply with federal, state and local law, as amended. The permittee may develop BMPs to implement paragraphs 40 CFR §§403.5(c)(1) and (c)(2). Such BMPs shall be considered local limits and pretreatment standards. The permittee is required to effectively enforce such limits and to modify their pretreatment program, including the Legal Authority, Enforcement Response Plan and/or Standard Operating Procedures, if required by the Executive Director to reflect changing conditions at the POTW. Substantial modifications will be approved in accordance with 40 CFR §403.18, and modifications will become effective upon approval by the Executive Director in accordance with 40 CFR §403.18.

If after review of the substantial modification submission, the Executive Director determines that the submission does not comply with applicable requirements, including 40 CFR §§403.8 and 403.9, the Executive Director will notify the permittee. According to 40 CFR

§403.11(c), the notification will include suggested modifications to bring the substantial modification submission into compliance with applicable requirements, including 40 CFR §§403.8(b) and (f), and 40 CFR §403.9(b). In such a case, revised information will be necessary for the Executive Director to make a determination on whether to approve or deny the permittee's substantial modification submission.

Upon approval by the Executive Director of the substantial modification to this approved POTW pretreatment program, the requirement to develop and enforce specific prohibitions and/or limits to implement the prohibitions and limits set forth in 40 CFR §§403.5 (a)(1), (b), (c)(1) and (3), and (d) is a condition of this permit. The specific prohibitions set out in 40 CFR §403.5(b) shall be enforced by the permittee unless modified under this provision.

3. The permittee shall analyze the treatment facility influent and effluent for the presence of the toxic pollutants listed in the Texas Surface Water Quality Standards [30 TAC Chapter 307], and in 40 CFR Part 122 Appendix D Table II at least **once per year** and the toxic pollutants in Table III at least **once per six months**. If, based upon information available to the permittee, there is reason to suspect the presence of any toxic or hazardous pollutant listed in 40 CFR Part 122 Appendix D Table V, or any other pollutant, known or suspected to adversely affect treatment plant operation, receiving water quality, or solids disposal procedures, analysis for those pollutants shall be performed at least **once per six months** on both the influent and the effluent.

The influent and effluent samples collected shall be composite samples consisting of at least 12 aliquots collected at approximately equal intervals over a representative 24 hour period and composited according to flow. Sampling and analytical procedures shall be in accordance with guidelines established in 40 CFR Part 136, as amended; as approved by the EPA through the application for alternate test procedures; or as suggested in Tables 8 and 9 of the *Procedures to Implement the Texas Surface Water Quality Standards*, January 2003, as amended and adopted by the TCEQ. The effluent samples shall be analyzed to the minimum analytical level (MAL). Where composite samples are inappropriate, due to sampling, holding time, or analytical constraints, at least four (4) grab samples, taken at equal intervals over a representative 24 hour period, shall be taken.

4. The permittee shall prepare annually a list of IUs which during the preceding twelve (12) months were in significant noncompliance (SNC) with applicable pretreatment requirements. For the purposes of this section of the permit, "Contributing Industries and Pretreatment Requirements", SNC shall be determined based upon the more stringent of either criteria established at 40 CFR §403.8(f)(2)(viii) [rev. 10/14/05] or criteria established in the approved POTW pretreatment program. This list is to be published annually during the month of **December** in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW.

In addition, each **December** the permittee shall submit an updated pretreatment program annual status report, in accordance with 40 CFR §§403.12(i) and (m), to the TCEQ Storm Water & Pretreatment Team (MC148) of the Water Quality Division. The report shall contain the following information as well as the information on the tables in this section. The report summary shall be submitted on the Pretreatment Performance Summary (PPS) form [TCEQ-20218].

- a. An updated list of all regulated IUs as indicated in this section. For each listed IU, the following information shall be included:

- (1) Standard Industrial Classification (SIC) or North American Industry Classification System (NAICS) code *and* categorical determination.
- (2) If the pretreatment program has been modified and approved to incorporate reduced monitoring for any of the categorical IUs as provided by 40 CFR Part 403 [rev. 10/14/05], then the list must also identify:
  - \* categorical IUs subject to the conditions for reduced monitoring and reporting requirements under 40 CFR §§ 403.12(e)(1) and (3);
  - \* those IUs that are non-significant categorical industrial users (NSCIUs) under 40 CFR §403.3(v)(2); and
  - \* those IUs that are middle tier categorical industrial users (MTCIUs) under 40 CFR §403.12(e)(3).
- (3) Control mechanism status.
  - \* Indicate whether the IU has an effective individual or general control mechanism, and the date such control mechanism was last issued, reissued, or modified;
  - \* Indicate which IUs were added to the system, or newly identified, during the pretreatment year reporting period;
  - \* Include the type of general control mechanisms; and
  - \* Report all NSCIU annual evaluations performed, as applicable.
- (4) A summary of all compliance monitoring activities performed by the POTW during the pretreatment year reporting period. The following information shall be reported:
  - \* Total number of inspections performed; and
  - \* Total number of sampling events conducted.
- (5) Status of IU compliance with effluent limitations, reporting, and narrative standard (which may include enforceable BMPs, narrative limits, and/or operational standards) requirements. Compliance status shall be defined as follows:
  - \* Compliant (C) - no violations during the pretreatment year reporting period;
  - \* Non-compliant (NC) - one or more violations during the pretreatment year reporting period but does not meet the criteria for SNC; and
  - \* Significant Noncompliance (SNC) - in accordance with requirements described above in this section.
- (6) For noncompliant IUs indicate the nature of the violations, the type and number of actions taken (notice of violation, administrative order, criminal or civil suit, fines or penalties collected, etc.) and current compliance status. If any IU was on a schedule to attain compliance with effluent limits or narrative standards, indicate the date the schedule was issued, and the date compliance is to be attained.
  - b. A list of each IU whose authorization to discharge was terminated or revoked during the pretreatment year reporting period and the reason for termination.
  - c. A report on any interference, pass through, upset, or POTW permit violations known or suspected to be caused by IUs and response actions taken by the permittee.

- d. The results of all influent and effluent analyses performed pursuant to Item 3 of this section.
  - e. An original newspaper public notice, or copy of the newspaper publication with official affidavit, of the list of IUs that meet the criteria of SNC, giving the name of the newspaper and date the list was published.
  - f. The daily average water quality based effluent concentrations (from the TCEQ's Texas Toxicity Modeling Program (TexTox)) necessary to attain the Texas Surface Water Quality Standards, 30 TAC Chapter 307, in water in the state.
  - g. The maximum allowable headworks loading (MAHL) in pounds per day (lb/day) of the approved TBLLs or for each pollutant of concern (POC) for which the permittee has calculated a MAHL. In addition, the influent loading as a percent of the MAHL, using the annual average flow of the wastewater treatment plant in million gallons per day (MGD) during the pretreatment year reporting period, for each pollutant that has an adopted TBLL or for each POC for which the permittee has calculated a MAHL. (See Endnotes No. 2 at the end of this section for the influent loading as a percent of the MAHL equation)
  - h. The permittee may submit the updated pretreatment program annual status report information in tabular form using the example table format provided. Please attach, on a separate sheet, explanations to document the various pretreatment activities, including IU permits that have expired, BMP violations, and any sampling events that were not conducted by the permittee as required.
  - i. A summary of changes to the POTW's pretreatment program that have not been previously reported to the Approval Authority.
5. The permittee shall provide adequate written notification to the Executive Director care of the Wastewater Permitting Section (MC 148) of the Water Quality Division, within 30 days of the permittee's knowledge of the following:
- a. Any new introduction of pollutants into the treatment works from an indirect discharger which would be subject to Sections 301 and 306 of the Clean Water Act if the indirect discharger was directly discharging those pollutants; and
  - b. Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit.

Adequate notice shall include information on the quality and quantity of effluent to be introduced into the treatment works, and any anticipated impact of the change on the quality or quantity of effluent to be discharged from the POTW.

*Revised February 2008*

**TPDES Pretreatment Program Annual Report Form for Updated Industrial Users List**

Reporting month/year: \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_

TPDES Permit No.: \_\_\_\_\_ Permittee: \_\_\_\_\_ Treatment Plant: \_\_\_\_\_

PRETREATMENT PROGRAM STATUS REPORT UPDATED INDUSTRIAL USERS' LIST														
Industrial User Name	SIC or NAICS Code	CIU <sup>2</sup>	CONTROL MECHANISM				New User <sup>3</sup> (Y or N)	Times Inspected by the CA	Times Sampled by the CA	COMPLIANCE STATUS During the Pretreatment Year Reporting Period <sup>4</sup> (C = Compliant, NC = Noncompliant, SNC= Significant Noncompliance)				
			Y/N or NR <sup>5</sup>	IND or GEN or NR	Last Action <sup>6</sup>	TBLLs or TBLLs only <sup>7</sup>				REPORTS				
										BMR	90-Day	Semi-	Self-Monitoring <sup>8</sup>	NSCIU Certifications

- 1 Include all significant industrial users (SIUs), non-significant categorical industrial users (NSCIUs) as defined in 40 CFR §403.3(v)(2), and/or middle tier categorical industrial users (MTCIUs) as defined in 40 CFR §403.12(e)(3). Please do not include non-significant noncategorical IUs that are covered under best management practices (BMPs) or general control mechanisms.
- 2 Categorical determination (include 40 CFR citation and NSCIU or MTCIU status, if applicable).
- 3 Indicate whether the IU is a new user. If the answer is No or N, then indicate the expiration date of the last issued IU permit.
- 4 The term SNC applies to a broader range of violations, such as daily maximum, long-term average, instantaneous limits, and narrative standards (which may include enforceable BMPs, narrative limits and/or operational standards). Any other violation, or group of violations, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment Program now includes BMP violations (40 CFR §403.8(f)(2)(viii)(H)).
- 5 Code NR= None required (NSCIUs only); IND = individual control mechanism; GEN = general control mechanism. Include as a footnote (or on a separate page) the name of the general control mechanism used for similar groups of IUs, identify the similar types of operations and types of wastes that are the same for each general control mechanism. Any BMPs through general control mechanisms that are applied to nonsignificant IUs need to be reported separately, e.g. the sector type and BMP description.
- 6 Permit or NSCIU evaluations as applicable.
- 7 According to 40 CFR §403.12(i)(1), indicate whether the IU is subject to technically based local limits (TBLLs) that are more stringent than categorical pretreatment standards, e.g. where there is one end-of-pipe sampling point at a CIU, and you have determined that the TBLLs are more stringent than the categorical pretreatment standards for any pollutant at the end-of-pipe sampling point; **OR** the IU is subject only to local limits (TBLLs only), e.g. the IU is a non-categorical SIU subject only to TBLLs at the end-of-pipe sampling point.
- 8 For those IUs where a monitoring waiver has been granted, please add the code "W" (after either C, NC, or SNC codes) and indicate the pollutant(s) for which the waiver has been granted.

**TPDES Pretreatment Program Annual Report Form for  
Industrial User Inventory Modifications**

Reporting month/year: \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_

TPDES Permit No: \_\_\_\_\_ Permittee: \_\_\_\_\_ Treatment Plant: \_\_\_\_\_

INDUSTRIAL USER INVENTORY MODIFICATIONS					
FACILITY NAME, ADDRESS AND CONTACT PERSON	ADD, CHANGE, DELETE  (Including categorical reclassification to NSCIU or MTCIU)	IF DELETION: Reason For Deletion	IF ADDITION OR SIGNIFICANT CHANGE:		
			PROCESS DESCRIPTION	POLLUTANTS (Including any sampling waiver given for each pollutant not present)	FLOW RATE <sup>9</sup> (In gpd) R = Regulated U = Unregulated T = Total

9 For NSCIUs, total flow must be given, if regulated flow is not determined.

**TPDES Pretreatment Program Annual Report Form for Enforcement Actions Taken**

Reporting month/year: \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_

TPDES Permit No: \_\_\_\_\_ Permittee: \_\_\_\_\_ Treatment Plant: \_\_\_\_\_

Overall SNC \_\_\_\_% SNC <sup>10</sup> based on: Effluent Violations \_\_\_\_%  
 Reporting Violations \_\_\_\_% Narrative Standard Violations \_\_\_\_%

Noncompliant Industrial Users - Enforcement Actions Taken															
Industrial User Name	Nature of Violation <sup>11</sup>				Number of Actions Taken					Penalties Collected (Do not include Surcharge)	Compliance Schedule			Current Status Returned to Compliance: (Y or N)	Comments
	Effluent Limits	Reports	NSCIU Certifications	Narrative Standards	NOV	A.O.	Civil	Criminal	Other		Y or N	Date Issued	Date Due		

10 # %  
 \_\_\_ \_\_\_ Pretreatment Standards [WENDB-PSNC] (Local Limits/Categorical Standards)  
 \_\_\_ \_\_\_ Reporting Requirements [WENDB-PSNC]  
 \_\_\_ \_\_\_ Narrative Standards

11 Please specify a separate number for each type of violation, e.g. report, notification, and/or NSCIU certification.

**TPDES Pretreatment Program Annual Report Form for  
Influent and Effluent Monitoring Results<sup>1</sup>**

Reporting month/year: \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_

TPDES Permit No.: \_\_\_\_\_ Permittee: \_\_\_\_\_ Treatment Plant: \_\_\_\_\_

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in ug/L (Actual Concentration or < MAL)				Average Influent % of the MAHL <sup>2</sup>	Daily Average Effluent Limit (ug/L) <sup>3</sup>	Effluent Measured in ug/L (Actual Concentration or < MAL) <sup>4</sup>			
		Date	Date	Date	Date			Date	Date	Date	Date
METALS, CYANIDE AND PHENOLS											
Antimony, Total											
Arsenic, Total											
Beryllium, Total											
Cadmium, Total											
Chromium, Total											
Chromium (Hex)											
Chromium (Tri) <sup>5</sup>											
Copper, Total											
Lead, Total											
Mercury, Total											
Nickel, Total											
Selenium, Total											
Silver, Total											
Thallium, Total											
Zinc, Total											
Cyanide, Available <sup>6</sup>											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in ug/L (Actual Concentration or < MAL)				Average Influent % of the MAHL <sup>2</sup>	Daily Average Effluent Limit (ug/L) <sup>3</sup>	Effluent Measured in ug/L (Actual Concentration or < MAL) <sup>4</sup>			
		Date	Date	Date	Date			Date	Date	Date	Date
Cyanide, Total											
Phenols, Total											
VOLATILE COMPOUNDS											
Acrolein											
Acrylonitrile											
Benzene											
Bromoform							See TTHM				
Carbon Tetrachloride											
Chlorobenzene											
Chlorodibromomethane							See TTHM				
Chloroethane											
2-Chloroethylvinyl Ether											
Chloroform							See TTHM				
Dichlorobromomethane							See TTHM				
1,1-Dichloroethane											
1,2-Dichloroethane											
1,1-Dichloroethylene											
1,2-Dichloropropane											
1,3-Dichloropropylene											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in ug/L (Actual Concentration or < MAL)				Average Influent % of the MAHL <sup>2</sup>	Daily Average Effluent Limit (µg/L) <sup>3</sup>	Effluent Measured in ug/L (Actual Concentration or < MAL) <sup>4</sup>			
		Date	Date	Date	Date			Date	Date	Date	Date
Ethyl benzene											
Methyl Bromide											
Methyl Chloride											
Methylene Chloride											
1,1,2,2-Tetra-chloroethane											
Tetrachloroethylene											
Toluene											
1,2-Trans-Dichloroethylene											
1,1,1-Trichloroethane											
1,1,2-Trichloroethane											
Trichloroethylene											
Vinyl Chloride											
ACID COMPOUNDS											
2-Chlorophenol											
2,4-Dichlorophenol											
2,4-Dimethylphenol											
4,6-Dinitro-o-Cresol											
2,4-Dinitrophenol											
2-Nitrophenol											
4-Nitrophenol											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in ug/L (Actual Concentration or < MAL)				Average Influent % of the MAHL <sup>2</sup>	Daily Average Effluent Limit (ug/L) <sup>3</sup>	Effluent Measured in ug/L (Actual Concentration or < MAL) <sup>4</sup>			
		Date	Date	Date	Date			Date	Date	Date	Date
P-Chloro-m-Cresol											
Pentachlorophenol											
Phenol											
2,4,6-Trichlorophenol											
BASE/NEUTRAL COMPOUNDS											
Acenaphthene											
Acenaphthylene											
Anthracene											
Benzidine											
Benzo(a)Anthracene											
Benzo(a)Pyrene											
3,4-Benzofluoranthene											
Benzo(ghi)Perylene											
Benzo(k)Fluoranthene											
Bis(2-Chloroethoxy)Methane											
Bis(2-Chloroethyl)Ether											
Bis(2-Chloroisopropyl)Ether											
Bis(2-Ethylhexyl)Phthalate											
4-Bromophenyl Phenyl Ether											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in ug/L (Actual Concentration or < MAL)				Average Influent % of the MAHL <sup>2</sup>	Daily Average Effluent Limit (ug/L) <sup>3</sup>	Effluent Measured in ug/L (Actual Concentration or < MAL) <sup>4</sup>			
		Date	Date	Date	Date			Date	Date	Date	Date
Butylbenzyl Phthalate											
2-Chloronaphthalene											
4-Chlorophenyl Phenyl Ether											
Chrysene											
Dibenzo(a,h)Anthracene											
1,2-Dichlorobenzene											
1,3-Dichlorobenzene											
1,4-Dichlorobenzene											
3,3-Dichlorobenzidine											
Diethyl Phthalate											
Dimethyl Phthalate											
Di-n-Butyl Phthalate											
2,4-Dinitrotoluene											
2,6-Dinitrotoluene											
Di-n-Octyl Phthalate											
1,2-Diphenyl Hydrazine											
Fluoranthene											
Fluorene											
Hexachlorobenzene											
Hexachlorobutadiene											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in ug/L (Actual Concentration or < MAL)				Average Influent % of the MAHL <sup>2</sup>	Daily Average Effluent Limit (µg/L) <sup>3</sup>	Effluent Measured in ug/L (Actual Concentration or < MAL) <sup>4</sup>			
		Date	Date	Date	Date			Date	Date	Date	Date
Hexachloro-cyclopentadiene											
Hexachloroethane											
Indeno(1,2,3-cd)pyrene											
Isophorone											
Naphthalene											
Nitrobenzene											
N-Nitrosodimethylamine											
N-Nitrosodi-n-Propylamine											
N-Nitrosodiphenylamine											
Phenanthrene											
Pyrene											
1,2,4-Trichlorobenzene											
PESTICIDES											
Aldrin											
Alpha-hexachlorocyclohexane (BHC)											
beta-BHC											
gamma-BHC (Lindane)											
delta-BHC											
Chlordane											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in ug/L (Actual Concentration or < MAL)				Average Influent % of the MAHL <sup>2</sup>	Daily Average Effluent Limit (ug/L) <sup>3</sup>	Effluent Measured in ug/L (Actual Concentration or < MAL) <sup>4</sup>			
		Date	Date	Date	Date			Date	Date	Date	Date
4,4-DDT											
4,4-DDE											
4,4-DDD											
Dieldrin											
alpha-Endosulfan											
beta-Endosulfan											
Endosulfan Sulfate											
Endrin											
Endrin Aldehyde											
Heptachlor											
Heptachlor Epoxide											
Polychlorinated biphenols (PCBs) - The sum of PCB concentrations not to exceed daily average value											
PCB-1242							See PCBs				
PCB-1254							See PCBs				
PCB-1221							See PCBs				
PCB-1232							See PCBs				
PCB-1248							See PCBs				
PCB-1260							See PCBs				

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in ug/L (Actual Concentration or < MAL)				Average Influent % of the MAHL <sup>2</sup>	Daily Average Effluent Limit (µg/L) <sup>3</sup>	Effluent Measured in ug/L (Actual Concentration or < MAL) <sup>4</sup>			
		Date	Date	Date	Date			Date	Date	Date	Date
PCB-1016							See PCBs				
Toxaphene											
ADDITIONAL TOXIC POLLUTANTS REGULATED UNDER 30 TAC CHAPTER 307											
Aluminum											
Barium											
Bis(chloromethyl) ether <sup>7</sup>											
Carbaryl											
Chloropyrifos											
Cresols											
2,4-D											
Danitol <sup>8</sup>											
Demeton											
Diazinon											
Dicofol											
Dioxin/Furans <sup>9</sup>											
Diuron											
Fluoride											
Guthion											
Hexachlorophene											
Malathion											
Methoxychlor											

PRETREATMENT PROGRAM INFLUENT AND EFFLUENT MONITORING RESULTS											
POLLUTANT	MAHL, if Applicable in lb/day	Influent Measured in ug/L (Actual Concentration or < MAL)				Average Influent % of the MAHL <sup>2</sup>	Daily Average Effluent Limit (ug/L) <sup>3</sup>	Effluent Measured in ug/L (Actual Concentration or < MAL) <sup>4</sup>			
		Date	Date	Date	Date			Date	Date	Date	Date
Methyl Ethyl Ketone											
Mirex											
Nitrate-Nitrogen											
N-Nitrosodiethylamine											
N-Nitro-di-n-Butylamine											
Parathion											
Pentachlorobenzene											
Pyridine											
1,2-Dibromoethane											
1,2,4,5-Tetrachlorobenzene											
2,4,5-TP (Silvex)											
Tributyltin <sup>9</sup>											
2,4,5-Trichlorophenol											
TTHM (Total Trihalomethanes)											

**Footnotes:**

1. It is advised that the permittee collect the influent and effluent samples considering flow detention time through each wastewater treatment plant (WWTP).
2. The MAHL of the approved TBLLs or for each pollutant of concern (POC) for which the permittee has calculated a MAHL. Only complete the column labeled, "Average Influent % of the MAHL", as a percentage, for pollutants that have approved TBLLs or for each POC for which the permittee has calculated a MAHL (U.S. Environmental Protection Agency Local Limits Development Guidance, July 2004, EPA933-R-04-002A).

The % of the MAHL is to be calculated using the following formulas:

$$\text{Equation A: } L_{INF} = (C_{POLL} \times Q_{WWTP} \times 8.34) / 1000$$

$$\text{Equation B: } L\% = (L_{INF} / \text{MAHL}) \times 100$$

Where:

$L_{INF}$  = Current Average (Avg) influent loading in lb/day

$C_{POLL}$  = Avg concentration in  $\mu\text{g/L}$  of all influent samples collected during the pretreatment year.

$Q_{WWTP}$  = Annual average flow of the WWTP in MGD, defined as the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months (or during the pretreatment year), and as described in the Definitions and Standard Permit Conditions section.

$L\%$  = % of the MAHL

MAHL = Calculated MAHL in lb/day

8.34 = Unit conversion factor

3. Daily average effluent limit (metal values are for total metals) as derived by the Texas Toxicity Modeling Program (TexTox). Effluent limits as calculated are designed to be protective of the Texas Surface Water Quality Standards. The permittee shall determine and indicate which effluent limit is the most stringent between the 30 TAC Chapter 319 (Hazardous Metal Rule), TexTox values, or any applicable TPDES permit limit in Effluent Limitations and Monitoring Requirements Section. Shaded blocks need not be filled in unless the permittee has received a permit requirement/limit for the particular parameter.
4. Minimum analytical levels (MALs) and analytical methods as suggested in Tables 8 and 9 of the Procedures to Implement the Texas Surface Water Quality Standards (January 2003), as amended and adopted by the TCEQ Commission. Pollutants that are not detectable above the MAL need to be reported as less than (<) the MAL numeric value.
5. Report result by subtracting Hexavalent Chromium from Total Chromium.
6. Either the method for Amenable to Chlorination or Weak-Acid Dissociable is authorized.
7. Hydrolyzes in water. Will not require permittee to analyze at this time.
8. EPA procedure not approved. Will not require permittee to analyze at this time.
9. Analyses are not required at this time for these pollutants unless there is reason to believe that these pollutants may be present.

CHRONIC BIOMONITORING REQUIREMENTS: FRESHWATER

The provisions of this Section apply to Outfall 001 or Outfall 002 for whole effluent toxicity (WET) testing.

1. Scope, Frequency and Methodology

- a. The permittee shall test the effluent for toxicity in accordance with the provisions below. Such testing will determine if an appropriately dilute effluent sample adversely affects the survival, reproduction, or growth of the test organisms.
- b. Within 60 days of initial discharge from either outfall, the permittee shall conduct the following toxicity tests utilizing the test organisms, procedures and quality assurance requirements specified in this Part of the permit and in accordance with "Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms", Fourth Edition (EPA-821-R-02-013), or its most recent update:
  - 1) Chronic static renewal survival and reproduction test using the water flea (*Ceriodaphnia dubia*) (Method 1002.0). This test should be terminated when 60% of the surviving adults in the control produce three broods or at the end of eight days, whichever comes first. This test shall be conducted once per quarter.
  - 2) Chronic static renewal 7-day larval survival and growth test using the fathead minnow (*Pimephales promelas*) (Method 1000.0). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution. This test shall be conducted once per quarter.

The permittee must perform and report a valid test for each test species during the prescribed reporting period. An invalid test must be repeated during the same reporting period. An invalid test is herein defined as any test failing to satisfy the test acceptability criteria, procedures, and quality assurance requirements specified in the test methods and permit. All test results, valid or invalid, must be submitted as described below.

- c. The permittee shall use five effluent dilution concentrations and a control in each toxicity test. These additional effluent concentrations are 2%, 3%, 4%, 5%, and 7% effluent. The critical dilution, defined as 5% effluent, is the effluent concentration representative of the proportion of effluent in the receiving water during critical low flow or critical mixing conditions.
- d. This permit may be amended to require a WET limit, Chemical-Specific (CS) effluent limits, a Best Management Practice (BMP), or other appropriate actions to address toxicity. The permittee may be required to conduct a Toxicity Reduction Evaluation after multiple toxic events.
- e. Testing Frequency Reduction

- 1) If none of the first four consecutive quarterly tests demonstrates significant toxicity, the permittee may submit this information in writing and, upon approval, reduce the testing frequency to once per six months for the invertebrate test species and once per year for the vertebrate test species.
- 2) If one or more of the first four consecutive quarterly tests demonstrates significant toxicity, the permittee shall continue quarterly testing for that species until the permit is reissued. If a testing frequency reduction had been previously granted and a subsequent test demonstrates significant toxicity, the permittee will resume a quarterly testing frequency for that species until the permit is reissued.

2. Required Toxicity Testing Conditions

- a. Test Acceptance - The permittee shall repeat any toxicity test, including the control and all effluent dilutions, which fail to meet the following criteria:
  - 1) a control mean survival of 80% or greater;
  - 2) a control mean number of water flea neonates per surviving adult of 15 or greater;
  - 3) a control mean dry weight of surviving fathead minnow larvae of 0.25 mg or greater;
  - 4) a control Coefficient of Variation percent (CV%) of 40 or less in between replicates for the young of surviving females in the water flea test; and the growth and survival endpoints in the fathead minnow test.
  - 5) a critical dilution CV% of 40 or less for young of surviving females in the water flea test; and the growth and survival endpoints for the fathead minnow test. However, if statistically significant lethal or nonlethal effects are exhibited at the critical dilution, a CV% greater than 40 shall not invalidate the test.
  - 6) a Percent Minimum Significant Difference of 47 or less for water flea reproduction;
  - 7) a Percent Minimum Significant Difference of 30 or less for fathead minnow growth.
- b. Statistical Interpretation
  - 1) For the water flea survival test, the statistical analyses used to determine if there is a significant difference between the control and an effluent dilution shall be Fisher's Exact Test as described in the manual referenced above, or its most recent update.

- 2) For the water flea reproduction test and the fathead minnow larval survival and growth tests, the statistical analyses used to determine if there is a significant difference between the control and an effluent dilution shall be in accordance with the manual referenced above, or its most recent update.
  - 3) The permittee is responsible for reviewing test concentration-response relationships to ensure that calculated test-results are interpreted and reported correctly. The EPA manual, "Method Guidance and Recommendation for Whole Effluent Toxicity (WET) Testing (40 CFR Part 136)" (EPA 821-B-00-004), provides guidance on determining the validity of test results.
  - 4) If significant lethality is demonstrated (that is, there is a statistically significant difference in survival at the critical dilution when compared to the control), the conditions of test acceptability are met, and the survival of the test organisms are equal to or greater than 80% in the critical dilution and all dilutions below that, then the permittee shall report a survival No Observed Effect Concentration (NOEC) of not less than the critical dilution for the reporting requirements.
  - 5) The NOEC is defined as the greatest effluent dilution at which no significant effect is demonstrated. The Lowest Observed Effect Concentration (LOEC) is defined as the lowest effluent dilution at which a significant effect is demonstrated. A significant effect is herein defined as a statistically significant difference at the 95% confidence level between the survival, reproduction, or growth of the test organism(s) in a specified effluent dilution compared to the survival, reproduction, or growth of the test organism(s) in the control (0% effluent).
  - 6) The use of NOECs and LOECs assumes either a monotonic (continuous) concentration-response relationship or a threshold model of the concentration-response relationship. For any test result that demonstrates a non-monotonic (non-continuous) response, the NOEC should be determined based on the guidance manual referenced in Item 3 above.
  - 7) Pursuant to the responsibility assigned to the permittee in Part 2.b.3), test results that demonstrate a non-monotonic (non-continuous) concentration-response relationship may be submitted, prior to the due date, for technical review. The above-referenced guidance manual will be used when making a determination of test acceptability.
  - 8) Staff will review test results for consistency with rules, procedures, and permit requirements.
- c. Dilution Water
- 1) Dilution water used in the toxicity tests shall be the receiving water collected at a point upstream of the discharge as close as possible to the discharge point, but unaffected by the discharge. Where the toxicity tests

are conducted on effluent discharges to receiving waters that are classified as intermittent streams, or where the toxicity tests are conducted on effluent discharges where no receiving water is available due to zero flow conditions, the permittee shall; (a) substitute a synthetic dilution water that has a pH, hardness, and alkalinity similar to that of the closest downstream perennial water unaffected by the discharge, or (b) utilize the closest downstream perennial water unaffected by the discharge.

- 2) Where the receiving water proves unsatisfactory as a result of pre-existing instream toxicity (i.e. fails to fulfill the test acceptance criteria of item 2.a.), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:
  - a) a synthetic lab water control was performed (in addition to the receiving water control) which fulfilled the test acceptance requirements of item 2.a;
  - b) the test indicating receiving water toxicity was carried out to completion (i.e., 7 days);
  - c) the permittee submitted all test results indicating receiving water toxicity with the reports and information required in Part 3 of this Section.
- 3) The synthetic dilution water shall consist of standard, moderately hard, reconstituted water. Upon approval, the permittee may substitute other appropriate dilution water with chemical and physical characteristics similar to that of the receiving water.

d. Samples and Composites

- 1) The permittee shall collect a minimum of three composite samples from the outfall being sampled. The second and third composite samples will be used for the renewal of the dilution concentrations for each toxicity test.
- 2) The permittee shall collect the composite samples such that the samples are representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.
- 3) The permittee shall initiate the toxicity tests within 36 hours after collection of the last portion of the first composite sample. The holding time for any subsequent composite sample shall not exceed 72 hours. Samples shall be maintained at a temperature of 0-6 degrees Centigrade during collection, shipping, and storage.
- 4) If both outfalls cease discharging during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum numbers of effluent portions, and the sample holding time, are waived during that sampling period. However, the permittee must have

collected an effluent composite sample volume sufficient to complete the required toxicity tests with renewal of the effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report.

- 5) The effluent samples shall not be dechlorinated after sample collection.

### 3. Reporting

All reports, tables, plans, summaries, and related correspondence required in any Part of this Section shall be submitted to the attention of the Standards Implementation Team (MC 150) of the Water Quality Division.

- a. The permittee shall prepare a full report of the results of all tests conducted in accordance with the manual referenced above, or its most recent update, for every valid and invalid toxicity test initiated whether carried to completion or not.
- b. The permittee shall routinely report the results of each biomonitoring test on the Table 1 forms provided with this permit.
  - 1) Annual biomonitoring test results are due on or before January 20th for biomonitoring conducted during the previous 12 month period.
  - 2) Semiannual biomonitoring test results are due on or before July 20th and January 20th for biomonitoring conducted during the previous 6 month period.
  - 3) Quarterly biomonitoring test results are due on or before April 20th, July 20th, October 20th, and January 20th, for biomonitoring conducted during the previous calendar quarter.
  - 4) Monthly biomonitoring test results are due on or before the 20th day of the month following sampling.
- c. Enter the following codes for the appropriate parameters for valid tests only:
  - 1) For the water flea, Parameter TLP3B, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."
  - 2) For the water flea, Parameter TOP3B, report the NOEC for survival.
  - 3) For the water flea, Parameter TXP3B, report the LOEC for survival.
  - 4) For the water flea, Parameter TWP3B, enter a "1" if the NOEC for reproduction is less than the critical dilution; otherwise, enter a "0."
  - 5) For the water flea, Parameter TPP3B, report the NOEC for reproduction.

- 6) For the water flea, Parameter TYP3B, report the LOEC for reproduction.
  - 7) For the fathead minnow, Parameter TLP6C, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."
  - 8) For the fathead minnow, Parameter TOP6C, report the NOEC for survival.
  - 9) For the fathead minnow, Parameter TXP6C, report the LOEC for survival.
  - 10) For the fathead minnow, Parameter TWP6C, enter a "1" if the NOEC for growth is less than the critical dilution; otherwise, enter a "0."
  - 11) For the fathead minnow, Parameter TPP6C, report the NOEC for growth.
  - 12) For the fathead minnow, Parameter TYP6C, report the LOEC for growth
- d. Enter the following codes for retests only:
- 1) For retest number 1, Parameter 22415, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."
  - 2) For retest number 2, Parameter 22416, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."

#### 4. Persistent Toxicity

The requirements of this Part apply only when a test demonstrates a significant effect at the critical dilution. A significant effect is defined as a statistically significant difference, at the 95% confidence level, between a specified endpoint (survival, growth, or reproduction) of the test organism in a specified effluent dilution when compared to the specified endpoint of the test organism in the control. Significant lethality is defined as a statistically significant difference in survival at the critical dilution when compared to the survival in the control. Significant sublethality is defined as a statistically significant difference in growth/reproduction at the critical dilution when compared to the growth/reproduction in the control.

- a. The permittee shall conduct a total of 2 additional tests (retests) for any species that demonstrates a significant effect (lethal or sublethal) at the critical dilution. The two retests shall be conducted monthly during the next two consecutive months. The permittee shall not substitute either of the two retests in lieu of routine toxicity testing. All reports shall be submitted within 20 days of test completion. Test completion is defined as the last day of the test.
- b. If the retests are performed due to a demonstration of significant lethality, and one or both of the two retests specified in item 4.a. demonstrates significant lethality, the permittee shall initiate the TRE requirements as specified in Part 5. The provisions of item 4.a. are suspended upon completion of the two retests and submittal of the TRE Action Plan and Schedule defined in Part 5.

If neither test demonstrates significant lethality and the permittee is testing under the reduced testing frequency provision of Part 1.e., the permittee shall return to a quarterly testing frequency for that species.

- c. If the two retests are performed due to a demonstration of significant sublethality, and one or both of the two retests specified in item 4.a. demonstrates significant lethality, the permittee shall again perform two retests as stipulated in item 4.a.
- d. If the two retests are performed due to a demonstration of significant sublethality, and neither test demonstrates significant lethality, the permittee shall continue testing at the quarterly frequency.
- e. Regardless of whether retesting for lethal or sublethal effects, or a combination of the two, no more than one retest per month is required for a species.

5. Toxicity Reduction Evaluation

- a. Within 45 days of the retest that demonstrates significant lethality, or within 45 days of being so instructed due to multiple toxic events, the permittee shall submit a General Outline for initiating a Toxicity Reduction Evaluation (TRE). The outline shall include, but not be limited to, a description of project personnel, a schedule for obtaining consultants (if needed), a discussion of influent and effluent data available for review, a sampling and analytical schedule, and a proposed TRE initiation date.
- b. Within 90 days of the retest that demonstrates significant lethality, or within 90 days of being so instructed due to multiple toxic events, the permittee shall submit a TRE Action Plan and Schedule for conducting a TRE. The plan shall specify the approach and methodology to be used in performing the TRE. A TRE is a step-wise investigation combining toxicity testing with physical and chemical analysis to determine actions necessary to eliminate or reduce effluent toxicity to a level not effecting significant lethality at the critical dilution. The TRE Action Plan shall lead to the successful elimination of significant lethality for both test species defined in item 1.b. As a minimum, the TRE Action Plan shall include the following:
  - 1) Specific Activities - The TRE Action Plan shall specify the approach the permittee intends to utilize in conducting the TRE, including toxicity characterizations, identifications, confirmations, source evaluations, treatability studies, and alternative approaches. When conducting characterization analyses, the permittee shall perform multiple characterizations and follow the procedures specified in the document entitled, "Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I" (EPA/600/6-91/005F), or alternate procedures. The permittee shall perform multiple identifications and follow the methods specified in the documents entitled, "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081). All characterization, identification, and confirmation tests shall be conducted in an orderly and logical progression;

- 2) Sampling Plan - The TRE Action Plan should describe sampling locations, methods, holding times, chain of custody, and preservation techniques. The effluent sample volume collected for all tests shall be adequate to perform the toxicity characterization/ identification/ confirmation procedures, and chemical-specific analyses when the toxicity tests show significant lethality. Where the permittee has identified or suspects specific pollutant(s) and source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical-specific analyses for the identified and suspected pollutant(s) and source(s) of effluent toxicity;
  - 3) Quality Assurance Plan - The TRE Action Plan should address record keeping and data evaluation, calibration and standardization, baseline tests, system blanks, controls, duplicates, spikes, toxicity persistence in the samples, randomization, reference toxicant control charts, as well as mechanisms to detect artifactual toxicity; and
  - 4) Project Organization - The TRE Action Plan should describe the project staff, project manager, consulting engineering services (where applicable), consulting analytical and toxicological services, etc.
- c. Within 30 days of submittal of the TRE Action Plan and Schedule, the permittee shall implement the TRE with due diligence.
- d. The permittee shall submit quarterly TRE Activities Reports concerning the progress of the TRE. The quarterly reports are due on or before April 20th, July 20th, October 20th, and January 20th. The report shall detail information regarding the TRE activities including:
- 1) results and interpretation of any chemical-specific analyses for the identified and suspected pollutant(s) performed during the quarter;
  - 2) results and interpretation of any characterization, identification, and confirmation tests performed during the quarter;
  - 3) any data and substantiating documentation which identifies the pollutant(s) and source(s) of effluent toxicity;
  - 4) results of any studies/evaluations concerning the treatability of the facility's effluent toxicity;
  - 5) any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant lethality at the critical dilution; and
  - 6) any changes to the initial TRE Plan and Schedule that are believed necessary as a result of the TRE findings.

Copies of the TRE Activities Report shall also be submitted to the U.S. EPA Region 6 office.

- e. During the TRE, the permittee shall perform, at a minimum, quarterly testing using the more sensitive species; testing for the less sensitive species shall continue at the frequency specified in Part 1.b.
- f. If the effluent ceases to effect significant lethality (herein as defined below) the permittee may end the TRE. A "cessation of lethality" is defined as no significant lethality for a period of 12 consecutive months with at least monthly testing. At the end of the 12 months, the permittee shall submit a statement of intent to cease the TRE and may then resume the testing frequency specified in Part 1.b. The permittee may only apply the "cessation of lethality" provision once.

This provision accommodates situations where operational errors and upsets, spills, or sampling errors triggered the TRE, in contrast to a situation where a single toxicant or group of toxicants cause lethality. This provision does not apply as a result of corrective actions taken by the permittee. "Corrective actions" are herein defined as proactive efforts which eliminate or reduce effluent toxicity. These include, but are not limited to, source reduction or elimination, improved housekeeping, changes in chemical usage, and modifications of influent streams and effluent treatment.

The permittee may only apply this cessation of lethality provision once. If the effluent again demonstrates persistent significant lethality to the same species, the permit will be amended to add a WET limit with a compliance period, if appropriate. However, prior to the effective date of the WET limit, the permittee may apply for a permit amendment removing and replacing the WET limit with an alternate toxicity control measure by identifying and confirming the toxicant and an appropriate control measure.

- g. The permittee shall complete the TRE and submit a Final Report on the TRE Activities no later than 28 months from the last test day of the retest that confirmed significant lethal effects at the critical dilution. The permittee may petition the Executive Director (in writing) for an extension of the 28-month limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled the TIE/TRE. The report shall provide information pertaining to the specific control mechanism(s) selected that will, when implemented, result in reduction of effluent toxicity to no significant lethality at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism(s). A copy of the TRE Final Report shall also be submitted to the U.S. EPA Region 6 office.
- h. Based upon the results of the TRE and proposed corrective actions, this permit may be amended to modify the biomonitoring requirements, where necessary, to require a compliance schedule for implementation of corrective actions, to specify a WET limit, to specify a BMP, and to specify CS limits.

TABLE 1 (SHEET 1 OF 4)

BIOMONITORING REPORTING

CERIODAPHNIA DUBIA SURVIVAL AND REPRODUCTION

Dates and Times Composites Collected

No. 1 FROM: \_\_\_\_\_ Date Time TO: \_\_\_\_\_ Date Time

No. 2 FROM: \_\_\_\_\_ TO: \_\_\_\_\_

No. 3 FROM: \_\_\_\_\_ TO: \_\_\_\_\_

Test initiated: \_\_\_\_\_ am/pm \_\_\_\_\_ date

Dilution water used: \_\_\_\_\_ Receiving water \_\_\_\_\_ Synthetic Dilution water

NUMBER OF YOUNG PRODUCED PER ADULT AT END OF TEST

REP	Percent effluent					
	0%	2%	3%	4%	5%	7%
A						
B						
C						
D						
E						
F						
G						
H						
I						
J						
Survival Mean						
Total Mean						
CV%*						
PMSD						

\*Coefficient of Variation = standard deviation x 100/mean (calculation based on young of the surviving adults)  
 Designate males (M), and dead females (D), along with number of neonates (x) released prior to death.

TABLE 1 (SHEET 2 OF 4)

CERIODAPHNIA DUBIA SURVIVAL AND REPRODUCTION TEST

- Dunnett's Procedure or Steel's Many-One Rank Test or Wilcoxon Rank Sum Test (with Bonferroni adjustment) or t-test (with Bonferroni adjustment) as appropriate:

Is the mean number of young produced per adult significantly less than the number of young per adult in the control for the % effluent corresponding to significant nonlethal effects?

CRITICAL DILUTION (5%): \_\_\_\_\_ YES \_\_\_\_\_ NO

PERCENT SURVIVAL

Time of Reading	Percent effluent					
	0%	2%	3%	4%	5%	7%
24h						
48h						
End of Test						

- Fisher's Exact Test:

Is the mean survival at test end significantly less than the control survival for the % effluent corresponding to lethality?

CRITICAL DILUTION (5%): \_\_\_\_\_ YES \_\_\_\_\_ NO

- Enter percent effluent corresponding to each NOEC\LOEC below:

a.) NOEC survival = \_\_\_\_\_% effluent

b.) LOEC survival = \_\_\_\_\_% effluent

c.) NOEC reproduction = \_\_\_\_\_% effluent

d.) LOEC reproduction = \_\_\_\_\_% effluent

TABLE 1 (SHEET 3 OF 4)

BIOMONITORING REPORTING

FATHEAD MINNOW LARVAE GROWTH AND SURVIVAL

Dates and Times  
Composites  
Collected

No. 1 FROM: \_\_\_\_\_ Date Time \_\_\_\_\_ TO: \_\_\_\_\_ Date Time \_\_\_\_\_

No. 2 FROM: \_\_\_\_\_ TO: \_\_\_\_\_

No. 3 FROM: \_\_\_\_\_ TO: \_\_\_\_\_

Test initiated: \_\_\_\_\_ am/pm \_\_\_\_\_ date

Dilution water used: \_\_\_\_\_ Receiving water \_\_\_\_\_ Synthetic dilution water

FATHEAD MINNOW GROWTH DATA

Effluent Concentration	Average Dry Weight in replicate chambers					Mean Dry Weight	CV%*
	A	B	C	D	E		
0%							
2%							
3%							
4%							
5%							
7%							
PMSD							

\* Coefficient of Variation = standard deviation x 100/mean

- Dunnett's Procedure or Steel's Many-One Rank Test or Wilcoxon Rank Sum Test (with Bonferroni adjustment) or t-test (with Bonferroni adjustment) as appropriate:

Is the mean dry weight (growth) at 7 days significantly less than the control's dry weight (growth) for the % effluent corresponding to significant nonlethal effects?

CRITICAL DILUTION (5%): \_\_\_\_\_ YES \_\_\_\_\_ NO

TABLE 1 (SHEET 4 OF 4)  
 BIOMONITORING REPORTING  
 FATHEAD MINNOW GROWTH AND SURVIVAL TEST  
 FATHEAD MINNOW SURVIVAL DATA

Effluent Concentration	Percent Survival in replicate chambers					Mean percent survival			CV%*
	A	B	C	D	E	24h	48h	7 day	
0%									
2%									
3%									
4%									
5%									
7%									

\* Coefficient of Variation = standard deviation x 100/mean

2. Dunnett's Procedure or Steel's Many-One Rank Test or Wilcoxon Rank Sum Test (with Bonferroni adjustment) or t-test (with Bonferroni adjustment) as appropriate:

Is the mean survival at 7 days significantly less than the control survival for the % effluent corresponding to lethality?

CRITICAL DILUTION (5%): \_\_\_\_\_ YES \_\_\_\_\_ NO

3. Enter percent effluent corresponding to each NOEC\LOEC below:

a.) NOEC survival = \_\_\_\_\_% effluent

b.) LOEC survival = \_\_\_\_\_% effluent

c.) NOEC growth = \_\_\_\_\_% effluent

d.) LOEC growth = \_\_\_\_\_% effluent

24-HOUR ACUTE BIOMONITORING REQUIREMENTS: FRESHWATER

The provisions of this section apply to Outfall 001 or Outfall 002 for whole effluent toxicity (WET) testing.

1. Scope, Frequency and Methodology

- a. The permittee shall test the effluent for lethality in accordance with the provisions in this Section. Such testing will determine compliance with the Surface Water Quality Standard, 307.6(e)(2)(B), of greater than 50% survival of the appropriate test organisms in 100% effluent for a 24-hour period.
- b. The toxicity tests specified shall be conducted once per six months. The permittee shall conduct the following toxicity tests utilizing the test organisms, procedures, and quality assurance requirements specified in this section of the permit and in accordance with "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition" (EPA-821-R-02-012), or its most recent update:
  - 1) Acute 24-hour static toxicity test using the water flea (*Daphnia pulex* or *Ceriodaphnia dubia*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution.
  - 2) Acute 24-hour static toxicity test using the fathead minnow (*Pimephales promelas*). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution.

A valid test result must be submitted for each reporting period. The permittee must report, and then repeat, an invalid test during the same reporting period. The repeat test shall include the control and the 100% effluent dilution and use the appropriate number of organisms and replicates, as specified above. An invalid test is herein defined as any test failing to satisfy the test acceptability criteria, procedures, and quality assurance requirements specified in the test methods and permit.

- c. In addition to an appropriate control, a 100% effluent concentration shall be used in the toxicity tests. The control and dilution water shall consist of standard, synthetic, moderately hard, reconstituted water.
- d. This permit may be amended to require a WET limit, a Best Management Practice (BMP), Chemical-Specific (CS) limits, or other appropriate actions to address toxicity. The permittee may be required to conduct a Toxicity Reduction Evaluation after multiple toxic events.

2. Required Toxicity Testing Conditions

- a. Test Acceptance - The permittee shall repeat any toxicity test, including the control, if the control fails to meet a mean survival equal to or greater than 90%.
- b. Dilution Water - In accordance with item 1.c., the control and dilution water shall consist of standard, synthetic, moderately hard, reconstituted water.

- c. Samples and Composites
- 1) The permittee shall collect one composite sample from the outfall being sampled.
  - 2) The permittee shall collect the composite samples such that the samples are representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance discharged on an intermittent basis.
  - 3) The permittee shall initiate the toxicity tests within 36 hours after collection of the last portion of the composite sample. Samples shall be maintained at a temperature of 0-6 degrees Centigrade during collection, shipping, and storage.
  - 4) If both outfalls cease discharging during the collection of the effluent composite sample, the requirements for the minimum number of effluent portions are waived. However, the permittee must have collected a composite sample volume sufficient for completion of the required test. The abbreviated sample collection, duration, and methodology must be documented in the full report.
  - 5) The effluent samples shall not be dechlorinated after sample collection.

3. Reporting

All reports, tables, plans, summaries, and related correspondence required in any Part of this Section shall be submitted to the attention of the Standards Implementation Team (MC 150) of the Water Quality Division.

- a. The permittee shall prepare a full report of the results of all tests conducted in accordance with the manual referenced above, or its most recent update thereof, for every valid and invalid toxicity test initiated.
- b. The permittee shall routinely report the results of each biomonitoring test on the Table 2 forms provided with this permit.
  - 1) Semiannual biomonitoring test results are due on or before January 20th and July 20th for biomonitoring conducted during the previous 6 month period.
  - 2) Quarterly biomonitoring test results are due on or before January 20th, April 20th, July 20th, and October 20th, for biomonitoring conducted during the previous calendar quarter.
- c. Enter the following codes on for the appropriate parameters for valid tests only:
  - 1) For the water flea, Parameter TIE3D, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter a "1."

- 2) For the fathead minnow, Parameter TIE6C, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter a "1."
- d. Enter the following codes for retests only:
- 1) For retest number 1, Parameter 22415, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter a "1."
  - 2) For retest number 2, Parameter 22416, enter a "0" if the mean survival at 24-hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter a "1."

4. Persistent Mortality

The requirements of this Part apply when a toxicity test demonstrates significant lethality, here defined as a mean mortality of 50% or greater to organisms exposed to the 100% effluent concentration after 24-hours.

- a. The permittee shall conduct 2 additional tests (retests) for each species that demonstrates significant lethality. The two retests shall be conducted once per week for 2 weeks. Five effluent dilution concentrations in addition to an appropriate control shall be used in the retests. These additional effluent concentrations are 6%, 13%, 25%, 50% and 100% effluent. The first retest shall be conducted within 15 days of the laboratory determination of significant lethality. All test results shall be submitted within 20 days of test completion of the second retest. Test completion is defined as the 24th hour.
- b. If one or both of the two retests specified in item 4.a. demonstrates significant lethality, the permittee shall initiate the TRE requirements as specified in Part 5 of this Section.

5. Toxicity Reduction Evaluation

- a. Within 45 days of the retest that demonstrates significant lethality, the permittee shall submit a General Outline for initiating a Toxicity Reduction Evaluation (TRE). The outline shall include, but not be limited to, a description of project personnel, a schedule for obtaining consultants (if needed), a discussion of influent and effluent data available for review, a sampling and analytical schedule, and a proposed TRE initiation date.
- b. Within 90 days of the retest that demonstrates significant lethality, the permittee shall submit a TRE Action Plan and Schedule for conducting a TRE. The plan shall specify the approach and methodology to be used in performing the TRE. A TRE is a step-wise investigation combining toxicity testing with physical and chemical analysis to determine actions necessary to eliminate or reduce effluent toxicity to a level not effecting significant lethality at the critical dilution. The TRE Action Plan shall lead to the successful elimination of significant lethality for both test species defined in item 1.b. As a minimum, the TRE Action Plan shall include the following:

- 1) Specific Activities - The TRE Action Plan shall specify the approach the permittee intends to utilize in conducting the TRE, including toxicity characterizations, identifications, confirmations, source evaluations, treatability studies, and alternative approaches. When conducting characterization analyses, the permittee shall perform multiple characterizations and follow the procedures specified in the document entitled, "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA/600/6-91/003), or alternate procedures. The permittee shall perform multiple identifications and follow the methods specified in the documents entitled, "Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081). All characterization, identification, and confirmation tests shall be conducted in an orderly and logical progression;
  - 2) Sampling Plan - The TRE Action Plan should describe sampling locations, methods, holding times, chain of custody, and preservation techniques. The effluent sample volume collected for all tests shall be adequate to perform the toxicity characterization/ identification/ confirmation procedures, and chemical-specific analyses when the toxicity tests show significant lethality. Where the permittee has identified or suspects specific pollutant(s) and source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical-specific analyses for the identified and suspected pollutant(s) and source(s) of effluent toxicity;
  - 3) Quality Assurance Plan - The TRE Action Plan should address record keeping and data evaluation, calibration and standardization, baseline tests, system blanks, controls, duplicates, spikes, toxicity persistence in the samples, randomization, reference toxicant control charts, as well as mechanisms to detect artifactual toxicity; and
  - 4) Project Organization - The TRE Action Plan should describe the project staff, project manager, consulting engineering services (where applicable), consulting analytical and toxicological services, etc.
- c. Within 30 days of submittal of the TRE Action Plan and Schedule, the permittee shall implement the TRE with due diligence.
- d. The permittee shall submit quarterly TRE Activities Reports concerning the progress of the TRE. The quarterly TRE Activities Reports are due on or before April 20th, July 20th, October 20th, and January 20th. The report shall detail information regarding the TRE activities including:
- 1) results and interpretation of any chemical-specific analyses for the identified and suspected pollutant(s) performed during the quarter;
  - 2) results and interpretation of any characterization, identification, and confirmation tests performed during the quarter;

- 3) any data and substantiating documentation which identifies the pollutant(s) and source(s) of effluent toxicity;
- 4) results of any studies/evaluations concerning the treatability of the facility's effluent toxicity;
- 5) any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to eliminate significant lethality; and
- 6) any changes to the initial TRE Plan and Schedule that are believed necessary as a result of the TRE findings.

Copies of the TRE Activities Report shall also be submitted to the U.S. EPA Region 6 office.

- e. During the TRE, the permittee shall perform, at a minimum, quarterly testing using the more sensitive species; testing for the less sensitive species shall continue at the frequency specified in Part 1.b.
- f. If the effluent ceases to effect significant lethality (herein as defined below) the permittee may end the TRE. A "cessation of lethality" is defined as no significant lethality for a period of 12 consecutive weeks with at least weekly testing. At the end of the 12 weeks, the permittee shall submit a statement of intent to cease the TRE and may then resume the testing frequency specified in Part 1.b. The permittee may only apply the "cessation of lethality" provision once.

This provision accommodates situations where operational errors and upsets, spills, or sampling errors triggered the TRE, in contrast to a situation where a single toxicant or group of toxicants cause lethality. This provision does not apply as a result of corrective actions taken by the permittee. "Corrective actions" are herein defined as proactive efforts which eliminate or reduce effluent toxicity. These include, but are not limited to, source reduction or elimination, improved housekeeping, changes in chemical usage, and modifications of influent streams and effluent treatment.

The permittee may only apply this cessation of lethality provision once. If the effluent again demonstrates persistent significant lethality to the same species, the permit will be amended to add a WET limit with a compliance period, if appropriate. However, prior to the effective date of the WET limit, the permittee may apply for a permit amendment removing and replacing the WET limit with an alternate toxicity control measure by identifying and confirming the toxicant and an appropriate control measure.

- g. The permittee shall complete the TRE and submit a Final Report on the TRE Activities no later than 18 months from the last test day of the retest that demonstrates significant lethality. The permittee may petition the Executive Director (in writing) for an extension of the 18-month limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled

the TIE/TRE. The report shall specify the control mechanism(s) that will, when implemented, reduce effluent toxicity as specified in item 5.g. The report will also specify a corrective action schedule for implementing the selected control mechanism(s). A copy of the TRE Final Report shall also be submitted to the U.S. EPA Region 6 office.

- h. Within 3 years of the last day of the test confirming toxicity, the permittee shall comply with 307.6.(e)(2)(B), which requires greater than 50% survival of the test organism in 100% effluent at the end of 24-hours. The permittee may petition the Executive Director (in writing) for an extension of the 3-year limit. However, to warrant an extension the permittee must have demonstrated due diligence in their pursuit of the TIE/TRE and must prove that circumstances beyond their control stalled the TIE/TRE.

The requirement to comply with 307.6.(e)(2)(B) may be exempted upon proof that toxicity is caused by an excess, imbalance, or deficiency of dissolved salts. This exemption excludes instances where individually toxic components (e.g. metals) form a salt compound. Following the exemption, the permit may be amended to include an ion-adjustment protocol, alternate species testing, or single species testing.

- i. Based upon the results of the TRE and proposed corrective actions, this permit may be amended to modify the biomonitoring requirements where necessary, to require a compliance schedule for implementation of corrective actions, to specify a WET limit, to specify a BMP, and to specify a CS limit.

TABLE 2 (SHEET 1 OF 2)

WATER FLEA SURVIVAL

GENERAL INFORMATION

	Time	Date
Composite Sample Collected		
Test Initiated		

PERCENT SURVIVAL

Time	Rep	Percent effluent					
		0%	6%	13%	25%	50%	100%
24h	A						
	B						
	C						
	D						
	E						
	MEAN						

Enter percent effluent corresponding to the LC50 below:

24 hour LC50 = \_\_\_\_\_% effluent

TABLE 2 (SHEET 2 OF 2)

FATHEAD MINNOW SURVIVAL

GENERAL INFORMATION

	Time	Date
Composite Sample Collected		
Test Initiated		

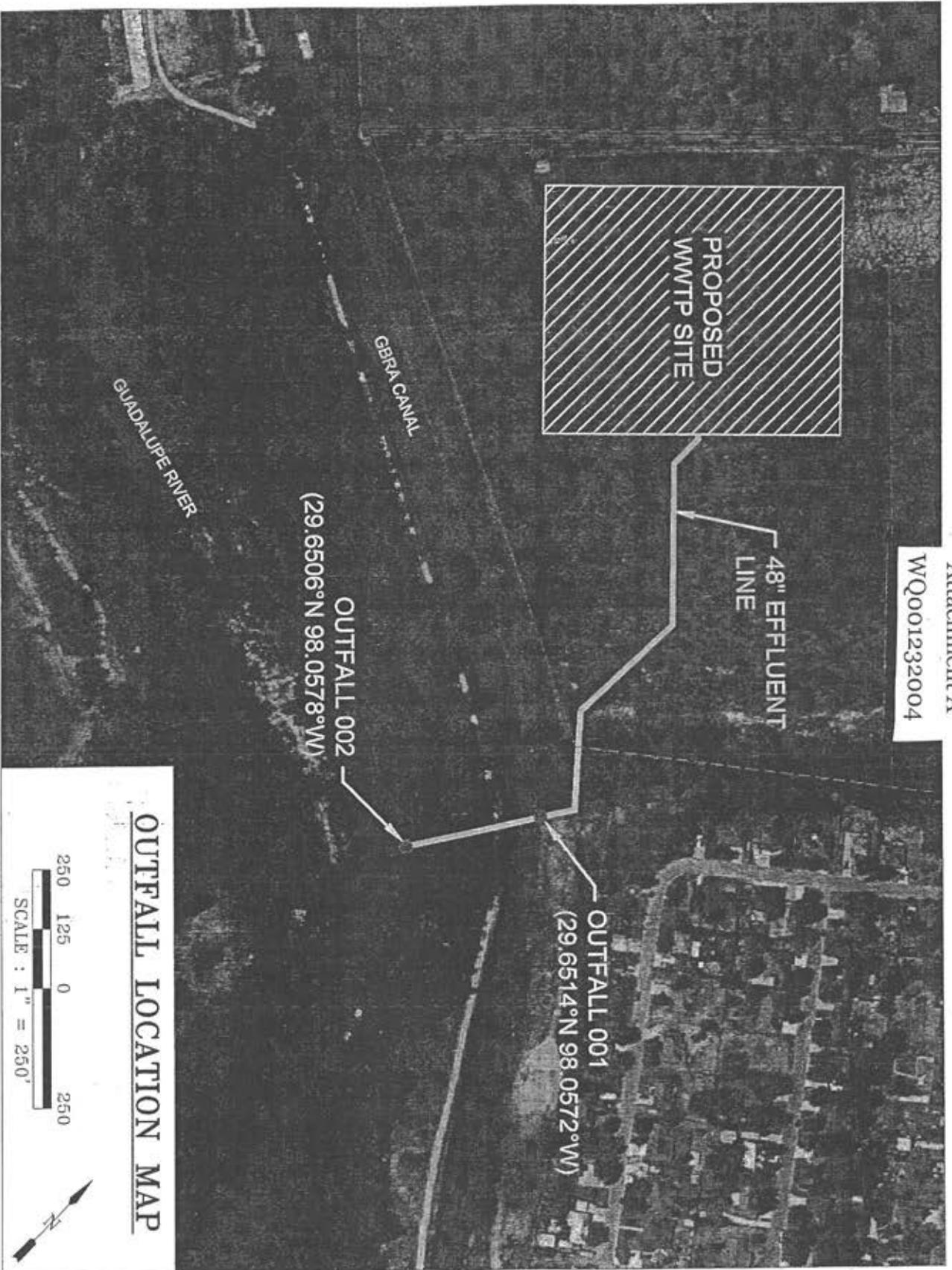
PERCENT SURVIVAL

Time	Rep	Percent effluent					
		0%	6%	13%	25%	50%	100%
24h	A						
	B						
	C						
	D						
	E						
	MEAN						

Enter percent effluent corresponding to the LC50 below:

24 hour LC50 = \_\_\_\_\_% effluent

Attachment A  
WQ001232004



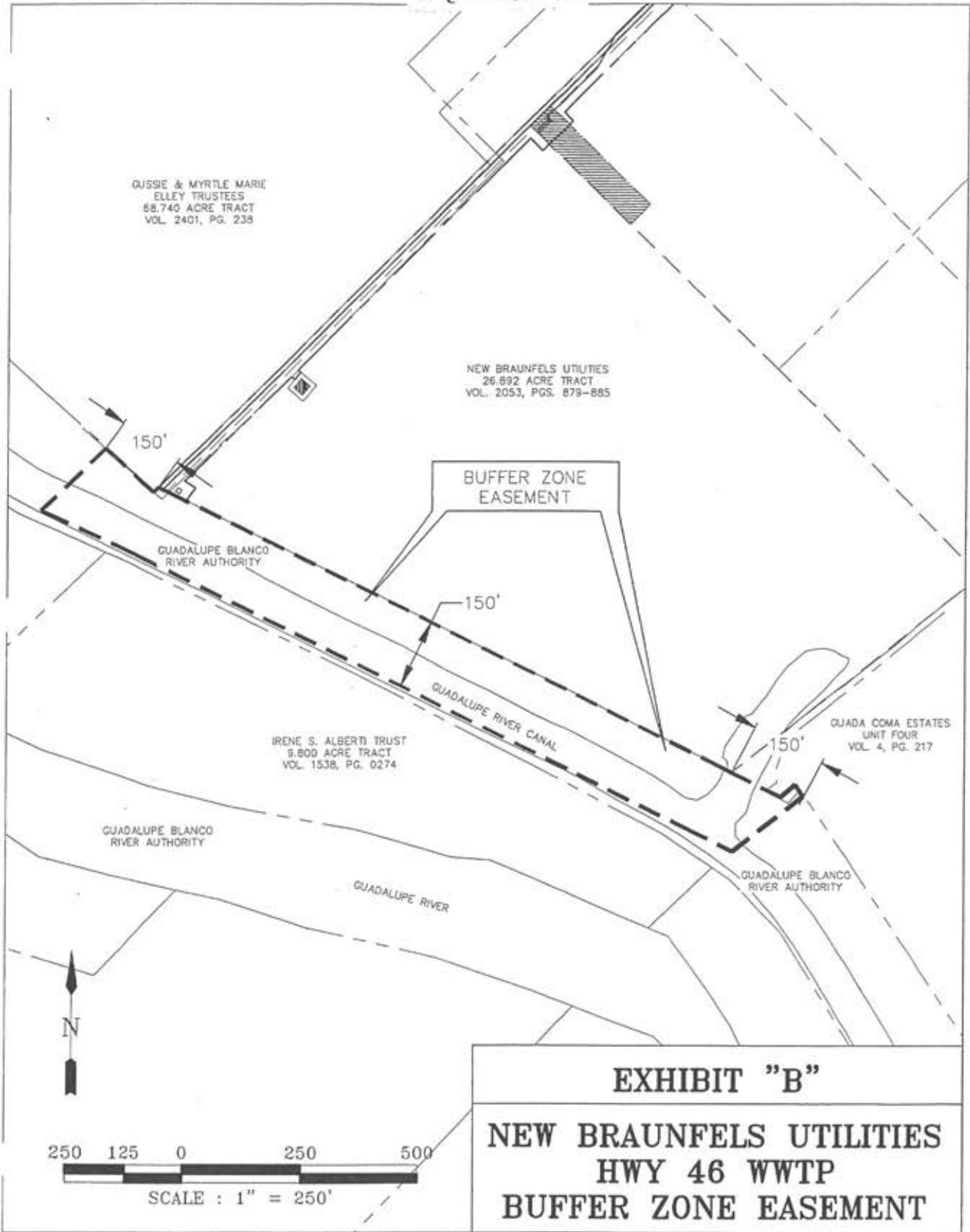
**OUTFALL LOCATION MAP**

250 125 0 250  
SCALE : 1" = 250'



'Attachment B'

WQ001232004



**DOMESTIC WORKSHEET 4.0  
POLLUTANT ANALYSES REQUIREMENTS**

**THE FOLLOWING IS REQUIRED FOR FACILITIES WITH A PERMITTED OR  
PROPOSED FLOW OF 1.0 MGD OR GREATER, OR FACILITIES WITH AN  
APPROVED PRETREATMENT PROGRAM.  
(SEE INSTRUCTIONS FOR FUTURE DETAILS)**

**TABLE 1.1 (Continued) (Page 2)**

Pollutants	Average	Effluent Concentration (µg/l)		MAc (µg/l)
		Maximum	No. of Samples	
Aldrin				0.05
alpha-hexachlorocyclohexane				0.05
Aluminum				30
Arsenic				10
Barium				10
Benzene				10
Benzidine				50
beta-hexachlorocyclohexane				0.05
Benzo(a)anthracene				10
Benzo(a)pyrene				10
Cadmium				1
Carbon Tetrachloride				10
Carbaryl				5
Chlordane				0.15
Chlorobenzene				10
Chloroform				10
Chlorpyrifos				0.05
Chromium (Total)				10
Chromium (Tri)				(*1)
Chromium (Hex)				10
Copper				10
Chrysene				10
p-Chloro-m-Cresol				10
4,6-Dinitro-o-Cresol				50
p-Cresol				10
Cyanide (see instructions for explanation)				20
4,4'- DDD				0.1
4,4'- DDE				0.1

Pollutants	Effluent Concentration (µg/l)			MAc (pg/l)
	Average	Maximum	No. of Samples	
4,4'- DDT				0.1
2,4-D				10
Demeton (O and S)				0.20
Diazinon				0.5
Dibromochloromethane				10
1,2-Dibromoethane				2
Dieldrin				0.1
1,4-Dichlorobenzene (p-Dichlorobenzene)				10
1,2-Dichloroethane				10
1,1-Dichloroethylene				10
Dicofol				20
Diuron				0.09
Endosulfan I (alpha)				0.1
Endosulfan II (beta)				0.1
Endosulfan Sulfate				0.1
Endrin				0.1
Fluoride				500
Guthion				0.1
Heptachlor				0.05
Heptachlor Epoxide				1
gamma-Hexachlorocyclohexane (Lindane)				0.05
Hexachlorobenzene				10
Hexachlorobutadiene				10
Hexachloroethane				20
Hexachlorophene				10
Lead				5
Malathion				0.1
Mercury				0.2
Methoxychlor				2
Methyl Ethyl Ketone				50
Mirex				0.2
Nickel				10
Nitrate-Nitrogen				1000
Nitrobenzene				10

Pollutants	Average	Effluent Concentration (µg/l)		MAI (µg/l)
		Maximum	No. of Samples	
n-Nitrosodiethylamine				20
n-Nitroso-di-n-Butylamine				20
Parathion (ethyl)				0.1
Pentachlorobenzene				20
Pentachlorophenol				50
Phenanthrene				10
Polychlorinated Biphenyls (PCB's) (see instructions for explanation)				1
Pyridine				20
Selenium				10
Silver				2
1,2,4,5-Tetrachlorobenzene				20
Tetrachloroethylene				10
Toxaphene				5
2,4,5-TP (Silvex)				2
Tributyltin (see instructions for explanation)				0.010
Trichloroethylene				10
1,1,1-Trichloroethane				10
2,4,5-Trichlorophenol				50
THM (Total Trihalomethanes)				10
Vinyl Chloride				10
Zinc				5

Table 1 sample information: Indicate type of sample:  Grab  Composite  
Date and time sample(s) collected: \_\_\_\_\_

Pollutants	Effluent Concentration (µg/l)			
	Average	Maximum	No. of Samples	MAL (µg/l)
<b>METALS, CYANIDE, PHENOLS</b>				
Antimony				60
Arsenic				10
Beryllium				5
Cadmium				1
Chromium (Total)				10
Chromium (Hex)				10
Chromium (Tri)				(*1)
Copper				10
Lead				5
Mercury				0.2
Nickel				10
Selenium				10
Silver				2
Thallium				10
Zinc				5
Cyanide (see page 39 of the instructions)				20
Phenols, Total				10
<b>VOLATILE COMPOUNDS</b>				
Acrolein				50
Acrylonitrile				50
Benzene				10
Bromoform				10
Carbon Tetrachloride				10
Chlorobenzene				10
Chlorodibromomethane				10
Chloroethane				50
2-Chloroethylvinyl Ether				10
Chloroform				10
Dichlorobromomethane				10
1,1-Dichloroethane				10
1,2-Dichloroethane				10
1,1-Dichloroethylene				10

Pollutants	Effluent Concentration (µg/l)			MAL (µg/l)
	Average	Maximum	No. of Samples	
<b>VOLATILE COMPOUNDS (cont)</b>				
1,2-Dichloropropane				10
1,3-Dichloropropylene				10
Ethylbenzene				10
Methyl Bromide				50
Methyl Chloride				50
Methylene Chloride				20
1,1,2,2-Tetrachloroethane				10
Tetrachloroethylene				10
Toluene				10
1,2-Trans-Dichloroethylene				10
1,1,1-Trichloroethane				10
1,1,2-Trichloroethane				10
Trichloroethylene				10
Vinyl Chloride				10
<b>ACID COMPOUNDS</b>				
2-Chlorophenol				10
2,4-Dichlorophenol				10
2,4-Dimethylphenol				10
4,6-Dinitro-o-Cresol				50
2,4-Dinitrophenol				50
2-Nitrophenol				20
4-Nitrophenol				50
P-Chloro-m-Cresol				10
Penta-chlorophenol				50
Phenol				10
2,4,6-Trichlorophenol				10
<b>BASE/NEUTRAL COMPOUNDS</b>				
Acenaphthene				10
Acenaphthylene				10
Anthracene				10
Benzidine				50
Benzo(a)Anthracene				10
Benzo(a)Pyrene				10
3,4-Benzofluoranthene				10
Benzo(ghi)Perylene				20
Benzo(k)Fluoranthene				10
Bis(2-Chloroethoxy)Methane				10
Bis(2-Chloroethyl)Ether				10
Bis(2-Chloroisopropyl)Ether				10
Bis(2-Ethylhexyl)Phthalate				10

Pollutants	Effluent Concentration (µg/l)			MAL (µg/l)
	Average	Maximum	No. of Samples	
<b>BASE/NEUTRAL COMPOUNDS (cont.)</b>				
4-Bromophenyl Phenyl Ether				10
Butylbenzyl Phthalate				10
2-Chloronaphthalene				10
4-Chlorophenyl phenyl ether				10
Chrysene				10
Dibenzo(a,h)Anthracene				20
1,2-Dichlorobenzene				10
1,3-Dichlorobenzene				10
1,4-Dichlorobenzene				10
3,3-Dichlorobenzidine				50
Diethyl Phthalate				10
Dimethyl Phthalate				10
Di-n-Butyl Phthalate				10
2,4-Dinitrotoluene				10
2,6-Dinitrotoluene				10
Di-n-Octyl Phthalate				10
1,2-Diphenyl Hydrazine (as Azobenzene)				20
Fluoranthene				10
Fluorene				10
Hexachlorobenzene				10
Hexachlorobutadiene				10
Hexachlorocyclopentadiene				10
Hexachloroethane				20
Indeno(1,2,3-cd)pyrene				20
Isophorone				10
Naphthalene				10
Nitrobenzene				10
N-Nitrosodimethylamine				50
N-Nitrosodi-n-Propylamine				20
N-Nitrosodiphenylamine				20
Phenanthrene				10
Pyrene				10
1,2,4-Trichlorobenzene				10
<b>PESTICIDES</b>				
Aldrin				0.05
alpha-BHC				0.05
beta-BHC				0.05
gamma-BHC				0.05
delta-BHC				0.05
Chlordane				0.15
4,4-DDT				0.1

Pollutants	Effluent Concentration (µg/l)			MAL (µg/l)
	Average	Maximum	No. of Samples	
PESTICIDES (cont.)				
4,4-DDE				0.1
4,4,-DDD				0.1
Dieldrin				0.1
alpha-Endosulfan				0.1
beta-Endosulfan				0.1
Endosulfan Sulfate				0.1
Endrin				0.1
Endrin Aldehyde				0.1
Heptachlor				0.05
Heptachlor Epoxide				1.0
PCB-1242				1.0
PCB-1254				1.0
PCB-1221				1.0
PCB-1232				1.0
PCB-1248				1.0
PCB-1260				1.0
PCB-1016				1.0
Toxaphene				5.0

Table 2 sample information: Indicate type of sample:  Grab  Composite  
Date and time sample(s) collected: \_\_\_\_\_

# **ATTACHMENT D**

TCEQ INTRAAGENCY TRANSMITTAL MEMO

DATE: October 16, 2013

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

**FROM:** STEFANIE SKOGEN  
ENVIRONMENTAL LAW DIVISION  
BUILDING A, MC-173

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

Application Information:

Program Area (Air, Water, or Waste): **Water**

Registration No. **WQ0010232004**

Name: **New Braunfels Utilities**

CID Item #: **79684**

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2013 OCT 16 AM 11:54  
CHIEF CLERKS OFFICE

**OCC Action Required** (check applicable boxes)

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

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

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

FOR WASTE & WATER:

- Send Response to Comments Letter which solicits hearing requests and requests for reconsideration to the mailing list in your files.  
*For Waste and Water, this would occur in all circumstances when comments have been received for 801 applications.*

Or

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

FOR AIR (NSR only):

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

**TPDES Permit No. WQ0010232004**

**APPLICATION BY NEW §  
BRAUNFELS UTILITIES FOR §  
NEW TEXAS POLLUTANT §  
DISCHARGE ELIMINATION §  
SYSTEM (TPDES) PERMIT NO. §  
WQ0010232004 §**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

2013 OCT 16 11:11 AM  
CHIEF CLERK OFFICE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Public Comment on New Braunfels Utilities' (NBU's) application for new TPDES Permit No. WQ0010232004 and the ED's preliminary decision. As required by title 30, section 55.156 of the Texas Administrative Code, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk timely received a comment letter from Irene Alberti. This response addresses all such timely public comments received, whether or not withdrawn. For more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on the TCEQ web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

**I. BACKGROUND**

**A. Facility Description**

NBU applied to the TCEQ for new TPDES Permit No. WQ0010232004 to authorize the discharge of treated domestic wastewater effluent at a daily average flow not to exceed 2.5 million gallons per day (MGD) in the Interim I phase, 4.9 MGD in the Interim II phase, 7.5 MGD in the Interim III phase, and 9.9 MGD in the Final phase. The Sam C. McKenzie, Jr. Water Reclamation Facility would be an activated sludge process plant operated in the complete mix mode with single-stage nitrification. Treatment units in the Interim I phase would include a lift station, two screening channels, aerated grit chamber, two anoxic basins, two anaerobic basins, two aeration basins, two final clarifiers, two tertiary filters, two aerobic sludge digesters, belt filter press, and ultraviolet (UV) disinfection chamber. NBU would add two anoxic basins, two anaerobic basins, two aeration basins, two final clarifiers, one tertiary filter, two aerobic sludge digesters, and one UV disinfection chamber for the Interim II phase. NBU would add one aerated grit chamber, two anoxic basins, two anaerobic basins, one aeration basin, one final clarifier, one tertiary filter, two aerobic sludge digesters, one belt filter press, and one UV disinfection chamber for the Interim III phase. NBU would add two anoxic basins, two anaerobic basins, one aeration basin, one final clarifier, one tertiary filter, and two aerobic sludge digesters for the Final phase. The facility has not been constructed.

Effluent limits in all phases of the proposed permit, based on a thirty-day average, are 10 milligrams per liter (mg/L) carbonaceous biochemical oxygen demand (five-day), 15 mg/L total suspended solids, 3 mg/L ammonia nitrogen, 4 mg/L minimum dissolved oxygen, and 126 colony-forming units or most probable number of *E. coli* per 100 milliliters of effluent. The effluent limits for total phosphorus, based on a thirty-day average, are 1 mg/L in the Interim I and II phases, 0.75 mg/L in the Interim III phase, and 0.5 mg/L in the Final phase of the proposed permit. NBU must use a UV light system for disinfection.

The wastewater treatment facility would be located approximately four miles southeast of the City of New Braunfels, 0.7 mile southwest of the intersection of State Highway 46 and Elley Lane, and 0.6 mile downstream from the Lake Dunlap Dam on the Guadalupe River in Guadalupe County, Texas 78130. The treated effluent would be discharged from Outfall 001 by pipeline to the Lake Dunlap Hydroelectric Plant Canal; then to the Guadalupe River Below Comal River in Segment No. 1804 of the Guadalupe River Basin. The treated effluent would be discharged from Outfall 002 by pipeline to the Guadalupe River Below Comal River in Segment No. 1804 of the Guadalupe River Basin. NBU would use Outfall 002 only when it is bypassing the Lake Dunlap Hydroelectric Plant Canal to divert all upstream flow to the river. The designated uses for Segment No. 1804 are high aquatic life use, public water supply, aquifer protection, and primary contact recreation.

## **B. Procedural Background**

The TCEQ received the application on September 12, 2011, and declared it administratively complete on October 24, 2011. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English on November 13, 2011, in the *New Braunfels Herald-Zeitung* and in Spanish on December 16, 2011, in *La Voz de Guadalupe County*. ED staff completed the technical review of the application on April 27, 2012, and prepared a draft permit. The Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) was published in English on May 8, 2013, in the *New Braunfels Herald-Zeitung* and *Seguin Gazette* and in Spanish on May 30, 2013, in *La Voz de Guadalupe County*. The first public comment period ended on July 1, 2013. To correct a publication error with the English NORI, a combined NORI/NAPD was published in English on September 8, 2013, in the *Seguin Gazette*. The second comment period ended on October 8, 2013. This application was administratively complete on or after September 1, 1999. Therefore, it is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

## **C. Access to Rules, Statutes, and Records**

- Secretary of State web site for all Texas 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 "View the current *Texas Administrative Code*" on the right, then "Title 30 Environmental Quality").
- Texas statutes: [www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us).

- TCEQ web site: [www.tceq.texas.gov](http://www.tceq.texas.gov) (for downloadable rules in Adobe portable document format, select “Rules,” then “Download TCEQ Rules”).
- Federal rules in title 40 of the Code of Federal Regulations: [www.epa.gov/lawsregs/search/40cfr.html](http://www.epa.gov/lawsregs/search/40cfr.html).
- Federal environmental laws: [www.epa.gov/lawsregs/laws/index.html](http://www.epa.gov/lawsregs/laws/index.html).

Commission records for this application are available for viewing and copying at the TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, First Floor (Office of the Chief Clerk), until the TCEQ takes final action. The application for this facility has been available for viewing and copying at the Guadalupe-Blanco River Authority General Office, 933 East Court Street, Seguin, Texas 78155, since publication of the NORI. The proposed permit and Fact Sheet and ED’s Preliminary Decision have been available for viewing and copying at the same location since publication of the NAPD.

If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or TCEQ rules, you may call the TCEQ Environmental Complaints Hot Line at 1-888-777-3186 or the TCEQ Region 13 Office directly at 1-210-490-3096. Citizen complaints may also be filed by sending an e-mail to [cmplaint@tceq.texas.gov](mailto:cmplaint@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.

## **II. COMMENTS AND RESPONSES**

### **Comment 1**

Irene Alberti stated that the treatment facility and treated effluent would greatly devalue her property and severely limit any future development.

### **Response 1**

The TCEQ does not have jurisdiction to address these types of issues as part of the wastewater permitting process. While the Texas Legislature has given the TCEQ the responsibility to protect water quality, the water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state’s rivers, lakes, and coastal waters. The TCEQ cannot consider issues such as property value and development when reviewing wastewater applications and preparing draft permits.

The proposed permit does not authorize any invasion of personal rights or any violation of federal, state, or local laws. It also does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or use and enjoyment of property, or that may or actually do interfere with the normal use and enjoyment of animal life,

vegetation, or property. Furthermore, title 30, section 305.122(d) of the Texas Administrative Code states that the issuance of a permit does not authorize any injury to persons or property, an invasion of other property rights, or any infringement of state or local statutes or regulations. Under sections 305.122(c) and 305.125(16) of that same title, the issuance of a permit does not convey any property right or exclusive privilege. The proposed permit incorporates those rules into Permit Conditions No. 8, which states that a permit does not convey any property right of any sort or any exclusive privilege.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with the terms of any permit or other environmental regulation by using the contact information listed in Section I.C above. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to investigation and possible enforcement action.

## **Comment 2**

Irene Alberti stated that the treatment facility and treated effluent would severely limit any future use of her property.

## **Response 2**

The TCEQ's jurisdiction over the permitting process is established by the Texas Legislature and is limited to controlling the discharge of pollutants into and protecting the quality of water in the state. Pursuant to title 30, chapter 309, subchapter B of the Texas Administrative Code, the TCEQ has the authority to condition the issuance of a wastewater discharge permit on the selection of a site that minimizes impacts on groundwater and surface water and minimizes nuisance odor conditions. The proposed permit is protective of groundwater and surface water and provides protection against nuisance odor conditions. Any future use of Irene Alberti's property should not be affected if NBU operates its facility in accordance with TCEQ rules and the proposed permit.

The proposed permit would not limit anyone's ability to seek legal remedies from NBU regarding any potential trespass, nuisance, or other cause of action in response to the proposed facility's activities that may result in injury to human health or property or interfere with the normal use and enjoyment of property. Furthermore, if members of the public experience nuisance conditions from the facility, they may use the contact information listed in section I.C above to notify the TCEQ of any problems. If the TCEQ found that the facility was out of compliance with applicable laws or the proposed permit, the facility may be subject to enforcement action. The TCEQ's periodic facility inspections and review of NBU's annual reports would also help to identify potential violations.

**III. CHANGES MADE TO THE PROPOSED PERMIT IN RESPONSE TO COMMENT**

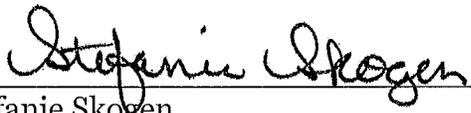
The ED did not make any changes to the proposed permit in response to public comment.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Zak Covar, Executive Director

Robert Martinez, Director  
Environmental Law Division

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# **ATTACHMENT E**

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600522957 New Braunfels Utilities	Classification: AVERAGE	Rating: 2.57
Regulated Entity:	RN106228422 HIGHWAY 46 WWTP	Classification:	Site Rating:
ID Number(s):	WASTEWATER PERMIT WASTEWATER EPA ID		WQ0010232004 TX0133248
Location:	LOCATED APPROX 4 MI SE OF NEW BRAUNFELS AND 0.7 MI SW OF SR 46 DOWNSTREAM OF LAKE DUNLAP DAM ON THE GUADALUPE RIVER		
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	April 24, 2012		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	September 12, 2006 to April 24, 2012		

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

Name: Larry Diamond Phone: 239 - 0037

### Site Compliance History Components

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

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas

N/A



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600522957, RN106228422, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600522957, New Braunfels Utilities	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 1.29
<b>Regulated Entity:</b>	RN106228422, HIGHWAY 46 WWTP	<b>Classification:</b> UNCLASSIFIED	<b>Rating:</b> -----
<b>Complexity Points:</b>	3	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	08 - Sewage Treatment Facilities		
<b>Location:</b>	LOCATED APPROX 4 MI SE OF NEW BRAUNFELS AND 0.7 MI SW OF SR 46 DOWNSTREAM OF LAKE DUNLAP DAM ON THE GUADALUPE RIVER GUADALUPE, TX, GUADALUPE COUNTY		
<b>TCEQ Region:</b>	REGION 13 - SAN ANTONIO		
<b>ID Number(s):</b>			
<b>WASTEWATER EPA ID TX0133248</b>	<b>WASTEWATER PERMIT WQ0010232004</b>		
<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>	December 18, 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 12, 2006 to December 18, 2013		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	Larry Diamond	<b>Phone:</b>	(512) 239-0037

## **Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 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:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

N/A

### **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.

N/A

**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