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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 23, 2015

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

Re: **Unimin Corporation**
TPDES Permit No. WQ0001401000
TCEQ Docket No. 2015-0201-IWD.

Dear Ms. Bohac,

Enclosed please find the original and seven (7) copies of the Executive Director's Response to Request for Hearing in the above-entitled matter.

Sincerely,

Michael T. Parr II, Staff Attorney
Environmental Law Division
State Bar No. 24062936

cc: Mailing List

Enclosure

TCEQ DOCKET NUMBER 2015-0201-IWD

APPLICATION BY UNIMIN CORPORATION FOR TPDES PERMIT NO. WQ0001401000	**§ § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Hearing Requests (Response) on the application by Unimin Corporation (Applicant) for a Major Amendment with Renewal to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0001401000. O.R. Jordan submitted a written request for a contested case hearing (CCH).

Attached for Commission consideration are the following:

Attachment A – Fact Sheet & Draft Permit
Attachment B – ED's Response to Comments (RTC)
Attachment C – Compliance History
Attachment D – ED's GIS Maps

II. Description of the Facility

The Applicant operates the Cleburne Plant (facility), a sand mining and processing operation, located at 1788 County Road 308 approximately 0.75 miles north of the intersection of County Road 308 and U.S. Highway 67 in the northeast corner of Somervell County in Cleburne, Texas 76033. The permit currently authorizes the discharge of mine seepage and stormwater at a daily average flow not to exceed 500,000 gallons per day per outfall via Outfalls 001, 002, and 003. In addition to the existing

authorizations, the Major Amendment application seeks to authorize the discharge of process-generated wastewater at Outfalls 001 and 002; an additional settling/clarification impoundment (Pond 10); and an additional Outfall (004) to discharge process-generated wastewater and stormwater on an intermittent and flow variable basis from newly created Pond 10. The Applicant seeks the authorization for the discharge via Outfall 004 as an emergency option to protect the facility in situations such as a mechanical or pumping failures or improbable extreme rainfall events.

If the Commission issues the permit, process generated wastewater will be routed to a series of tailings ponds for settling and water clarification to allow suspended particles of sand and clay to settle. The settling pond circuit is used to maximize recycling and retaining of facility water so discharges are kept to a minimum. The discharge route for all the outfalls ends in the Brazos River Below Lake Granbury in Segment No. 1204 of the Brazos River Basin. However, via Outfalls 002 and 003, the discharge route is first to unnamed tributaries, then to Georges Creek, via Outfall 004, first to an emergency spillway, then to Georges Creek, and via Outfall 001, first to Georges Creek. The unclassified receiving waters for the unnamed tributaries and emergency spillway have minimal aquatic life use and George's Creek has limited aquatic life use. The designated uses for Segment No. 1204 are high aquatic life use, and primary contact recreation.

In accordance with 30 TAC § 307.5 of the Texas Surface Water Quality Standards (TSWQS) and the *Procedures to Implement the TSWQS* (June 2010), an antidegradation review of the receiving waters was performed. The Tier 1 antidegradation review preliminarily determined that no impairment of existing water quality uses would result from this permitting action, as the TCEQ expects the proposed

permit to maintain the numerical and narrative criteria protecting the existing uses. Additionally, because the Tier 1 review preliminarily determined that the stream reach assessed does not contain water bodies with exceptional, high, or intermediate aquatic life uses, the TCEQ did not perform a Tier 2 antidegradation review. However, the TCEQ expects no significant degradation of water quality in water bodies with exceptional, high, or intermediate aquatic life uses downstream of the discharge, as the TCEQ expects the proposed permit to protect and maintain the existing uses. If the TCEQ receives new information, it may reexamine and modify the preliminary determination.

III. Procedural Background

The TCEQ received the major amendment application on October 30, 2013, and declared it Administratively Complete on January 29, 2014. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Somervell County, Texas on February 26, 2014 in English in the *Glen Rose Reporter*. The ED completed the technical review of the application on June 6, 2014, and prepared a draft permit, which if approved, would establish the conditions under which the facility must operate. The Applicant published the Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) on September 25, 2014, in English and on July 24, 2014 in Spanish in the *Glen Rose Reporter,* and on July 31, 2014 in Spanish in the *La Prensa Comunidad*. The public comment period closed on October 27, 2014. Because this application was administratively complete on or after September 1, 1999, it is subject to procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999 (HB 801).

IV. Evaluation Process for Contested Case Hearing Requests

HB 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, HB 801 established new procedures for providing public notice and public comment, and for the Commission's consideration of Contested Case Hearing requests (CCH). The ED declared this application administratively complete on January 29, 2014; therefore, this application is subject to HB 801 requirements. The Commission implemented HB 801 by adopting procedural rules in Title 30 of the Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The regulations governing CCH requests are found at 30 TAC Chapter 55.

A. Legal Authority to Respond to Hearing Requests

"The Executive Director, the public interest counsel, and applicant may submit written responses to [hearing] requests . . . ."[1] Responses to hearing requests must specifically address:

(1) whether the requestor is an affected person;

(2) whether 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 Executive Director's Response to Comment;

(6) whether the issues are relevant and material to the decision on the application; and

(7) a maximum expected duration for the contested case hearing.[2]

[1] 30 TAC § 55.209(d).

B. Contested Case Hearing Requests

In order for the Commission to consider a CCH request, the Commission must first determine whether the request complies with the TCEQ rules by providing instructions requesting that the commission reconsider the ED's decision or hold a CCH, and that it was filed no later than 30 days after the chief clerk mailed (or otherwise transmits) the ED's decision and Response to Comments.[3]

"A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided . . . and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment."[4]

C. Contested Case Hearing Request Requirements

A contested case hearing request must substantially comply with the following:

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

(2) identify the person's 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

[2] 30 TAC § 55.209(e).
[3] 30 TAC § 55.201(a).
[4] 30 TAC § 55.201(c).

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

(3) request a contested case hearing

(4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and

(5) provide any other information specified in the public notice of application[5]

D. Requestor must be an Affected Person

In order to grant a request for a CCH, the commission must determine that a requestor is an "affected person." Concerning "affected person" status, the TCEQ rules declare that:

(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

[5] 30 TAC §55.201(d).

(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[6]

E. Referral to the State Office of Administrative Hearings (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."[7] "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

[6] 30 TAC § 55.203.
[7] 30 TAC § 50.115(b).

(3) is relevant and material to the decision on the application."[8]

V. Analysis of the Hearing Requests

A. Whether the Requestor Complied with 30 TAC §§ 55.201(c) and (d).

O. R. Jordan submitted a CCH request that provided his name and address and requested a CCH, however, the issues raised in the CCH request (impact to property values and water supply issues) are not relevant and material issues with respect to this application.

The ED recommends that the Commission find that O. R. Jordan's CCH request did not substantially comply with the requirements of 30 TAC §§ 55.201(c) and (d).

B. Whether the Requestor is an affected person

O. R. Jordan's CCH request did not effectively identify a personal, justiciable interest affected by the application. Mr. Jordan's request also failed to include a brief written statement explaining in plain language his location and distance relative to the facility, discharge point or discharge route. According to the GIS map developed by the ED's staff, the address provided in Mr. Jordan's CCH request places his property 9.96 miles northwest of the facility's location and a significant distance upstream of the outfalls and the discharge route. Mr. Jordan's property is neither downstream nor adjacent to the facility or discharge route. Landowners who reside within a close proximity to a TCEQ authorized site are more able to show that a reasonable relationship exists between the personal interests sought to be protected and the subject of the controversy, or that a specific geographic/causative nexus exists to satisfy the "fairly traceable" element of standing or affected person status. The distance between

[8] 30 TAC § 50.115(c).

the facility and Mr. Jordan's property decreases the likelihood that Mr. Jordan will be personally affected in a way not common to the public. Similarly, Mr. Jordan's CCH request failed to explain how and why Mr. Jordan would be personally affected by the proposed activity in a manner not common to members of the public.

The ED recommends that the Commission find that O. R. Jordan is not an affected person.

C. Whether the Issues are Referable to SOAH

In addition to recommending to the Commission those persons who qualify as affected persons, the ED analyzes issues raised in accordance with the regulatory criteria.

The ED recommends that the Commission not refer any issues because there were not any relevant and material issues of fact with respect to this application raised during the comment period.

VI. Executive Director's Recommendation

The ED recommends the following actions by the Commission:

1. Find that O. R. Jordan **is not an affected person** and deny Mr. Jordan's CCH request; and
2. Not refer any issues because there were not any relevant and material issues of fact with respect to this application raised during the comment period.

Respectfully submitted,

Texas Commission on Environmental Quality

Richard A. Hyde, P.E., Executive Director

Robert Martinez, Environmental Law
Division Director

By_____

Michael T. Parr II, Staff Attorney
Environmental Law Division
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REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on March 23, 2015 the original and seven true and correct copies of the ED's Response to Hearing Request on the application by Unimin Corporation for a Major Amendment with Renewal of TPDES permit no. WQ0001401000 were filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, or by deposit in the U.S. Mail.

_____

Michael T. Parr II, Staff Attorney
Environmental Law Division
State Bar No. 24062936

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DOCKET NO. 2015-0201-IWD;
PERMIT NO. WQ0001401000

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REQUESTER(S):
O. R. Jordan
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INTERESTED PERSON(S):
Valerie Wallis
204 Stratford Court
Hurst, Texas 76054-3035

ATTACHMENT A

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

DESCRIPTION OF APPLICATION

Applicant:	Unimin Corporation; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0001401000 (TX0001830)
Regulated Activity:	Industrial Wastewater Permit
Type of Application:	Major Amendment with Renewal.
Request:	Major Amendment with renewal to authorize the discharge of process generated wastewater from Outfalls 001 and 002; addition of Outfall 004 to discharge process generated wastewater from a new settling and clarification impoundment (Pond 10); and change flow monitoring from "instantaneous" to "estimate" at Outfalls 001, 002 and 003.
Authority:	Federal Clean Water Act §402; Texas Water Code §26.027; 30 Texas Administrative Code (TAC) Chapter 305, Subchapters C-F, Chapters 307 and 319; Commission Policies; and Environmental Protection Agency (EPA) Guidelines

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed the permit be issued to expire on May 1, 2019, in accordance with 30 TAC §305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for an amendment of its existing permit. The proposed amendment would authorize the discharge of process generated wastewater from Outfalls 001, and 002; and the discharge of process generated wastewater from the proposed settling and clarification impoundment (Pond 10) via proposed Outfall 004.

The permittee had also requested to change the flow monitoring from "instantaneous" to "estimate" at Outfalls 001, 002, and 003. However, the permittee has since determined that these changes are not necessary since the discharges at these outfalls can be measured. Therefore, the flow monitoring was not changed at Outfalls 001, 002, and 003.

PROJECT DESCRIPTION AND LOCATION

The applicant operates the Cleburne Plant, a sand mining and processing operation (SIC 1446).

The wastewater system consists of process generated wastewater, mine dewatering, and stormwater. The facility surface mines industrial sand by ripping and dozing raw material which is then loaded into haul trucks and transported to the processing facility. The raw material is then passed through wet process (washing, screening, crushing, and removal of overly coarse material, fine material, silts, and clays) then placed in stockpiles to drain. The dry product is sorted by size in the screening process and sent to silo storage. Process generated wastewater is routed to a series of tailings ponds for settling and water clarification to allow suspended particles of sand and clay to settle. The settling pond circuit is used to maximize recycling and retaining of plant water so discharge is kept to a minimum. Domestic wastewater is disposed by an on-site septic tank.

The plant site is located at 1788 County Road 308 approximately 3/4 mile north of the intersection of County Road 308 and U.S. Highway 67 in the northeast corner of Somervell County, Texas 76033.

The effluent is discharged via Outfall 001 to Georges Creek; thence to Brazos River Below Lake Granbury in Segment No. 1204 of the Brazos River Basin; via Outfalls 002 and 003 to unnamed tributaries; thence to Georges Creek; thence to Brazos River Below Lake Granbury in Segment No. 1204 of the Brazos River Basin; and via Outfall 004 to an emergency spillway; thence to Georges Creek; thence to Brazos River Below Lake Granbury in Segment No. 1204 of the Brazos River Basin. The unclassified receiving waters have high minimal aquatic life use for the unnamed tributaries and limited aquatic life use for Georges Creek. The designated uses for Segment No. 1204 are high aquatic life use, and primary contact recreation. The effluent limits in the draft permit will maintain and protect the existing instream uses. All determinations are preliminary and subject to additional review and revisions.

In accordance with 30 TAC §307.5 and the TCEQ implementation procedures (June 2010) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life use are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life use downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

The discharge from this permit 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 TPDES (September 14, 1998; October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Segment No. 1204 is not currently listed on the State's inventory of impaired and threatened waters (the 2012 Clean Water Act Section 303(d) list).

A Waste Load Evaluation (WLE) has not been prepared for Segment No. 1204.

SUMMARY OF EFFLUENT DATA

The following is a quantitative description of the discharge described in the Monthly Effluent Report data for the period October 2008 through September 2013. The "Average of Daily Avg." values presented in the following table are the average of all daily average values for the reporting period for each parameter. The "Maximum of Daily Max" values presented in the following table are the individual maximum values for the reporting period for each parameter:

Flow

Outfall	Frequency	Average of Daily Avg., MGD	Maximum of Daily Max., MGD
001	Intermittent	0.288	0.288
002	Intermittent	0.241	0.45
003	Intermittent	No Discharge Reported	

Effluent Characteristics

Outfall	Parameter	Average of Daily Avg	Maximum of Daily Max
001	Total Suspended Solids	3.85 mg/L	4.7 mg/L
	pH, standard units (S.U.)	7.87 S.U. (min)	8.04 S.U. (max)
002	Total Suspended Solids	2.7 mg/L	8.7 mg/L
	pH	7.85 S.U. (min)	8.2 S.U. (max)

Based on the self-report data summarized above for the period October 2008 through September 2013 the facility discharged one time from Outfall 001 and four times from Outfall 002. The last discharge from Outfall 002 was January 2012. No action has been taken at this time, since there were no violations reported on the self-report data summarized above.

DRAFT PERMIT CONDITIONS

The draft permit authorizes the discharge of process generated wastewater and stormwater at a daily average flow not to exceed 0.5 million gallons per day (MGD) via Outfalls 001 and 002, mine dewatering and stormwater at a daily average flow not to exceed 0.5 MGD via Outfall 003, and process wastewater and stormwater on an intermittent and flow variable basis via Outfall 004.

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

Outfall	Pollutant	Daily Average	Daily Maximum
001, 002, & 003	Flow	0.5 MGD	Report, MGD
	Total Suspended Solids	20 mg/L	30 mg/L
		83 lbs/day	125 lbs/day
	pH	Between 6.0 and 9.0 standard units	
004	Flow	Report, MGD	Report, MGD
	Total Suspended Solids	25 mg/L	45 mg/L
	pH	Between 6.0 and 9.0 standard units	

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

This facility is subject to technology-based effluent limitations found in 40 CFR Part 436 - Mineral Mining and Processing Point Source Category, Subpart D - Industrial Sand Subcategory. The discharge of process generated wastewater is subject to 40 CFR §436.42(a)(1), which requires best practicable control technology currently available (BPT) for Outfalls 001, 002, and 004. Effluent limitations in these guidelines are total suspended solids (25 mg/L daily average and 45 mg/L daily maximum) and pH (between 6.0 and 9.0 standard units).

Effluent limitations for total suspended solids at Outfalls 001 and 002 in the existing permit are more protective than BPT technology-based effluent limitations; therefore, existing effluent limitations for total suspended solids at Outfalls 001 and 002 are continued in the draft permit based on the anti-backsliding regulations at 40 CFR §122.44(l). Effluent limitations for proposed Outfall 004 are based on 40 CFR §436.42.

The discharge of mine dewatering from Outfall 003 is subject to BPT requirements found at 40 CFR §436.42(a)(4). Effluent limitations in these guidelines are total suspended solids (25 mg/L daily average and 45 mg/L daily maximum) and pH (between 6.0 and 9.0 standard units). Effluent limitations for total suspended solids at Outfalls 003 in the existing permit are more protective than BPT technology-based effluent limitations, therefore, existing effluent limitations for total suspended solids at Outfalls 003 are continued in the draft permit based on the anti-backsliding regulations at 40 CFR §122.44(l).

Calculations of water quality-based effluent limitations for the protection of aquatic life are presented in Appendix A. Aquatic life criteria established in Table 1 of 30 TAC Chapter 307 are incorporated into the calculations, as are recommendations in the Water Quality Assessment Team memorandum dated February 6, 2014 (superceded by memorandum dated May 9, 2014). TCEQ practice for determining significant potential is to compare the reported analytical data from the facility against percentages of the calculated daily average water quality-based effluent limitation. Permit limitations are required when analytical data reported in the application exceeds 85 percent of the calculated daily average water quality-based effluent limitation. Monitoring and reporting is required when analytical data reported in the application exceeds 70 percent of the calculated daily average water quality-based effluent limitation.

The analytical data for one sample was provided with the major amendment application for some parameters for Outfalls 001, 002, and 003; however, the facility has not discharged for the last two years. According to the permittee via electronic mail dated May 8, 2014, the analytical data provided with the major amendment application was from previous sampling, prior to the last two years. Therefore, Other Requirement No. 7, which requires sampling and analyzing for parameters listed in Attachment A of the draft permit, is continued from the existing permit. Based on a technical review of the submitted analytical results, an amendment may be initiated by TCEQ staff to include additional effluent limitations or monitoring requirements.

Biomonitoring requirements are not included in the draft permit for any outfall.

SUMMARY OF CHANGES FROM APPLICATION

The permittee requested to change the flow monitoring at Outfalls 001, 002 and 003 from "instantaneous" to "estimate." However, the permittee later concluded that the discharge via Outfalls 001, 002, and 003 can be measured; therefore, the flow monitoring will not be changed. The flow monitoring at Outfalls 001, 002, and 003 is continued as "instantaneous" as in the existing permit.

See the next section for additional changes to the existing permit.

SUMMARY OF CHANGES FROM EXISTING PERMIT

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

1. *To authorize the discharge of process generated wastewater via Outfalls 001 and 002.* The discharge description for Outfalls 001 and 002 has been revised to authorize the discharge of process generated wastewater and stormwater runoff via Outfalls 001 and 002. Mine seepage is not referenced at Outfalls 001 and 002; however, the discharge of mine seepage is authorized via these outfalls in accordance with the definition of "mine dewatering" found at 40 CFR §436.41(b), which states that – "if a mine is also used for the treatment of process generated wastewater, discharges of commingled water from the mine shall be deemed discharges of process generated wastewater. The definition also states that mine dewatering includes groundwater seepage (aka mine seepage).

2. *To authorize the discharge of process generated wastewater and stormwater via proposed Outfall 004.* The discharge of process generated wastewater and stormwater are authorized to be discharge via proposed Outfall 004.

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

1. The permittee requested that the sampling location for Outfall 001 be revised. Pond 7 is nearing the end of its useful life, to maximize effluent clarification and process water recycling Pond 7 no longer discharges to Georges Creek. Instead, the effluent from Pond 7 is pumped to Pond 8. Discharge only occurs from Pond 8 via overflow to Georges Creek. The monitoring sampling location has been changed to reflect this.
2. The authorized wastestream at Outfall 003 was changed from "mine seepage" to "mine dewatering" to be consistent with the terms defined in 40 CFR Part 436.
3. The monitoring locations for Outfalls 002 and 003 have been revised to be more accurate based on additional information from the permittee.
4. Footnote No. 2 was added on the effluent page of Outfall 002, which notes how the flow is calculated.
5. Revised Other Requirement Nos. 3 and 4, based on an Endorsement issued on October 7, 1996 for the permit approved on July 30, 1996, that was never included in previous permits.
6. Revised Other Requirement No. 7 to include the re-test requirement for proposed Outfall 004.
7. Added Other Requirement No. 8, to define the terms of the authorized wastestreams.
8. Added Other Requirement No. 9, which would prohibit the discharge of domestic wastewater.
9. The site location has been revised to include the street number and zip code on the cover page of the draft permit.
10. The permittee has notified TCEQ via electronic mail that Ponds 3 and 6 became Pond 9.

BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received on October 30, 2013, and additional information received via mail on December 10, 2013, January 21, 2014, and January 29, 2014, and via electronic mail on January 8, 2014, January 9, 2014, May 5, 2014, and May 8, 2014.
2. Existing permits: TPDES Permit No. WQ0001401000 issued March 30, 2010.
3. TCEQ Rules.
4. Texas Surface Water Quality Standards – 30 TAC §§307.1-307.10, effective July 22, 2010, as approved by EPA Region 6.
5. Texas Surface Water Quality Standards - 30 TAC §§307.1-307.10, effective August 17, 2000, and Appendix E, effective February 27, 2002, for portions of the 2010 Standards not approved by EPA Region 6.
6. *Procedures to Implement the Texas Surface Water Quality Standards* (IP), Texas Commission on Environmental Quality, June 2010, as approved by EPA Region 6.
7. *Procedures to Implement the Texas Surface Water Quality Standards*, Texas Commission on Environmental Quality, January 2003, for portions of the 2010 IP not approved by EPA Region 6.
8. Memos from the Water Quality Standards Implementation Team and the Water Quality Assessment Team of the Water Quality Assessment Section of the TCEQ.
9. "Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits," TCEQ Document No. 98-001.000-OWR-WQ, May 1998.

10. EPA Effluent Guidelines: 40 CFR Part 436, Subpart D (BPT). A new source determination was performed and the discharge of process generated wastewater and mine dewatering are not new sources as defined at 40 CFR §122.2.
11. Consistency with the Coastal Management Plan: N/A.

PROCEDURES FOR FINAL DECISION

When an application is declared administratively complete, the Chief Clerk sends a letter to the applicant advising the applicant to publish the Notice of Receipt of Application and Intent to Obtain Permit in the newspaper. In addition, the Chief Clerk instructs the applicant to place a copy of the application in a public place for reviewing 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, the Notice of Application and Preliminary Decision will be mailed to the same people and published in the same newspaper as the prior notice. This notice sets a deadline for making public comments. The applicant must place a copy of the Executive Director's preliminary decision and draft permit in the public place with the application.

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment and is not a contested case proceeding. After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's response to comments 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 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 Monica Vallin-Baez at (512) 239-5784.

Mónica Vallin-Báez
Monica Vallin-Baez

June 2, 2014 (Revised June 27, 2014)
Date

Appendix A
Calculated Water Quality-Based Effluent Limits

TEXTOX MENU #1 - INTERMITTENT STREAM

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

Table 1, 2010 Texas Surface Water Quality Standards (30 TAC 307) for Freshwater Aquatic Life
"Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, June 2010

PERMIT INFORMATION

TPDES Permit No:	WQ0001401000
Permittee Name:	Unimin Corporation
Outfall No:	001
Prepared By:	Monica Baez
Date:	May 17, 2014

DISCHARGE INFORMATION

Intermittent Receiving Waterbody:	Georges Creek
Segment No:	1204
TSS (mg/L):	4.3
pH (Standard Units):	7.8
Hardness (mg/L as $CaCO_3$):	230
Chloride (mg/L):	485
Effluent Flow for Aquatic Life (MGD):	0.5
Critical Low Flow [7Q2] (cfs):	0
Percent Effluent for Acute Aquatic Life:	100

CALCULATE DISSOLVED FRACTION (AND ENTER WATER EFFECT RATIO IF APPLICABLE):

Stream/River Metal	*Intercept (b)*	*Slope (m)*	*Partition Coefficient (Kp)*	*Dissolved Fraction (Cd/Ct)*		*Water Effect Ratio (WER)*	
Aluminum	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Arsenic	5.68	-0.73	165031.95	0.58		1	Assumed
Cadmium	6.60	-1.13	765915.12	0.23		1	Assumed
Chromium (Total)	6.52	-0.93	852853.30	0.21		1	Assumed
Chromium (+3)	6.52	-0.93	852853.30	0.21		1	Assumed
Chromium (+6)	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Copper	6.02	-0.74	355822.45	0.40		1	Assumed
Lead	6.45	-0.80	877455.77	0.21		1	Assumed
Mercury	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Nickel	5.69	-0.57	213266.67	0.52		1	Assumed
Selenium	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Silver	6.38	-1.03	533983.07	0.30		1	Assumed
Zinc	6.10	-0.70	453494.56	0.34		1	Assumed

Appendix A
Calculated Water Quality-Based Effluent Limits

AQUATIC LIFE

CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS:

Parameter	*FW Acute Criterion (ug/L)*	*WLAa*	*LTAa*	*Daily Avg. (ug/L)*	*Daily Max. (ug/L)*
Aldrin	3	3	1.72	2.53	5.35
Aluminum	991	991	568	835	1766
Arsenic	340	581.277	333.072	489.615	1035.853
Cadmium	19.275	82.756	47.419	69.706	147.474
Carbaryl	2	2	1.15	1.68	3.56
Chlordane	2.4	2.4	1.38	2.02	4.28
Chlorpyrifos	0.083	0.083	0.048	0.070	0.148
Chromium (+3)	1127.067	5260.325	3014.166	4430.824	9374.056
Chromium (+6)	15.7	15.7	9.00	13.2	28.0
Copper	31.129	78.757	45.128	66.338	140.348
Cyanide	45.8	45.8	26.2	38.6	81.6
4,4'-DDT	1.1	1.1	0.630	0.927	1.96
Demeton	N/A	N/A	N/A	N/A	N/A
Diazinon	0.17	0.17	0.097	0.143	0.303
Dicofol	59.3	59.3	34.0	49.9	106
Dieldrin	0.24	0.24	0.138	0.202	0.428
Diuron	210	210	120	177	374
Endosulfan I (alpha)	0.22	0.22	0.126	0.185	0.392
Endosulfan II (beta)	0.22	0.22	0.126	0.185	0.392
Endosulfan sulfate	0.22	0.22	0.126	0.185	0.392
Endrin	0.086	0.086	0.049	0.072	0.153
Guthion	N/A	N/A	N/A	N/A	N/A
Heptachlor	0.52	0.52	0.298	0.438	0.927
Hexachlorocyclohexane (Lindane)	1.126	1.126	0.645	0.948	2.01
Lead	157.852	753.435	431.718	634.626	1342.643
Malathion	N/A	N/A	N/A	N/A	N/A
Mercury	2.4	2.4	1.38	2.02	4.28
Methoxychlor	N/A	N/A	N/A	N/A	N/A
Mirex	N/A	N/A	N/A	N/A	N/A
Nickel	947.297	1816.013	1040.576	1529.646	3236.190
Nonylphenol	28	28	16.0	23.6	49.9
Parathion (ethyl)	0.065	0.065	0.037	0.055	0.116
Pentachlorophenol	19.492	19.492	11.169	16.418	34.735
Phenanthrene	30	30	17.2	25.3	53.5
Polychlorinated Biphenyls (PCBs)	2	2	1.15	1.68	3.56
Selenium	20	20	11.5	16.8	35.6
Silver	0.8	29.361	16.824	24.731	52.323
Toxaphene	0.78	0.78	0.447	0.657	1.39
Tributyltin (TBT)	0.13	0.13	0.074	0.110	0.232
2,4,5 Trichlorophenol	136	136	77.9	115	242
Zinc	237.327	700.121	401.169	589.719	1247.637

Appendix A
Calculated Water Quality-Based Effluent Limits

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

Aquatic Life

Parameter	*70%*	*85%*
Aldrin	1.77	2.15
Aluminum	584	710
Arsenic	342.731	416.173
Cadmium	48.794	59.250
Carbaryl	1.18	1.43
Chlordane	1.42	1.72
Chlorpyrifos	0.049	0.059
Chromium (+3)	3101.58	3766.20
Chromium (+6)	9.26	11.2
Copper	46.437	56.387
Cyanide	27.0	32.8
4,4'-DDT	0.649	0.788
Demeton	N/A	N/A
Diazinon	0.100	0.122
Dicofol	35.0	42.5
Dieldrin	0.142	0.172
Diuron	124	150
Endosulfan I (alpha)	0.130	0.158
Endosulfan II (beta)	0.130	0.158
Endosulfan sulfate	0.130	0.158
Endrin	0.051	0.062
Guthion	N/A	N/A
Heptachlor	0.307	0.372
Hexachlorocyclohexane (Lindane)	0.664	0.806
Lead	444.238	539.432
Malathion	N/A	N/A
Mercury	1.42	1.72
Methoxychlor	N/A	N/A
Mirex	N/A	N/A
Nickel	1070.75	1300.20
Nonylphenol	16.5	20.0
Parathion (ethyl)	0.038	0.047
Pentachlorophenol	11.493	13.956
Phenanthrene	17.7	21.5
Polychlorinated Biphenyls (PCBs)	1.18	1.43
Selenium	11.8	14.3
Silver	17.312	21.022
Toxaphene	0.460	0.558
Tributyltin (TBT)	0.077	0.093
2,4,5 Trichlorophenol	80.2	97.4
Zinc	412.803	501.261

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Calculated Water Quality-Based Effluent Limits

TEXTOX MENU #1 - INTERMITTENT STREAM

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

Table 1, 2010 Texas Surface Water Quality Standards (30 TAC 307) for Freshwater Aquatic Life
"Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, June 2010

PERMIT INFORMATION

TPDES Permit No:	WQ0001401000
Permittee Name:	Unimin Corporation
Outfall No:	002 & 003
Prepared By:	Monica Baez
Date:	May 17, 2014

DISCHARGE INFORMATION

Intermittent Receiving Waterbody:	unnamed tributaries
Segment No:	1204
TSS (mg/L):	43
pH (Standard Units):	7.8
Hardness (mg/L as $CaCO_3$):	230
Chloride (mg/L):	485
Effluent Flow for Aquatic Life (MGD):	0.5
Critical Low Flow [7Q2] (cfs):	0
Percent Effluent for Acute Aquatic Life:	100

CALCULATE DISSOLVED FRACTION (AND ENTER WATER EFFECT RATIO IF APPLICABLE):

Stream/River Metal	*Intercept (b)*	*Slope (m)*	*Partition Coefficient (Kp)*	*Dissolved Fraction (Cd/Ct)*		*Water Effect Ratio (WER)*	
Aluminum	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Arsenic	5.68	-0.73	165031.95	0.58		1	Assumed
Cadmium	6.60	-1.13	765915.12	0.23		1	Assumed
Chromium (Total)	6.52	-0.93	852853.30	0.21		1	Assumed
Chromium (+3)	6.52	-0.93	852853.30	0.21		1	Assumed
Chromium (+6)	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Copper	6.02	-0.74	355822.45	0.40		1	Assumed
Lead	6.45	-0.80	877455.77	0.21		1	Assumed
Mercury	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Nickel	5.69	-0.57	213266.67	0.52		1	Assumed
Selenium	N/A	N/A	N/A	1.00	Assumed	1	Assumed
Silver	6.38	-1.03	533983.07	0.30		1	Assumed
Zinc	6.10	-0.70	453494.56	0.34		1	Assumed

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AQUATIC LIFE

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Parameter	*FW Acute Criterion (ug/L)*	*WLAa*	*LTAa*	*Daily Avg. (ug/L)*	*Daily Max. (ug/L)*
Aldrin	3	3	1.72	2.53	5.35
Aluminum	991	991	568	835	1766
Arsenic	340	581.277	333.072	489.615	1035.853
Cadmium	19.275	82.756	47.419	69.706	147.474
Carbaryl	2	2	1.15	1.68	3.56
Chlordane	2.4	2.4	1.38	2.02	4.28
Chlorpyrifos	0.083	0.083	0.048	0.070	0.148
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Chromium (+6)	15.7	15.7	9.00	13.2	28.0
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Cyanide	45.8	45.8	26.2	38.6	81.6
4,4'-DDT	1.1	1.1	0.630	0.927	1.96
Demeton	N/A	N/A	N/A	N/A	N/A
Diazinon	0.17	0.17	0.097	0.143	0.303
Dicofol	59.3	59.3	34.0	49.9	106
Dieldrin	0.24	0.24	0.138	0.202	0.428
Diuron	210	210	120	177	374
Endosulfan I (alpha)	0.22	0.22	0.126	0.185	0.392
Endosulfan II (beta)	0.22	0.22	0.126	0.185	0.392
Endosulfan sulfate	0.22	0.22	0.126	0.185	0.392
Endrin	0.086	0.086	0.049	0.072	0.153
Guthion	N/A	N/A	N/A	N/A	N/A
Heptachlor	0.52	0.52	0.298	0.438	0.927
Hexachlorocyclohexane (Lindane)	1.126	1.126	0.645	0.948	2.01
Lead	157.852	753.435	431.718	634.626	1342.643
Malathion	N/A	N/A	N/A	N/A	N/A
Mercury	2.4	2.4	1.38	2.02	4.28
Methoxychlor	N/A	N/A	N/A	N/A	N/A
Mirex	N/A	N/A	N/A	N/A	N/A
Nickel	947.297	1816.013	1040.576	1529.646	3236.190
Nonylphenol	28	28	16.0	23.6	49.9
Parathion (ethyl)	0.065	0.065	0.037	0.055	0.116
Pentachlorophenol	19.492	19.492	11.169	16.418	34.735
Phenanthrene	30	30	17.2	25.3	53.5
Polychlorinated Biphenyls (PCBs)	2	2	1.15	1.68	3.56
Selenium	20	20	11.5	16.8	35.6
Silver	0.8	29.361	16.824	24.731	52.323
Toxaphene	0.78	0.78	0.447	0.657	1.39
Tributyltin (TBT)	0.13	0.13	0.074	0.110	0.232
2,4,5 Trichlorophenol	136	136	77.9	115	242
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CALCULATE 70% AND 85% OF DAILY AVERAGE EFFLUENT LIMITATIONS:

Aquatic Life

Parameter	*70%*	*85%*
Aldrin	1.77	2.15
Aluminum	584	710
Arsenic	342.731	416.173
Cadmium	48.794	59.250
Carbaryl	1.18	1.43
Chlordane	1.42	1.72
Chlorpyrifos	0.049	0.059
Chromium (+3)	3101.58	3766.20
Chromium (+6)	9.26	11.2
Copper	46.437	56.387
Cyanide	27.0	32.8
4,4'-DDT	0.649	0.788
Demeton	N/A	N/A
Diazinon	0.100	0.122
Dicofol	35.0	42.5
Dieldrin	0.142	0.172
Diuron	124	150
Endosulfan I (alpha)	0.130	0.158
Endosulfan II (beta)	0.130	0.158
Endosulfan sulfate	0.130	0.158
Endrin	0.051	0.062
Guthion	N/A	N/A
Heptachlor	0.307	0.372
Hexachlorocyclohexane (Lindane)	0.664	0.806
Lead	444.238	539.432
Malathion	N/A	N/A
Mercury	1.42	1.72
Methoxychlor	N/A	N/A
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Nickel	1070.75	1300.20
Nonylphenol	16.5	20.0
Parathion (ethyl)	0.038	0.047
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Polychlorinated Biphenyls (PCBs)	1.18	1.43
Selenium	11.8	14.3
Silver	17.312	21.022
Toxaphene	0.460	0.558
Tributyltin (TBT)	0.077	0.093
2,4,5 Trichlorophenol	80.2	97.4
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PERMIT INFORMATION

TPDES Permit No:	WQ0001401000
Permittee Name:	Unimin Corporation
Outfall No:	004
Prepared By:	Monica Baez
Date:	May 17, 2014

DISCHARGE INFORMATION

Intermittent Receiving Waterbody:	emergency spillway
Segment No:	1204
TSS (mg/L):	4.3
pH (Standard Units):	7.8
Hardness (mg/L as $CaCO_3$):	230
Chloride (mg/L):	485
Effluent Flow for Aquatic Life (MGD):	variable
Critical Low Flow [7Q2] (cfs):	0
Percent Effluent for Acute Aquatic Life:	100

CALCULATE DISSOLVED FRACTION (AND ENTER WATER EFFECT RATIO IF APPLICABLE):

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Copper	6.02	-0.74	355822.45	0.40		1	Assumed
Lead	6.45	-0.80	877455.77	0.21		1	Assumed
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Guthion	N/A	N/A
Heptachlor	0.307	0.372
Hexachlorocyclohexane (Lindane)	0.664	0.806
Lead	444.238	539.432
Malathion	N/A	N/A
Mercury	1.42	1.72
Methoxychlor	N/A	N/A
Mirex	N/A	N/A
Nickel	1070.75	1300.20
Nonylphenol	16.5	20.0
Parathion (ethyl)	0.038	0.047
Pentachlorophenol	11.493	13.956
Phenanthrene	17.7	21.5
Polychlorinated Biphenyls (PCBs)	1.18	1.43
Selenium	11.8	14.3
Silver	17.312	21.022
Toxaphene	0.460	0.558
Tributyltin (TBT)	0.077	0.093
2,4,5 Trichlorophenol	80.2	97.4
Zinc	412.803	501.261

TPDES PERMIT NO. WQ0001401000
[For TCEQ office use only -
EPA I.D. No. TX0001830]

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

This permit supersedes and replaces TPDES Permit No. WQ0001401000 issued on March 30, 2010.

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

Unimin Corporation

whose mailing address is

258 Elm Street
New Canaan, Connecticut 06840

is authorized to treat and discharge wastes from Cleburne Plant, a sand mining and processing operation (SIC 1446)

located at 1788 County Road 308 approximately ¾ of a mile north of the intersection of County Road 308 and U.S. Highway 67 in the northeast corner of Somervell County, Texas 76033

via Outfall 001 to Georges Creek; thence to Brazos River Below Lake Granbury in Segment No. 1204 of the Brazos River Basin; via Outfalls 002 and 003 to unnamed tributaries; thence to Georges Creek; thence to Brazos River Below Lake Granbury in Segment No. 1204 of the Brazos River Basin; and via Outfall 004 to an emergency spillway; thence to Georges Creek; thence to Brazos River Below Lake Granbury in Segment No. 1204 of the Brazos River Basin

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

This permit shall expire at midnight on May 1, 2019.

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of permit issuance and lasting through the date of permit expiration, the permittee is authorized to discharge process generated wastewater (*1) and stormwater subject to the following effluent limitations:

   The daily average flow of effluent shall not exceed 0.5 million gallons per day (MGD).

Effluent Characteristics	Discharge Limitations					Minimum Self-Monitoring Requirements	
	Daily Average		Daily Maximum		Single Grab	Report Daily Average and Daily Maximum	
	lbs/day	mg/L	lbs/day	mg/L	mg/L	Measurement Frequency	Sample Type
Flow	0.5 MGD		Report, MGD		N/A	1/day (*2)	Instantaneous
Total Suspended Solids	83	20	125	30	45	1/day (*2)	Grab

(*1) Includes the discharge of mine seepage.
(*2) When discharge occurs.

2. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/day (*1), by grab sample.

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

4. Effluent monitoring samples shall be taken at the following location: At Outfall 001, from Pond 8 through an overflow weir prior to entering Georges Creek.

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 002

1. During the period beginning upon the date of permit issuance and lasting through the date of permit expiration, the permittee is authorized to discharge process generated wastewater (*1) and stormwater subject to the following effluent limitations:

   The daily average flow of effluent shall not exceed 0.5 million gallons per day (MGD).

Effluent Characteristics	Discharge Limitations					Minimum Self-Monitoring Requirements	
	Daily Average		Daily Maximum		Single Grab	Report Daily Average and Daily Maximum	
	lbs/day	mg/L	lbs/day	mg/L	mg/L	Measurement Frequency	Sample Type
Flow	0.5 MGD		Report, MGD		N/A	1/day (*2)	Instantaneous(*3)
Total Suspended Solids	83	20	125	30	45	1/day (*2)	Grab

(*1) Includes the discharge of mine seepage.
(*2) When discharge occurs.
(*3) Calculated by using a rating table developed with the Manning's Equation.

2. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/day (*1), by grab sample.

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

4. Effluent monitoring samples shall be taken at the following location: At Outfall 002, from Pond 5 via gravity flow through a 24-inch pipe, prior to entering the unnamed tributary of Georges Creek.

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 003

1. During the period beginning upon the date of permit issuance and lasting through the date of permit expiration, the permittee is authorized to discharge mine dewatering (*1) and stormwater subject to the following effluent limitations:

   The daily average flow of effluent shall not exceed 0.5 million gallons per day (MGD).

Effluent Characteristics	Discharge Limitations					Minimum Self-Monitoring Requirements	
	Daily Average		Daily Maximum		Single Grab	Report Daily Average and Daily Maximum	
	lbs/day	mg/L	lbs/day	mg/L	mg/L	Measurement Frequency	Sample Type
Flow	0.5 MGD		Report, MGD		N/A	1/day (*2)	Instantaneous
Total Suspended Solids	83	20	125	30	45	1/day (*2)	Grab

(*1) Includes the discharge of mine seepage.
(*2) When discharge occurs.

2. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/week (*1) by grab sample.

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

4. Effluent monitoring samples shall be taken at the following location: At Outfall 003, from Tomiceta Pond through an overflow weir prior to entering the unnamed tributary of Georges Creek.

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 004

1. During the period beginning upon the date of permit issuance and lasting through the date of permit expiration, the permittee is authorized to discharge process generated wastewater (*1) and stormwater subject to the following effluent limitations:

   Volume: Intermittent and flow variable basis.

Effluent Characteristics	Discharge Limitations			Minimum Self-Monitoring Requirements	
	Daily Average	Daily Maximum	Single Grab	Report Daily Average and Daily Maximum	
	mg/L	mg/L	mg/L	Measurement Frequency	Sample Type
Flow	Report, MGD	Report, MGD	N/A	1/day (*2)	Estimate
Total Suspended Solids	25	45	45	1/day (*2)	Grab

(*1) Includes the discharge of mine seepage.
(*2) When discharge occurs.

2. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/day (*1) by grab sample.

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

4. Effluent monitoring samples shall be taken at the following location: At Outfall 004, from Pond 10 over the emergency spillway prior to entering the unnamed tributary of Georges Creek.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

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

1. Flow Measurements

   a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder, and limited to major domestic wastewater discharge facilities with a one million gallons per day or greater permitted flow.

   b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.

   c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.

   d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.

   e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.

   f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

   a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.

      i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

      ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.

   b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.

   c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.

d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day.

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

e. Bacteria concentration (Fecal coliform, *E. coli*, or Enterococci) – the number of colonies of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the nth 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 substitute value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.

f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD × Concentration, mg/L × 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(c).

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

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

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

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

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§319.4 - 319.12. Unless otherwise specified, a monthly effluent report shall be submitted each month, to the Enforcement Division

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

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

2. Test Procedures

   a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.

   b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

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

   b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR §264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.

   c. Records of monitoring activities shall include the following:

      i. date, time, and place of sample or measurement;
      ii. identity of individual who collected the sample or made the measurement;
      iii. date and time of analysis;
      iv. identity of the individual and laboratory who performed the analysis;
      v. the technique or method of analysis; and
      vi. the results of the analysis or measurement and quality assurance/quality control records.

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

4. Additional Monitoring by Permittee

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

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

7. Noncompliance Notification

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

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

i. unauthorized discharges as defined in Permit Condition 2(g).
ii. any unanticipated bypass that exceeds any effluent limitation in the permit.
iii. violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.

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

d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.

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

9. Changes in Discharges of Toxic Substances

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

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

i. one hundred micrograms per liter (100 μg/L);
ii. two hundred micrograms per liter (200 μg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 μg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
iii. five (5) times the maximum concentration value reported for that pollutant in the permit application; or
iv. the level established by the TCEQ.

b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

i. five hundred micrograms per liter (500 μg/L);
ii. one milligram per liter (1 mg/L) for antimony;
iii. ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
iv. the level established by the TCEQ.

10. Signatories to Reports

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

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

a. any new introduction of pollutants into the POTW from an indirect discharger that would be subject to CWA §301 or §306 if it were directly discharging those pollutants;

b. any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and

c. for the purpose of this paragraph, adequate notice shall include information on:

i. the quality and quantity of effluent introduced into the POTW; and
ii. any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.

b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:

i. violation of any terms or conditions of this permit;
ii. obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
iii. a change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending, or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

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

   b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.

   c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

   d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.

   e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.

   f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§305.62 and 305.66 and TWC §7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

   g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.

   h. In accordance with 30 TAC §305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility that does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.

   i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA §402, or any requirement imposed in a pretreatment program approved under the CWA §§402(a)(3) or 402(b)(8).

3. Inspections and Entry

   a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC Chapter 361.

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

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

4. Permit Amendment or Renewal

a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:

i. the alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC §305.534 (relating to New Sources and New Dischargers); or

ii. the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9; or

iii. the alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.

c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.

d. Prior to accepting or generating wastes that are not described in the permit application or that would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.

e. In accordance with the TWC §26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.

f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA §307(a) for a toxic pollutant that is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA §307(a)for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Permit Transfer

   a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.

   b. A permit may be transferred only according to the provisions of 30 TAC §305.64 (relating to Transfer of Permits) and 30 TAC §50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy.

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

       i. the permittee;
       ii. an entity (as that term is defined in 11 USC, §101(15)) controlling the permittee or listing the permit or permittee as property of the estate; or
       iii. an affiliate (as that term is defined in 11 USC, §101(2)) of the permittee.

    b. This notification must indicate:

       i. the name of the permittee;
       ii. the permit number(s);
       iii. the bankruptcy court in which the petition for bankruptcy was filed; and
       iv. the date of filing of the petition.

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.

2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§319.21 - 319.29 concerning the discharge of certain hazardous metals.

3. Domestic wastewater treatment facilities shall comply with the following provisions:

   a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.

   b. The permittee shall submit a closure plan for review and approval to the 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 that reaches 75% of the permitted daily average or annual average flow for three consecutive months, and the planned population to be served or the quantity of waste produced is not expected to exceed the design limitations of the treatment facility, the permittee shall submit an engineering report supporting this claim to the Executive Director of the Commission.

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

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

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

9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.

10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.

11. Facilities that generate industrial solid waste as defined in 30 TAC §335.1 shall comply with these provisions:

a. Any solid waste, as defined in 30 TAC §335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.

b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.

c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC §335.8(b)(1), to the Corrective Action Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.

d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC §335.5.

e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.

f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:

i. volume of waste and date(s) generated from treatment process;
ii. volume of waste disposed of on-site or shipped off-site;
iii. date(s) of disposal;
iv. identity of hauler or transporter;
v. location of disposal site; and
vi. method of final disposal.

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

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

OTHER REQUIREMENTS

1. Violations of daily maximum limitations for the following pollutants shall be reported orally or by facsimile to TCEQ Region 4 within 24 hours from the time the permittee becomes aware of the violation, followed by a written report within five working days to TCEQ Region 4 and the Enforcement Division (MC 224): None.

2. The permittee shall provide diking along the creek banks adjacent to the active mine areas; abandoned, inactive, or reclaimed mine areas; product storage areas; and overburden storage areas to prevent extraneous runoff during storm periods.

3. The permittee shall sample and analyze the wastewater to be discharged from Outfall 001 and report the results of the analysis to the TCEQ Region 4 Office in Dallas/Fort Worth before such discharge commences, if possible. If not possible, then the permittee shall collect samples and report analytical results to the TCEQ Region 4 Office in Dallas/Fort Worth as soon as possible.

4. The permittee shall notify the TCEQ Region 4 Office in Dallas/Fort Worth at least one day before any discharge from Outfall 001 commences and whenever any discharge from Outfall 002 is occurring, if possible. If not possible, then the permittee shall notify the TCEQ Region 4 Office in Dallas/Fort Worth as soon as possible after discharge commences.

5. There is no mixing zone established for this discharge (Outfall 001, 002, 003 and 004) to an intermittent stream. Acute toxic criteria apply at the point of discharge.

6. The permittee shall submit the Material Safety and Data Sheet (MSDS), if available, for the surfactant selected for use at this facility 30 days prior to use and discharge of the wastewaters containing this surfactant.

   In addition to the MSDS, the permittee shall submit the following information:

   a. Product toxicity data, if available; and

   b. Proposed dosage rate and concentration of product expected in the discharge

   This information shall be sent to the Industrial Team (MC 148) of the Wastewater Permitting Section thirty (30) days prior to the use of wastewaters containing the proposed surfactant.

   The permittee is authorized to use a surfactant at the facility in accordance with the manufacturer's recommendations. The TCEQ will review the information provided in this provision and will provide written notice if the proposed usage is not acceptable. The permittee shall cease use of the surfactant upon receipt of this written notice.

   The permittee may change the surfactant used at the facility with written approval from the TCEQ.

7. Wastewater discharged via Outfalls 001, 002, 003 and 004 must be sampled and analyzed as directed below for those parameters listed in Tables 1, 2, and 3 of Attachment A of this permit. Analytical testing for Outfalls 001, 002, 003 and 004 must be completed within 60 days of initial discharge. Results of the analytical testing must be submitted within 90 days of initial discharge to the TCEQ Industrial Permits Team (MC 148). Based on a technical review of the submitted analytical results, an amendment may be initiated by TCEQ staff to include additional effluent limitations, monitoring requirements, or both.

Table 1: Analysis is required for all pollutants. Wastewater must be sampled and analyzed for those parameters listed in Table 1 for a minimum of one sampling event.

Table 2: Analysis is required for those pollutants in Table 2 that are used at the facility that could in any way contribute to contamination in the Outfalls 001, 002, 003, and 004 discharge. Sampling and analysis must be conducted for a minimum of one sampling event.

Table 3: For all pollutants listed, the permittee shall indicate whether each pollutant is believed to be present or absent in the discharge. Sampling and analysis must be conducted for each pollutant believed present, for a minimum of one sampling event.

The permittee shall report the flow at Outfalls 001, 002, 003 and 004 in million gallons per day (MGD) in the attachment. The permittee shall indicate on each table whether the samples are composite (C) or grab (G) by checking the appropriate box.

8. DEFINITIONS:

a. The term "mine" shall mean an area of land, surface or underground, actively mined for the production of sand and gravel from natural deposits.

b. The term "mine dewatering" shall mean any water that is impounded or that collects in the mine and is pumped, drained, or otherwise removed from the mine through the efforts of the mine operator. This term shall also include wet pit overflows caused solely by direct rainfall and ground water seepage. However, if a mine is also used for the treatment of process generated wastewater, discharges of commingled water from the mine shall be deemed discharges of process generated wastewater.

c. The term "process generated wastewater" shall mean any wastewater used in the slurry transport of mined material, air emissions control, or processing exclusive of mining. The term shall also include any other water which becomes commingled with such wastewater in a pit, pond, lagoon, mine, or other facility used for treatment of such wastewater. The term does not include wastewater that is used for the suction dredging of deposits in a body of water and then returned directly to the body of water without being used for other purposes or combined with other wastewater.

d. The term "10-year, 24-hour precipitation event" shall mean the maximum 24-hour precipitation event with a probable reoccurrence interval of once in 10-years as defined by Weather Bureau Technical Paper No. 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information develop therefrom.

9. This permit does not authorize the discharge of domestic wastewater. All domestic wastewater must be disposed of in an approved manner such as routing to an approved on-site septic tank and drainfield system or an authorized third party for treatment and disposal.

ATTACHMENT A

Table 1

Outfall No.: ☐C ☐G	Effluent Concentration (mg/L)					
Pollutants	Samp.	Samp.	Samp.	Samp.	Average	
Flow (MGD)						
BOD (5-day)						
CBOD (5-day)						
Chemical Oxygen Demand						
Total Organic Carbon						
Dissolved Oxygen						
Ammonia Nitrogen						
Total Suspended Solids						
Nitrate Nitrogen						
Total Organic Nitrogen						
Total Phosphorus						
Oil and Grease						
Total Residual Chlorine						
Total Dissolved Solids						
Sulfate						
Chloride						
Fluoride						
Temperature (°F)						
Total Alkalinity (mg/L as CaCO3)						
pH (Standard Units; min/max)						
	Effluent Concentration (µg/L)					MAL[1] (µg/L)
Total Aluminum						30
Total Antimony						60
Total Arsenic						10
Total Barium						10
Total Beryllium						5
Total Cadmium						1
Total Chromium						10
Trivalent Chromium						N/A
Hexavalent Chromium						10
Total Copper						10
Cyanide						20
Total Lead						5
Total Mercury						0.2
Total Nickel						10
Total Selenium						10
Total Silver						2
Total Thallium						10
Total Zinc						5

[1] Minimum Analytical Level

ATTACHMENT A-continue

Table 2

Outfall No.: ☐C ☐G Pollutant	Samp. 1 (µg/L)*	Samp. 2 (µg/L)*	Samp. 3 (µg/L)*	Samp. 4 (µg/L)*	Avg. (µg/L)*	MAL (µg/L)
Acrylonitrile						50
Anthracene						10
Benzene						10
Benzidine						50
Benzo(*a*)anthracene						10
Benzo(*a*)pyrene						10
Bis(2-chloroethyl)ether						10
Bis(2-ethylhexyl)phthalate						10
Bromodichloromethane						10
Bromoform						10
Carbon Tetrachloride						10
Chlorobenzene						10
Chlorodibromomethane						10
Chloroform						10
Chrysene						10
Cresols						10
1,2-Dibromoethane						10
m-Dichlorobenzene						10
o-Dichlorobenzene						10
p-Dichlorobenzene						10
3,3'-Dichlorobenzidine						10
1,2-Dichloroethane						10
1,1-Dichloroethylene						10
Dichloromethane						20
1,2-Dichloropropane						10
2,4-Dimethylphenol						10
Di-*n*-Butyl Phthalate						10
Ethylbenzene						10
Fluoride						500
Hexachlorobenzene						10
Hexachlorobutadiene						10
Hexachlorocyclopentadiene						10
Hexachloroethane						20
Methyl Ethyl Ketone						50
Nitrobenzene						10
N-Nitrosodiethylamine						20
N-Nitroso-di-*n*-Butylamine						20
Nonylphenol						333
Pentachlorobenzene						20
Pentachlorophenol						50
Phenanthrene						10

Outfall No.: ☐C ☐G Pollutant	Samp. 1 (µg/L)*	Samp. 2 (µg/L)*	Samp. 3 (µg/L)*	Samp. 4 (µg/L)*	Avg. (µg/L)*	MAL (µg/L)
Polychlorinated Biphenyls (PCBs) (**)						1.0
Pyridine						20
1,2,4,5-Tetrachlorobenzene						20
1,1,2,2-Tetrachloroethane						10
Tetrachloroethylene						10
Toluene						10
1,1,1-Trichloroethane						10
1,1,2-Trichloroethane						10
Trichloroethylene						10
2,4,5-Trichlorophenol						50
TTHM (Total Trihalomethanes)						10
Vinyl Chloride						10

(*) Indicate units if different from µg/L.
(**) Total PCB-1242, PCB-1254, PCB-1221, PCB-1232, PCB-1248, PCB-1260, PCB-1016

ATTACHMENT A-continue

Table 3

Outfall No.:	☐C ☐G	Believed Present	Believed Absent	Effluent Concentration (mg/L)		No. of Samples
Pollutants				Average	Maximum	
Bromide						
Color (PCU)						
Nitrate-Nitrite (as N)						
Sulfide (as S)						
Sulfite (as SO_3)						
Surfactants						
Total Antimony						
Total Beryllium						
Total Boron						
Total Cobalt						
Total Iron						
Total Magnesium						
Total Molybdenum						
Total Manganese						
Total Thallium						
Total Tin						
Total Titanium						

ATTACHMENT B

TCEQ INTRA-AGENCY TRANSMITTAL MEMO

DATE: December 29, 2014

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

FROM: MICHAEL PARR
ENVIRONMENTAL LAW DIVISION
BUILDING A, MC-173

Attached: Executive Director's Response to Comments

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2014 DEC 29 PM 3 42
CHIEF CLERKS OFFICE

Application Information
Program Area (Air, Water or Waste): **Water**
Permit No. **WQ0001401000**
Name: **UNIMIN CORPORATION**
Docket/CID Item # (if known): _____

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:

X 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: _____

TPDES Permit No. WQ0001401000

APPLICATION by UNIMIN CORPORATION for TPDES Permit No. WQ0001401000	§ § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

2011 DEC 5 PM 3:42
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the application by Unimin Corporation (Applicant) for a Major Amendment with renewal to Texas Pollutant Discharge Elimination System (TPDES) permit No. WQ0001401000, and on the ED's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, 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 received timely comment letters from O. R. Jordan and Valerie Wallis. This response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can also be found at our website at http://www.tceq.texas.gov/.

BACKGROUND

The Applicant, who operates the Cleburne Plant (facility); applied to the TCEQ for a Major Amendment with renewal to TPDES Permit No. WQ0001401000 (EPA I.D. No. TX0001830), which currently authorizes the discharge of mine seepage and storm-water at a daily average flow not to exceed 500,000 gallons per day per outfall via Outfalls 001, 002, and 003. In addition to the existing authorizations, the Major Amendment application seeks to authorize the discharge of process-generated wastewater at Outfalls 001 and 002; an additional settling/clarification impoundment (Pond 10); and an additional Outfall (004) to discharge process-generated wastewater and storm water on an intermittent and flow variable basis from newly created Pond 10. The Applicant seeks the authorization for the discharge via Outfall 004 as an emergency option to protect the facility in situations such as a mechanical or pumping failures or improbable extreme rainfall events.

The Applicant also requested to change the flow-monitoring pattern from "instantaneous" to "estimate" at Outfalls 001, 002, and 003. The Applicant, however, later concluded that this change was not necessary because the measuring the discharges at these outfalls was possible without the change, and therefore, the flow-monitoring pattern was not changed at Outfalls 001, 002, and 003.

Description of Facility

The facility, a sand mining and processing operation, is located at 1788 County Road 308 approximately 0.75 miles north of the intersection of County Road 308 and U.S. Highway 67 in the northeast corner of Somervell County in Cleburne, Texas 76033. Process generated wastewater is routed to a series of tailings ponds for settling and water clarification to allow suspended particles of sand and clay to settle. The settling pond circuit is used to maximize recycling and retaining of plant water so discharge is kept to a minimum. The discharge route for all the outfalls ends in the Brazos River Below Lake Granbury in Segment No. 1204 of the Brazos River Basin. However, via Outfalls 002 and 003, the discharge route is first to unnamed tributaries, then to Georges Creek, via Outfall 004, first to an emergency spillway, then to Georges Creek, and via Outfall 001, first to Georges Creek. The unclassified receiving waters for the unnamed tributaries and emergency spillway have minimal aquatic life use and limited aquatic life use for Georges Creek. The designated uses for Segment No. 1204 are high aquatic life use, and primary contact recreation.

In accordance with 30 TAC § 307.5 of the Texas Surface Water Quality Standards (TSWQS) and the *Procedures to Implement the TSWQS* (June 2010), an antidegradation review of the receiving waters was performed. The Tier 1 antidegradation review preliminarily determined that no impairment of existing water quality uses would result from this permitting action, as the TCEQ expects the proposed permit to maintain the numerical and narrative criteria protecting the existing uses. Additionally, because the Tier 1 review preliminarily determined that the stream reach assessed does not contain water bodies with exceptional, high, or intermediate aquatic life uses, the TCEQ did not perform a Tier 2 antidegradation review. However, the TCEQ expects no significant degradation of water quality in water bodies with exceptional, high, or intermediate aquatic life uses downstream of the discharge, as the TCEQ expects the proposed permit to protect and maintain the existing uses. If the TCEQ receives new information, it may reexamine and modify the preliminary determination.

Procedural Background

The TCEQ received the major amendment application on October 30, 2013, and declared it Administratively Complete on January 29, 2014. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Somervell County, Texas on February 26, 2014 in English in the *Glen Rose Reporter*. The ED completed the technical review of the application on June 6, 2014, and prepared a draft permit, which if approved, would establish the conditions under which the facility must operate. The Applicant published the Notice of Application and Preliminary Decision for a Water Quality Permit (NAPD) on September 25, 2014, in English and on July 24, 2014 in Spanish in the *Glen Rose Reporter,* and on July 31, 2014 in Spanish in the *La Prensa Comunidad*. The public comment period closed on October 27, 2014. Because this application was administratively complete on or after September 1, 1999, it is subject to procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

Access to Rules, Laws and Records

All administrative rules: Secretary of State Website: www.sos.state.tx.us
TCEQ rules: Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select TAC Viewer on the right, then Title 30 Environmental Quality)
Texas statutes: http://www.statutes.legis.state.tx.us/
TCEQ website: http://www.tceq.texas.gov/ (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules," then "Current TCEQ Rules," then "Download TCEQ Rules")
Federal rules: Title 40 of the Code of Federal Regulations (C.F.R.): www.epa.gov/epahome/ cfr40.htm
Federal environmental laws: www.epa.gov/epahome/laws.htm
Environmental or Citizen Complaints may be filed online at: http://www.tceq.state.tx.us/enforcement/complaints/index.html.
Or by sending an email to the following address: cmplaint@TCEQ.state.tx.us.

Commission records for the proposed facility are available for viewing and copying at TCEQ's main office in Austin, located at 12100 Park 35 Circle, Building E, Room 103 (Central Records, for existing or past permits), or Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken). The permit application, proposed permit, technical summary, and the ED's preliminary decision have been available for viewing and copying at the Somervell County Annex Building, located at 107 N.E. Vernon, Glen Rose, TX 76043.

The ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, and human health. However, if you would like to file a complaint about the facility concerning its compliance with provisions of its permit or with TCEQ rules, you may contact the Agency at 1-888-777-3186 or you may contact the TCEQ Region 9 Office at (254) 751-0335 to address potential permit violations. If an inspection by the Regional office finds that the facility is out of compliance, the facility may be subject to enforcement actions.

COMMENTS and RESPONSES

Comment 1

Valerie Wallis commented her family's portion of George's Creek just below the facility has had issues of sand entering the creek in the past. Ms. Wallis questioned whether the proposed permit allows a greater volume of total discharges than the existing permit.

Response 1

The application did not seek an increase in flow at Outfalls 001, 002 and 003; however, the proposed permit now includes Outfall 004, which discharges in emergencies on an intermittent and flow variable basis. While the addition of Outfall 004 could be viewed as a potential flow increase, the discharges, if any, are intermittent and emergency based, and the facility usually does not discharge from all the outfalls at the same time.

In addition, process-generated wastewater is routed to a series of ponds, which maximizes recycling and retention of plant water to keep discharges at a minimum.

Comment 2

Valerie Wallis commented that she appreciates the thorough explanation of the permit she received from the permit writer, Monica Baez.

Response 2

The Executive Director acknowledges the comment of appreciation.

Comment 3

O.R. Jordan commented that he is concerned about the amount of water in Lake Granbury as Comanche Peak and the Cleburne power plants already use water from the Brazos and now the City of Mineral Wells is seeking to use water from the Brazos.

Response 3

The submittal of the application for a Major Amendment to TPDES Permit No. WQ0001401000 was in accordance with all applicable rules and regulations. Neither the Texas Water Code (TWC), nor the TCEQ rules provide the TCEQ with the authority to deny an application for a major amendment to a water quality permit based on issues pertaining to water rights or availability. The TCEQ's jurisdiction in a wastewater permit application is limited to the issues set out in Chapter 26 of the TWC. Chapter 26 does not provide the TCEQ with the authority to consider the sale or availability of surface water or ground water in evaluating an application for a water quality permit. The TWC and the TCEQ Rules and Regulations do not provide the TCEQ with the authority to approve or prohibit the withdrawal of water in a TPDES Permit. The withdrawal of water from Texas water bodies is regulated under a Water Rights authorization. This includes the release of water, or lack thereof, from a reservoirs or surface water bodies in the State. For matters related to water rights, please contact the Water Availability Division at 512-239-4691. Concerns over water supply or the impact of additional or modified water rights permits may be directed to the TCEQ's Water Availability Division, which can be reached via the main line at 512-239-4691.

Comment 4

O.R. Jordan commented his property and all others on Lake Granbury has lost thousands of dollars in value and the resale market is just about dead and realtors do not want to list or even show lake side properties anymore.

Response 4

The TCEQ's jurisdiction in a wastewater permit application is limited to the issues set out in Chapter 26 of the TWC.

Chapter 26 of the TWC and TCEQ rules relating to water quality are geared towards the protection of public health, aquatic life and the environment. Accordingly, the stated policy of both TWC § 26.003 and the TSWQS, found at 30 TAC § 307.1, is:

> to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.

Section 26.027 of the TWC authorizes the TCEQ to issue permits to control the discharge of wastes or pollutants into state waters and to protect the water quality of the state's rivers, lakes and coastal waters. The water quality permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters.

The public health concerns of property owners, as well as those of the public are considered in reviewing an application for an industrial wastewater discharge permit. The Commission takes the concerns and comments expressed by property owners and members of the general public relating to water quality and protecting the State's rivers and lakes into consideration in deciding whether to issue a wastewater discharge permit. Similarly, the Texas Legislature and the Commission encourages the participation of all citizens in the environmental permitting process. There are, however, certain concerns of property owners that the Commission cannot address in the review of a wastewater discharge permit. The Commission does not have jurisdiction under the Texas Water Code or its regulations to address or consider property values or the marketability of adjacent property in its determination of whether or not to issue a water quality permit.

The proposed permit does not grant the Applicant the right to maintain or create any nuisance conditions. Likewise, the proposed permit 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 result in injury or adverse effects on human health or welfare, animal life, vegetation, or property.

Nor does the proposed permit limit the ability of a nearby landowner to seek relief from a court in response to activities that may or do interfere with the use and enjoyment of their property. If the Applicant's activities create any nuisance conditions, the TCEQ may be contacted to investigate whether a permit violation has occurred. Potential permit violations may be reported to the TCEQ Region 11 Office in Austin at (512)339-2929, or by calling the statewide toll-free number at 1-888-777-3186. Citizen complaints may also be filed online at the following website:

http://www.tceq.state.tx.us/enforcement/complaints/index.html.

Comment 5

O.R. Jordan commented that the serious nature surrounding this application requires an open public hearing and not just a notice hidden in an obscure newspaper like the *Hood County News*.

Response 5

The TCEQ's notice rules, found at 30 TAC § 39.405(f)(1), require Applicants to provide the public with notice of new wastewater discharge permits or Major Amendments to wastewater discharge permits. According to the rule cited above, Applicant must publish the NORI in a "newspaper of largest circulation in the county in which the facility is located or proposed to be located ... if the facility is located or proposed to be located in a municipality, the applicant [must] publish notice in any newspaper of general circulation in the municipality." *See generally* 30 TAC §§ 39.405, 39.418, 39.419, and 39.551. According to 30 TAC § 39.551(c)(1), after the Office of the Chief Clerk has mailed the preliminary decision and the NAPD to the Applicant, the Applicant must publish the NAPD "at least once in a newspaper regularly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge." Additionally, the TCEQ's notice rules for major amendments to permits require mailed notice of the NORI and NAPD to landowners whose properties are adjacent to the facility or along the discharge route within one mile from the point of discharge. *See* 30 TAC §§ 39.413, 39.418, 39.419, and 39.551.

In accordance with TCEQ's notice rules, the applicant published two public notices for the submitted application. The Applicant published the NORI in Somervell County, Texas on February 26, 2014 in English in the *Glen Rose Reporter* and the NAPD on September 25, 2014, in English, and on July 24, 2014 in Spanish in the *Glen Rose Reporter*, and on July 31, 2014 in Spanish in the *La Prensa Comunidad*. Also in accordance with TCEQ's notice rules, both notices were mailed to landowners identified by the Applicant as having property adjacent to the facility or adjacent to the receiving waters from the point of discharge to a point one (1) mile downstream from the discharge point.

Additionally, members of the public who request a hearing and show that they are affected by the application in a way not common to members of the general public have an opportunity to engage in the contested case hearing process after the issuance of this Response. The cover letter transmitting this Response provides instructions on how to request a contested case hearing, along with a deadline before which requests for a contested case hearing must be filed. The TCEQ will process the requests for a contested case hearing already received by the Office of the Chief Clerk, as well as any other requests for a contested case hearing that are timely filed. The hearing requests will be considered under the requirements of 30 TAC Chapter 50, Subchapter F. All requests for a contested case hearing must comply with the requirements of 30 TAC § 55.201.

CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

- The proposed permit does not contain any made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Richard A. Hyde, P.E.,
Executive Director

Robert Martinez, Environmental Law Division Director

By _____
Michael T. Parr II, Staff Attorney
Environmental Law Division
State Bar No. 24062936
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Telephone No. 512-239-0611
Facsimile No. 512-239-0606
Representing the Executive Director of the Texas Commission on Environmental Quality

CERTIFICATE OF SERVICE

I certify that on December 29, 2014, the Executive Director's Response to Public Comment for Permit No. WQ0001401000 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

_____
Michael T. Parr II, *Staff Attorney*
Environmental Law Division
State Bar No. 24062936

ATTACHMENT C

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

Compliance History Report

PUBLISHED Compliance History Report for CN600795777, RN101548956, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN600795777, Unimin Corporation	**Classification:** SATISFACTORY	**Rating:** 1.42
Regulated Entity:	RN101548956, UNIMIN TEXAS CLEBURNE PLANT	**Classification:** HIGH	**Rating:** 0.00
Complexity Points:	11	**Repeat Violator:** NO	
CH Group:	04 - Mining		
Location:	1788 COUNTY ROAD 308 CLEBURNE, TX 76033-9409, SOMERVELL COUNTY		
TCEQ Region:	REGION 04 - DFW METROPLEX		

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 38808
AIR NEW SOURCE PERMITS REGISTRATION 78251
WASTEWATER PERMIT WQ0001401000
AGGREGATES REGISTRATION AP0000408
AIR NEW SOURCE PERMITS ACCOUNT NUMBER SL0002S
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 20213
WASTEWATER EPA ID TX0001830

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: March 12, 2015

Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

Component Period Selected: March 11, 2011 to March 11, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Monica Baez **Phone:** (512) 239-5784

Site and Owner/Operator History:

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

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

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

Item 1	March 17, 2011	(916273)
Item 2	April 08, 2011	(924639)
Item 3	May 23, 2011	(937953)
Item 4	June 20, 2011	(945264)

Item 5	July 19, 2011	(952550)
Item 6	August 23, 2011	(959231)
Item 7	September 20, 2011	(965234)
Item 8	October 17, 2011	(971304)
Item 9	November 14, 2011	(977460)
Item 10	December 13, 2011	(984233)
Item 11	January 19, 2012	(990526)
Item 12	March 13, 2012	(1003409)
Item 13	April 17, 2012	(1003408)
Item 14	May 14, 2012	(1016371)
Item 15	June 18, 2012	(1024095)
Item 16	July 24, 2012	(1031493)
Item 17	August 29, 2012	(1037865)
Item 18	September 21, 2012	(1046589)
Item 19	October 19, 2012	(1060635)
Item 20	November 14, 2012	(1060636)
Item 21	December 17, 2012	(1060637)
Item 22	January 22, 2013	(1078819)
Item 23	February 19, 2013	(1078818)
Item 24	March 22, 2013	(1089232)
Item 25	April 24, 2013	(1095625)
Item 26	May 17, 2013	(1106551)
Item 27	July 08, 2013	(1110228)
Item 28	August 21, 2013	(1124865)
Item 29	September 25, 2013	(1129468)
Item 30	October 22, 2013	(1135197)
Item 31	November 21, 2013	(1140598)
Item 32	December 30, 2013	(1147053)
Item 33	January 17, 2014	(1153125)
Item 34	February 17, 2014	(1160459)
Item 35	March 13, 2014	(1167106)
Item 36	April 18, 2014	(1174239)
Item 37	May 20, 2014	(1180427)
Item 38	June 20, 2014	(1187324)
Item 39	August 21, 2014	(1198399)
Item 40	September 17, 2014	(1205732)
Item 41	October 14, 2014	(1212139)
Item 42	November 18, 2014	(1218389)
Item 43	December 29, 2014	(1224174)
Item 44	January 14, 2015	(1230702)

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

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

1 Date: 06/30/2014 (1198398) CN600795777
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

2 Date: 10/27/2014 (1202771) CN600795777
Self Report? YES Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Lim. & Mon. Req No. 1 PERMIT
Description: Failed to maintain compliance with the permitted effluent limits.
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Lim. & Mon. Req No. 1 PERMIT
Description: Failed to maintain compliance with the permitted effluent limits.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.1
Effluent Limitations & Monitoring Req. 1 PERMIT

Description: Failed to accurately complete the discharge monitoring reports (DMRs).

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

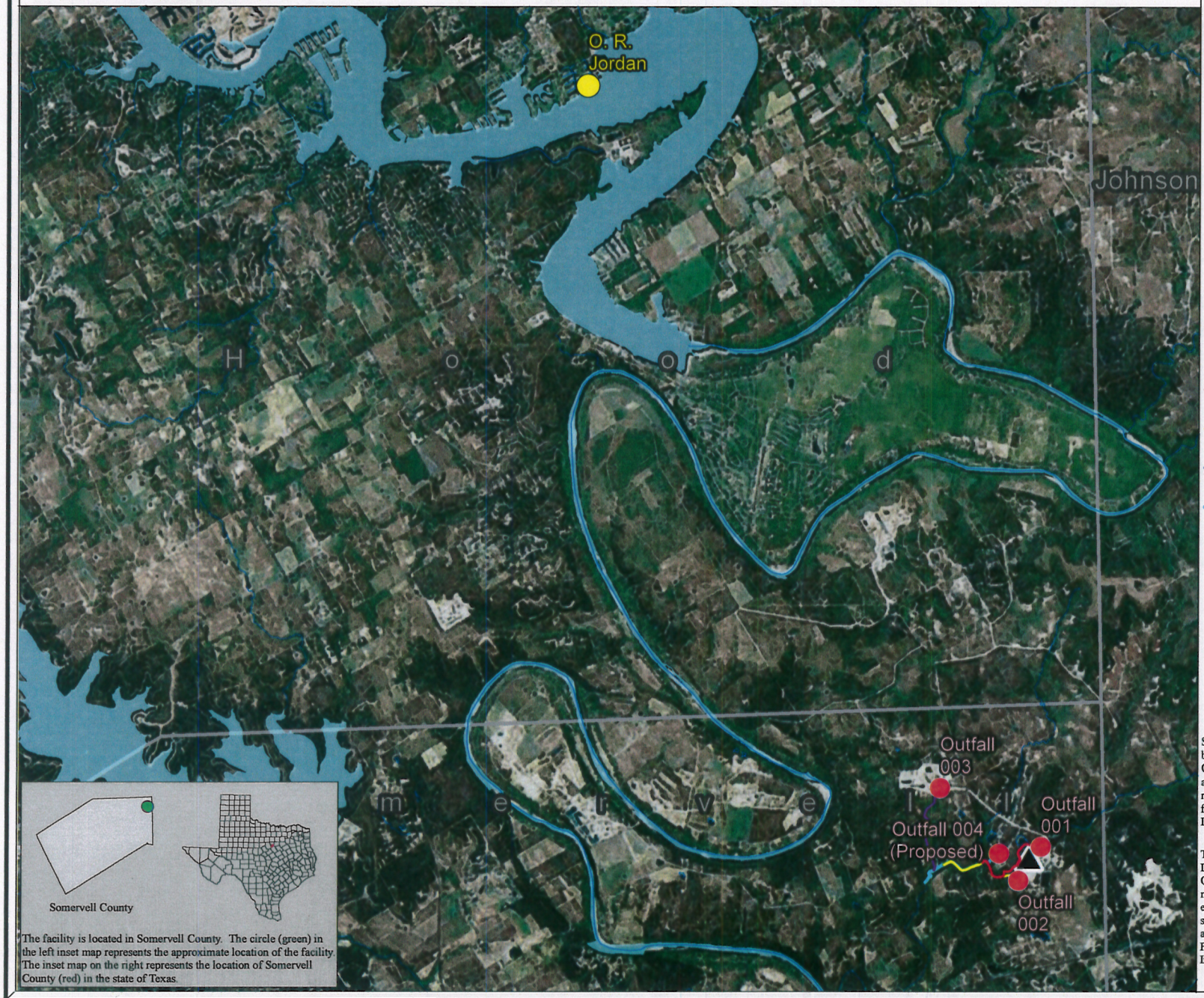
Sites Outside of Texas:
N/A

ATTACHMENT D

Unimin Corporation

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

0 1 2 Miles



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

Protecting Texas by Reducing and Preventing Pollution

TCEQ

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

Date: 3/12/2015

- Facility
- Outfall
- O. R. Jordan (Requestor)

1 mile downstream from outfall

- Outfall 001
- Outfall 002
- Outfall 003
- Outfall 004
- Watercourse (MNET)
- Waterbody (MNET)
- County (TxDOT)

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The background imagery of this map is from the current Environmental Systems Research Institute (ESRI) 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.

CRF 444909