

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 14, 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: **Application by TXI Operations. LP for new TPDES Permit No. WQ0005092000; TCEQ Docket No. 2015-1269-IWD**

Dear Ms. Bohac,

I have enclosed the Executive Director's Response to Hearing Requests in the above-entitled matter. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Robert Brush".

Robert Brush, *Staff Attorney*
Environmental Law Division
State Bar No. 00788772

cc: Mailing List

Enclosure

TCEQ Docket No. 2015-1269-IWD

**APPLICATION BY TXI
OPERATIONS, LP FOR TPDES
PERMIT NO. WQ0005092000**

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§

**BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL QUALITY**

2015 SEP 24 AM 9:12
OFFICE OF THE
SECRETARY

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST AND
REQUEST FOR RECONSIDERATION**

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Hearing Request on TXI Operations, LP's (TXI) application for a new Texas Pollutant Discharge Elimination System (TPDES), Permit Number WQ0005092000. Timely contested case hearing requests were filed by:

Ann Anderson, Melisa Ashford, Bruce Basden, Larry Boyd, Cardle Bray, Chris Bray, Jack Buckley, Pat Buckley, Concerned Citizen (198 W. El Camino Real), Concerned Citizen (1111 Driftwood Ranch Trail), Stan Elmore, Bonnie Ferrell, Ken Ferrell, Lee Felts, Denise Garrett, Jenks Garrett, Shelby Graham, Tony Graham, Marietta Hagemann, Robert Hagemann, Connie Hahn, Barbara Hard, Dr. Stephen Hard, Nancy Hard, Meredith Hard, Don Heep, Gail Heep, Mary Jordan, B. E. Jordan, Jeanenne Kienle, Christi Linney, Stephen Linney, Gerry McCarthy, Brian McGrew, Brian Moffitt, Hedi Moffitt, Jane Morgan, Cindy Murdoch, Gary Rosenbach, Susan Rosenbach, Daniel Simmons, Christy Smith, P. Smith, Gayle Spitz, Todd Spitz, Jim Stevens, Sandy Stevens, Susan Vaughn, Roger Vaughn, Jami Winturroth, Peggy Young, and William Young.

Attached for Commission consideration are the following:

- Attachment A – Satellite map of the area
- Attachment B – Map Requestor Key
- Attachment C – Draft Permit & Technical Summary/ED's Preliminary Decision
- Attachment D – ED's Response to Public Comment (RTC)
- Attachment E – Compliance history report

I. FACILITY DESCRIPTION

TXI submitted an application for a new permit, draft TPDES Permit No. WQ0005092000, to authorize the discharge of stormwater and certain allowable non-stormwater discharges associated with this industrial activity on an intermittent and flow variable rate via Outfall 001.

This operation is required to obtain an individual TPDES permit for the discharge of stormwater and certain other non-stormwater discharges because it is proposed to be located in the John Graves Scenic Waterway, a defined section on the Brazos River. The rules pertaining quarrying facilities located on/near the John Graves Scenic Waterway are found in 30 TAC, Chapter 311, Subchapter H.

The daily average effluent limits in the draft permit are: Flow: Report million gallons per day (MGD); Total Suspended Solids: 45 milligrams per Liter (mg/L); Total Arsenic: 0.1 mg/L; Total Cadmium: 0.05 mg/L; Total Chromium: 0.5 mg/L; Total Copper: 0.04 mg/L; Total Lead: 0.35 mg/L; Total Manganese: 1.0 mg/L; Total Mercury: 0.002 mg/L; Total Nickel: 1.0 mg/L; Total Selenium: 0.02 mg/L; Total Silver: 0.03 mg/L; Total Zinc: 0.31 mg/L.

The proposed operation would be located on New Tin Top Road, approximately 10 miles south of the intersection of Tin Top Road and Interstate 20 near the City of Weatherford, in Parker County, Texas. The discharge route is via Outfall 001 to a man-made tributary of Spring Creek; then to farm pond 1; then to a man-made tributary of Spring Creek; then to farm pond 2; then to Spring Creek; then to Lake Granbury in Segment No. 1205 of the Brazos River Basin. The designated uses for the unclassified receiving waters are: minimal aquatic life use for the man-made unnamed tributary of Spring Creek; limited aquatic life use for the farm ponds; and high aquatic life use for Spring Creek. The designated uses for Segment No. 1205 are primary contact recreation, public water supply, and high aquatic life use.

II. BACKGROUND

The permit application was received on July 11, 2013, and declared administratively complete on August 23, 2013. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on September 10, 2013, in the *Fort Worth Star Telegram*. An alternative language NORI was also published in Spanish in *La Prensa Comunidad* on September 10, 2013. The Notice of Application and Preliminary Decision for a Water Quality Land Application Permit (NAPD) was published on April 10, 2015, in the *Fort Worth Star Telegram*. An alternative language NAPD was also published in Spanish in *La Prensa Comunidad* on April 10, 2015. The public comment period ended on May 11, 2015. A response to comment was prepared by the ED and filed on July 10, 2015. The deadline for requesting a contested case hearing was August 14, 2015. This application is subject to the procedural requirements of House Bill 801, 76th Legislature, 1999.

III. EVALUATION PROCESS FOR HEARING REQUESTS

House Bill (HB) 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment and for the Commission's consideration of hearing requests. The Commission implemented HB 801 by adopting procedural rules in 30 TAC Chapters 39, 50, and 55.

A. Responses to Requests

“The executive director, the public interest counsel, and the applicant may submit

written responses to the [hearing] requests”¹

According to 30 TAC § 55.209(e), responses to hearing requests must specifically address the following:

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

B. Hearing Request Requirements

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements. As noted in 30 TAC § 55.201(c), "A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided . . . and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the ED’s RTC."

According to 30 TAC § 55.201(d), a hearing request must substantially comply with the following:

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

¹ 30 TEX. ADMIN. CODE section 55.209(d) (West 2012).

the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the ED's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and

- 5) Provide any other information specified in the public notice of application.

C. Requirement that Requestor Be an Affected Person

To grant a contested case hearing, the Commission must determine that a requestor is an affected person. The factors to consider in making this determination are found in 30 TAC § 55.203 and are as follows:

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

D. Referral to the State Office of Administrative Hearings

30 TAC § 50.115(b) details how the Commission refers a matter 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." Section 50.115(c) further states, "The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: (1) involves a disputed question of fact; (2) was raised during the public comment period; and (3) is relevant and material to the decision on the application."

IV. ANALYSIS OF HEARING REQUEST

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

All hearing requestors submitted timely written hearing requests that included relevant contact information and raised disputed issues. The ED recommends finding that all hearing requests substantially complied with §§ 55.201(c) and (d).

B. Whether the Requestors Meet the Affected Person Requirements

1. Barbara Hard, Dr. Stephen Hard, Christi Linney, Stephen Linney, Susan Rosenbach, and Gary Rosenbach.

These requestors own properties that are identified on the affected landowner map as owning adjacent property to the proposed facility and operations (#17, #18, and #23 on Attachment A).

Considering the factors under 30 TAC § 55.203, protection of groundwater and surface water is an interest regulated by issuance of TPDES permits and there is a reasonable relationship between the use and enjoyment of these adjacent properties and the proposed activities that would be authorized by the permit. Clearly, adjacent property owners have a personal justiciable interest not common to the general public. The ED recommends finding these requestors are affected persons in this matter.

2. Jane Morgan and Larry Boyd.

These requestors own property in close proximity to the proposed facility and operations. Ms. Morgan is located approximately 0.6 miles northeast (#19 on Attachment A) and Mr. Boyd is located approximately 0.8 miles west (#24 on Attachment A) of the proposed facility and operations.

Considering the factors under 30 TAC § 55.203, protection of groundwater and surface water is an interest regulated by issuance of TPDES permits and there is a reasonable relationship between the use and enjoyment of these nearby properties and the proposed activities that would be authorized by the permit. However, neither of these properties is located on the actual discharge route or in close proximity to the discharge route, so it is unclear what water quality issues have the potential to impact these requestors. General water quality concerns absent any specific impact to the requestor are common to members of the general public. Therefore, the ED cannot conclude that these requestors are affected any differently from other members of the general public such that they have a personal justiciable interest in the permit application. The ED recommends finding these requestors are not affected persons in this matter.

3. Ann Anderson, Melisa Ashford, Cardle Bray, Chris Bray, Jack Buckley, Pat Buckley, Concerned Citizen (198 W. El Camino Real), Stan Elmore, Lee Felts, Denise Garrett, Jenks Garrett, Shelby Graham, Tony Graham, Marietta Hagemann, Robert Hagemann, Connie Hahn, Nancy Hard, Meredith Hard, Don Heep, Gail Heep, Mary Jordan, B. E. Jordan, Jeanenne Kienle, Gerry McCarthy, Brian Moffitt, Hedi Moffitt, Daniel Simmons, Christy Smith, P. Smith, Gayle Spitz, Todd Spitz, Jim Stevens, Sandy Stevens, Susan Vaughn, Roger Vaughn, Jami Winturroth, Peggy Young, and William Young.

These requestors (#1 -#4, #9-#16, #20-#22, #25-#28, and #30 on Attachment A) are located from approximately one mile to one and a half mile south of the proposed facility and are upstream of the discharge route on the opposite bank of the Brazos River.

Considering the factors under 30 TAC § 55.203, protection of groundwater and surface water is an interest regulated by issuance of TPDES permits and there is a reasonable relationship between the use and enjoyment of property and the proposed activities that would be authorized by the permit. However, these properties are all upstream of the proposed discharge where Spring Creek enters the Brazos River/Lake Granbury. Therefore, these requestors are similarly situated to other members of the general public in regards to surface and groundwater impacts. Based on consideration of these factors, the ED is of the opinion that these requestors are similarly situated to other members of the general public with respect to this permit application. The ED recommends finding these requestors are not affected persons in this matter.

4. Bruce Basden, Concerned Citizen (1111 Driftwood Ranch Trail), Bonnie Ferrell, Ken Ferrell, and Brian McGrew.

These requestors (#5-8 on map) are located approximately one and a quarter mile southeast of the proposed facility and from one and a half to two miles downstream of the proposed discharge point.

Considering the factors under 30 TAC § 55.203, protection of groundwater and surface water is an interest regulated by issuance of TPDES permits and there is a reasonable relationship between the use and enjoyment of property and the proposed activities that would be authorized by the permit. However, these properties are all located a minimum of one and a half miles downstream on the discharge route after the discharge has entered the Brazos River/Lake Granbury from Spring Creek. Additionally, the properties owned by these requestors are located on the opposite bank of the Brazos River/Lake Granbury from where the discharge would enter from Spring Creek. Therefore, these requestors are similarly situated to other members of the general public in regards to surface and groundwater impacts.

Based on consideration of these factors, the ED is of the opinion that these

requestors are similarly situated to other members of the general public with respect to this permit application. The ED recommends finding these requestors are not affected persons in this matter.

5. Cindy Murdock.

The request of Cindy Murdock did not provide any information regarding any property she had in proximity with the proposed facility. Ms. Murdock only provided a post office box address in Sonora, Texas as both a contact address and as a location reference. Sonora is located over 250 miles southwest of the proposed facility in Sutton County, Texas. Based on the information provided, the ED recommends finding that Cindy Murdock is not an affected person in this matter.

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

The ED analyzed the issues raised in the hearing requests in accordance with the regulatory criteria and provides the following recommendations regarding which issues should be referred to SOAH. All issues were raised during the public comment period, were not withdrawn, and are considered disputed.

1. Whether the facility and associated activities will cause surface or groundwater contamination in the area. (RTC #1 and #3)

This is an issue of fact. If it can be shown that the proposed facility and associated activities will cause surface or groundwater contamination in the area, then that information would be relevant and material to a decision on whether to issue the permit. The ED recommends referring this issue to SOAH.

2. Whether the facility and associated activities will cause flooding in the area. (RTC #2)

This is an issue of fact. However, whether the proposed facility and associated activities will cause flooding in the area is not relevant and material to a decision on the permit. The ED recommends not referring this issue to SOAH.

3. Whether environmental impact studies or hydraulic assessments have been performed to assess how the proposed operations will affect surface water flows in the area. (RTC #4)

This is an issue of fact. The ED is not aware of any such studies or assessments that have been done regarding the proposed operations. However, there is no requirement that TCEQ or TXI Operations perform such a study or assessment in order for this permit to be issued. Therefore, the issue is not relevant and material to a decision on the permit. However, should a party undertake such a study or assessment;

the results could be relevant to consideration of issue #1, regarding the potential contamination to surface and groundwater. The ED recommends not referring this issue to SOAH.

4. Whether the facility and associated activities will cause dust/air pollution. (partial RTC #5)

This is an issue of fact. However, dust/air pollution issues are not regulated by a TPDES wastewater discharge permit and as such, are not germane to consideration of whether to issue this permit. In regards to dust/air pollution issues, TXI is required to comply with 30 TAC § 106.533 or 30 TAC Chapter 116, as appropriate. However, resolution of this issue is not relevant and material to a decision on the permit. The ED recommends not referring this issue to SOAH.

5. Whether the facility and associated activities will cause excessive noise issues. (partial RTC #5)

This is an issue of fact. However, noise is not an issue that is regulated by a TPDES wastewater discharge permit. Therefore, this issue is not relevant and material to a decision on the permit. The ED recommends not referring this issue to SOAH.

6. Whether adequate reclamation practices will be practiced by TXI Operations. (RTC #6)

This is an issue of fact. However, demonstration of appropriate reclamation practices prior to this permit being issued is not required. Therefore, the issue is not relevant and material to a decision on the permit application. The ED recommends not referring this issue to SOAH.

7. Whether the facility and associated activities will negatively impact surface water and groundwater availability in the area. (RTC #7)

This is an issue of fact. However, whether the proposed facility and associated activities will impact the quantity of surface and groundwater in the area is not relevant and material to a decision on the permit. The ED recommends not referring this issue to SOAH.

8. Whether the facility and associated activities will cause increased truck traffic and road deterioration. (partial RTC #8)

This is an issue of fact. However, whether the proposed facility and associated activities will cause an increase in truck traffic in the area is not relevant and material to a decision on the permit. The ED recommends not referring this issue to SOAH.

9. Whether the facility and associated activities will impact the general

quality of life in the area or decrease local property values. (partial RTC #8)

This is an issue of fact. However, whether the proposed facility and associated activities will negatively impact the general quality of life or local property values in the area is not relevant and material to a decision on the permit. The ED recommends not referring this issue to SOAH.

The ED recommends referring issue #1 to SOAH.

V. DURATION OF THE CONTESTED CASE HEARING

Should there be a contested case hearing on this application, the ED recommends a hearing duration of nine months from the preliminary hearing to the presentation of a proposal for decision to the Commission.

VI. CONCLUSION

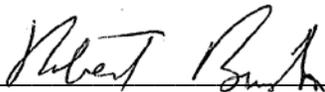
1. Find that Barbara Hard, Dr. Stephen Hard, Christi Linney, Stephen Linney, Susan Rosenbach, and Gary Rosenbach are affected persons.
2. Deny the hearing requests of Ann Anderson, Melisa Ashford, Bruce Basden, Larry Boyd, Cardle Bray, Chris Bray, Jack Buckley, Pat Buckley, Concerned Citizen (198 W. El Camino Real), Concerned Citizen (1111 Driftwood Ranch Trail), Stan Elmore, Lee Felts, Bonnie Ferrell, Ken Ferrell, Denise Garrett, Jenks Garrett, Shelby Graham, Tony Graham, Marietta Hagemann, Robert Hagemann, Connie Hahn, Nancy Hard, Meredith Hard, Don Heep, Gail Heep, Mary Jordan, B. E. Jordan, Jeanenne Kienle, Gerry McCarthy, Brian McGrew, Brian Moffitt, Hedi Moffitt, Jane Morgan, Cindy Murdock, Daniel Simmons, Christy Smith, P. Smith, Gayle Spitz, Todd Spitz, Jim Stevens, Sandy Stevens, Susan Vaughn, Roger Vaughn, Jami Winturroth, Peggy Young, and William Young because they are not affected persons.
3. Refer issue #1 to SOAH for a hearing of nine months duration from the preliminary hearing date.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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

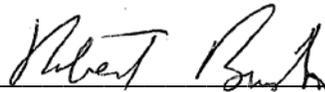
Robert Martinez, Director
Environmental Law Division

By:  _____

Robert Brush
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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2015 the original and seven true and correct copies of the Executive Director's Response to Hearing Requests for TCEQ Docket No. 2015-1269-IWD relating to the application of TXI Operations, LP for TPDES Permit No. WQ0005092000 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, electronic mail, facsimile transmission, or by deposit in the U.S. Mail.

 _____

Robert D. Brush, Staff Attorney
Environmental Law Division
State Bar No. 00788772

MAILING LIST
TXI OPERATIONS, LP
DOCKET NO. 2015-1269-IWD; PERMIT NO. WQ0005092000

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via electronic mail:

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**FOR ALTERNATIVE DISPUTE
RESOLUTION**

via electronic mail:

Kyle Lucas
TCEQ
Alternative Dispute Resolution, MC-222
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Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNCIL

via electronic mail:

Rudy Calderon
TCEQ
Office of Public Interest, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Fax: (512) 239-6377

FOR THE CHIEF CLERK:

Bridget Bohac
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Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE REQUESTORS:

Ann Anderson
807 Driftwood Ranch Trail
Weatherford, TX 76087-0720

Melisa Ashford
166 E. El Camino Real
Weatherford, TX 76087-6545

Bruce Basden
1323 Driftwood Ranch Trail
Weatherford, TX 76087-0717

Larry E. Boyd
749 Tin Top Estates Road
Weatherford, TX 76087-6849

Cardle Bray & Chris Bray
140 E. El Camino Real
Weatherford, TX 76087-6544

Jack Buckley
151 E. El Camino Real
Weatherford, TX 76087-6533

Concerned Citizen
151 E. El Camino Real
Weatherford, TX 76087-6533

Concerned Citizen
1111 Driftwood Ranch Trail
Weatherford, TX 76087-0725

Stan Elmore
124 W. El Camino Real
Weatherford, TX 76087-6571

Bonnie & Ken Ferrell
1101 Driftwood Ranch Trail
Weatherford, TX 76087-76087

Denise & Jenks Garrett
8131 Tin Top Hwy.
Weatherford, TX 76087-1769

Shelly & Tony Graham
124 Hillcroft Drive
Weatherford, TX 76087-6854

Marietta & Robert Hagemann
103 Silver Sage Court
Weatherford, TX 76087-0709

Connie Hahn & Lee Felts
2318 Vienna Drive
Granbury, Texas 76048-1468

Connie Hahn & Lee Felts
807 Driftwood Ranch Trail
Weatherford, TX 76087-0720

Dr. Stephen Hard & Barbara Hard
5255 New Tin Top Road
Weatherford, TX 76087-7438

Meredith Hard & Nancy Hard
149 E. El Camino Real
Weatherford, TX 76087-6533

Don & Gale Heep
291 N. Blue Stem Court
Weatherford, TX 76087-0707

B.E. & Mary Jordan
161 E. El Camino Real
Weatherford, TX 76087-6533

Jeanenne Kienle
178 W. El Camino Real
Weatherford, TX 76087-6571

Christi & Stephen Linney
5224 Tin Top Road
Weatherford, TX 76087-7460

Terry McCarthy
192 W. El Camino Real
Weatherford, TX 76087-6571

Brian McGrew
1475 Driftwood Ranch Trail
Weatherford, TX 76087-0715

Hedi & Brian Moffitt
108 Montclair Drive
Weatherford, TX 76087-6564

Jane Morgan
5215 Tin Top Road
Weatherford, TX 76087-7438

Cindy Murdock
P.O. Box 9
Sonora, TX 76950-0009

Daniel Simmons
166 E. El Camino Real
Weatherford, TX 76087-6545

Christy & P. Smith
300 Hillcroft Drive
Weatherford, TX 76087-6503

Gayla & Todd Spitz
281 E. El Camino Real
Weatherford, TX 76087-6552

Sandy & Jim Stevens
124 Lakewood Drive
Weatherford, TX 76087-6528

Lewis T. Stevens
Law Offices of Lewis T. Stevens
131 E. Exchange Ave., Ste. 204
Fort Worth, TX 76164-8244

Susan & Roger Vaughn
255 N. Blue Stem Court
Weatherford, TX 76087-0707

Jami Winturroth
124 Lakewood Drive
Weatherford, TX 76087-6528

Peggy & Willam Young
661 Driftwood Ranch Trail
Weatherford, TX 76087-0722

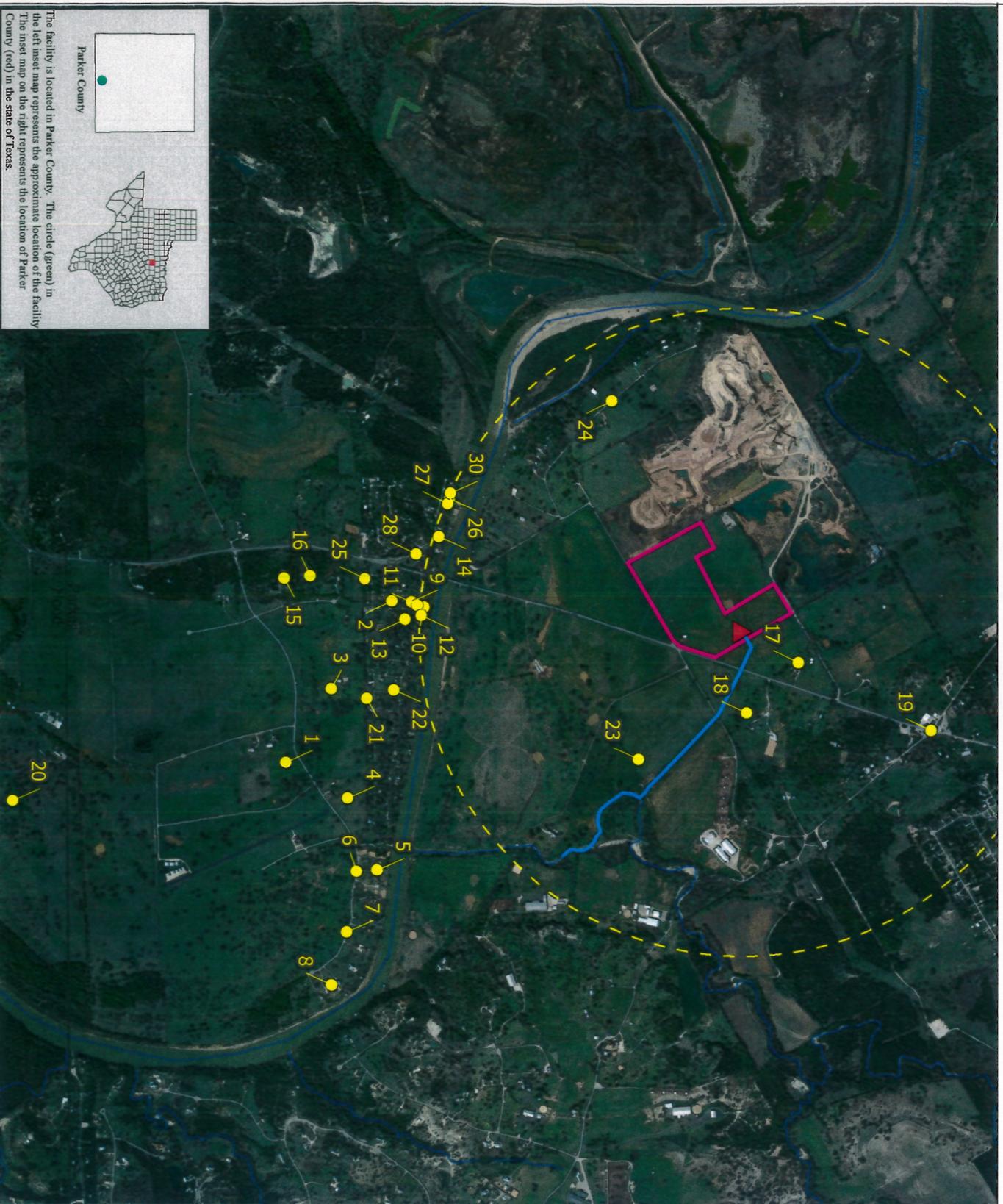
ATTACHMENT A

TXI Operations TPDES WQ0005092000

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



Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P O Box 13087
Austin, Texas 78711-3087
Date: 9/3/2015



0 0.25 0.5 Miles

N

- Facility Boundary
- Outfall 001
- 1 mi downstream discharge
- 1 mi radial distance from outfall
- Requestors
- County Boundary

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 Resources Division at (512) 259-0800.

CRF 438947

The facility is located in Parker 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 Parker County (red) in the state of Texas.

ATTACHMENT B

TXI Operations, LP
WQ0005092000
Requestor Key for Map

ID	Name	Address
1	Marrietta Hagemann & Robert Hagemann	103 Silver Sage Drive
2	Jim Stevens & Sandy Stevens & Jami Winturroth	124 Lakewood Drive
3	Peggy Young & William Young	661 Driftwood Ranch Trail
4	Ann Anderson & Lee Felts & Connie Hahn	807 Driftwood Ranch Trail
5	Bonnie Ferrell & Ken Ferrell	1101 Driftwood Ranch Trail
6	Concerned Citizen	1111 Driftwood Ranch Trail
7	Bruce Basden	1323 Driftwood Ranch Trail
8	Brian McGrew	1475 Driftwood Ranch Trail
9	Cardle Bray & Chris Bray	140 E. El Camino Real
10	Nancy Hard & Meredith Hard	149 E. El Camino Real
11	Jack Buckley & Pat Buckley	151 E. El Camino Real
12	Mary Jordan & B.E. Jordan	161 E. El Camino Real
13	Daniel Simmons & Melisa Ashford	166 E. El Camino Real
14	Stan Elmore	124 W. El Camino
15	Susan Vaughn & Roger Vaughn	255 N. Blue Stem Court

16	Don Heep & Gail Heep	291 N. Blue Stem Court
17	Christi Linney & Stephen Linney	5224 New Tin Top Road
18	Steve Hard & Barbara Hard	5255 New Tin Top Road
19	Jane Morgan	5215 Tin Top Road
20	Jenks Garrett & Denise Garrett	8131 Tin Top Hwy
21	Christy Smith & P. Smith	300 Hillcroft
22	Brian Moffitt & Hedi Moffitt	108 Montclair Street
23	Susan & Gary Rosenbach	
24	Larry E. Boyd	749 Tin Top Estates Rd
25	Tony & Shelby Graham	124 Hillcroft
26	Garry McCarthy	192 W. El Camino Real
27	Jeanenne Kienle	178 W. El Camino Real
28	Todd & Gayla Spitz	281 W. El Camino Real
29	Number not used.	
30	Concerned Citizen	198 W. El Camino Real
	Cindy Murdock	No property address provided.

ATTACHMENT C



TPDES PERMIT NO.
WQ0005092000
*[For TCEQ office use only -
EPA I.D. No. TX0134732]*

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

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

TXI Operations, LP

whose mailing address is

1503 LBJ Freeway Suite 400, Dallas, Texas 75234

is authorized to discharge stormwater associated with an industrial activity, construction stormwater and certain non-stormwater discharges on an intermittent and flow variable rate via Outfall 001 from a sand and gravel quarry (SIC 1442)

located on New Tin Top Road, approximately 10 miles south of the intersection of Tin Top Road and I-20 near the City of Weatherford, in Parker County, Texas, 76087

the discharge route is to a man-made tributary of Spring Creek; thence to farm pond 1; thence to a man-made tributary of Spring Creek; thence to farm pond 2; thence to Spring Creek; thence to Lake Granbury in Segment No. 1205 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 001

1. During the period beginning upon the date of issuance and lasting through the expiration date, the permittee is authorized to discharge stormwater associated with an industrial activity, construction stormwater and certain non-stormwater discharges (*1) subject to the following effluent limitations:

Volume: Intermittent and Flow Variable

Effluent Characteristic	Discharge Limitations		Minimum Self-Monitoring Requirements	
	Daily Avg. mg/L (Report MGD)	Daily Max. mg/L (Report MGD)	Single Grab mg/L	Report Daily Avg. & Daily Max. Measurement Frequency Sample Type
Flow			N/A	1/day (*2) Estimate
Total Suspended Solids (TSS)	45 (*3)	N/A	N/A	1/day (*2) Grab
Arsenic, Total	0.1 mg/L	0.3 mg/L	0.3 mg/L	1/year (*2) Grab
Barium, Total	1.0 mg/L	4.0 mg/L	4.0 mg/L	1/year (*2) Grab
Cadmium, Total	0.05 mg/L	0.15 mg/L	0.15 mg/L	1/year (*2) Grab
Chromium, Total	0.5 mg/L	5.0 mg/L	5.0 mg/L	1/year (*2) Grab
Copper, Total	0.04 mg/L	0.09 mg/L	0.09 mg/L	1/year (*2) Grab
Lead, Total	0.35 mg/L	0.75 mg/L	0.75mg/L	1/year (*2) Grab
Manganese, Total	1.0 mg/L	3.0 mg/L	3.0 mg/L	1/year (*2) Grab
Mercury, Total	0.002 mg/L	0.004 mg/L	0.004 mg/L	1/year (*2) Grab
Nickel, Total	1.0 mg/L	3.0 mg/L	3.0 mg/L	1/year (*2) Grab
Selenium, Total	0.02 mg/L	0.04 mg/L	0.04 mg/L	1/year (*2) Grab
Silver, Total	0.03 mg/L	0.05 mg/L	0.05 mg/L	1/year (*2) Grab
Zinc, Total	0.31 mg/L	0.66 mg/L	0.66 mg/L	1/year (*2) Grab

(*1) See Other Requirements No. 2

(*2) When Discharging

(*3) Total Suspended Solids (TSS) limitation is not applicable to discharges resulting from a rainfall event greater than the 25-year, 24-hour rainfall event. Monitoring is required when discharges result from a rainfall event greater than the 25-year, 24-hour

event, however, compliance with effluent limitations of 45 mg/L is not required.

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 (*2), by grab sample.
3. There shall be no discharge of floating solids or visible foam other than in trace amounts and no discharge of visible oil.
4. Sampling to determine compliance with effluent limitations must be conducted following the final treatment unit(s) (e.g., sedimentation pond) and prior to leaving quarry property. Sampling must be conducted during actual discharges.
5. Effluent monitoring samples shall be taken at Outfall No. 001, located at a weir along the eastern lease boundary.

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 x Concentration, mg/l x 8.34).
- g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.

3. Sample Type

- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9 (b).
 - b. Grab sample - an individual sample collected in less than 15 minutes.
4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
 5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.
 6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise

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

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

2. Test Procedures

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

3. Records of Results

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

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

4. Additional Monitoring by Permittee

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

approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

7. Noncompliance Notification

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

9. Changes in Discharges of Toxic Substances

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

- a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i. One hundred micrograms per liter (100 µg/L);
 - ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.
- b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i. Five hundred micrograms per liter (500 µg/L);
 - ii. One milligram per liter (1 mg/L) for antimony;
 - iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. The level established by the TCEQ.

10. Signatories to Reports

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

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

PERMIT CONDITIONS

1. General

- a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.
- b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:

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

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

2. Compliance

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

3. Inspections and Entry

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

- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC §7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

4. Permit Amendment and/or Renewal

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

- e. In accordance with the TWC §26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA §307(a) for a toxic pollutant that is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA §307(a) for toxic pollutants within the time provided in the regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy.

- a. Each permittee shall notify the executive director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:
 - i. the permittee;
 - ii. an entity (as that term is defined in 11 USC, §101(15)) controlling the permittee or listing the permit or permittee as property of the estate; or

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

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.
2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§319.21 - 319.29 concerning the discharge of certain hazardous metals.
3. Domestic wastewater treatment facilities shall comply with the following provisions:
 - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
 - b. The permittee shall submit a closure plan for review and approval to the Land Application Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.
4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.
5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under TWC §7.302(b)(6).
7. Documentation

For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information required for TPDES permit applications, effluent data, including effluent data in permits, draft permits and permit applications, and other information specified as not confidential in 30 TAC §1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words confidential business information on each page containing such information. If no claim is

made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

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

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

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.
 - c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid license 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. Definitions**

In addition to the definitions referenced and the definitions found on pages 3 and 4 of this permit, the following definitions apply:

25-year, 24-hour rainfall event: The maximum rainfall event with a probable recurrence interval of once in 25 years, with a duration of 24 hours, as defined by the National Weather Service and Technical Paper Number 40, *Rainfall Frequency Atlas of the U.S.*, May 1961, and subsequent amendments; or equivalent regional or state rainfall information.

Aggregates: Any commonly recognized construction material originating from a quarry or pit by the disturbance of the surface, including dirt, soil, rock asphalt, granite, gravel, gypsum, marble, sand, stone, caliche, limestone, dolomite, rock, riprap, or other non-mineral substance. The term does not include clay or shale mined for use in manufacturing structural clay products.

Best management practices (BMP): Any prohibition, management practice, maintenance procedure, or schedule of activity designed to prevent or reduce the pollution of water in the state. Best management practices include treatment, specified operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.

Construction Stormwater: Stormwater from a construction activity where soil disturbing activities (including clearing, grading, excavating) result in the disturbance of land area.

Final Stabilization: All soil disturbing activities at the site have been completed and a uniform (e.g. evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Highwall: Vertical face remaining from the final cut of a surface mining operation.

Hyperchlorination of waterlines: Treatment of potable water lines or tanks with chlorine for disinfection purposes, typically following repair or partial replacement of the waterline or tank, and subsequently flushing the contents.

John Graves Scenic Riverway: That portion of the Brazos River Basin and its contributing watershed, located downstream of the Morris Shepard Dam on the Possum Kingdom Reservoir in Palo Pinto County, Texas, and extending to the county line between Parker and Hood Counties, Texas.

Mine dewatering: Any water that is impounded or collects in the mine and is pumped, drained, or otherwise removed from the mine through the efforts of the mine operator. This provision does not include stormwater associated with industrial activity impounded by berms or other structures at surface quarrying operations; or lateral seepage from sand pits located adjacent to surface water bodies.

Non-structural controls: Pollution prevention methods that are not physically constructed, including best management practices, used to prevent or reduce the discharge of pollutants.

Navigable: Designated by the United States Geological Survey (USGS) as perennial on the most recent topographic map(s) published by the USGS, at a scale of 1:24,000.

Overburden: All materials displaced in an aggregates extraction operation that are not, or reasonably would not be expected to be, removed from the affected area.

Pit: An open excavation from which aggregates have been, or are being, extracted with a depth of five feet or more below the adjacent and natural ground level.

Pollutant: (from TWC §26.001(13)) Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any water in the state.

Process wastewater: Any wastewater used in the slurry transport of mine material, air emissions control, or process exclusive of mining. The term shall 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.

Quarry: The site from which aggregates for commercial sale are being, or have been, removed or extracted from the earth to form a pit, including the entire excavation, stripped areas, haulage ramps, and the immediately adjacent land on which the plant processing the raw materials is located. The term does not include any land owned or leased by the responsible party not being currently used in the production of aggregates for commercial sale or an excavation to mine clay or shale for use in manufacturing structural clay products. For purposes of this definition, a "responsible party" is any owner, operator, lessor, or lessee who is primarily responsible for overall function and operation of a quarry located in the water quality protection area as defined in this general permit.

Quarrying: The current and ongoing surface excavation and development without shafts, drafts, or tunnels, with or without slopes, for the extraction of aggregates for commercial sale from natural deposits occurring in the earth.

Restoration: Those actions necessary to change the physical, chemical, and/or biological qualities of a receiving water body in order to return the water body to its background condition. Restoration includes on- and off-site stabilization to reduce or eliminate an unauthorized discharge, or substantial threat of an unauthorized discharge from the permitted site.

Stormwater associated with industrial activity: Stormwater runoff that exits any conveyance that is used for collecting and conveying storm water that is directly related to manufacturing, processing, material storage, and waste material disposal areas (and similar areas where stormwater can contact industrial pollutants related to the industrial activity) at an industrial facility.

Structural controls (or practice) -- Physical, constructed features that prevent or reduce the discharge of pollutants. Structural controls include, but are not limited to, sedimentation/detention ponds; velocity dissipation devices such as rock berms, vegetated berms, buffers; and silt fencing.

Surface water in the state: Lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state (from the mean high water mark (MHW) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or subject to the jurisdiction of the state; except that waters in treatment systems that are authorized by state or federal law, regulation, or permit, and that are created for the purpose of waste treatment are not considered to be water in the state.

Temporary stabilization -- A condition where exposed soils or disturbed areas are provided a protective cover, which is required to be maintained, which may include temporary seeding, geotextiles, and mulches, or where structural controls are employed to reduce or eliminate erosion until either final stabilization can be achieved or until further mining activities take place.

Water body: Any navigable watercourse, river, stream, or lake within the water quality protection area.

Water quality protection area: The Brazos River and its contributing watershed within Palo Pinto and Parker Counties, Texas, downstream from the Morris Shepard Dam, and extending to the county line between Parker and Hood Counties, Texas.

2. Authorized Non-Stormwater Discharge

Certain non stormwater discharges as listed below:

- a. potable water sources (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely affect aquatic life);

- b. water from the routine external washing of buildings, conducted without the use of detergents or other chemicals;
- c. water from the routine washing of pavement conducted without the use of detergents or other chemicals and where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed);
- d. uncontaminated air conditioner condensate, compressor condensate, and steam condensate;
- e. uncontaminated water used for dust suppression; and
- f. springs and other uncontaminated ground water.

3. Restoration Plan

The Executive Director has reviewed the Restoration Plan and cost estimate received by the TCEQ on July 11, 2013, and determined that they satisfy the requirements established at 30 TAC §311.76. This Restoration Plan is incorporated by reference as a permit requirement.

The permittee shall make changes, as necessary, to the Restoration Plan to reflect changing conditions at the facility and within the receiving stream. At a minimum, the Restoration Plan shall be reviewed and updated once per year. Revised or updated Restoration Plans shall be certified by a licensed Texas professional engineer or licensed Texas professional geoscientist, as appropriate. Components of the Restoration Plan may be independently certified, as appropriate. A copy of the updated Restoration Plan shall be submitted to the TCEQ for review and approval.

It is the responsibility of the permittee to initiate restoration activities in accordance with the developed Restoration Plan when impacts to receiving waters have occurred due to quarrying activities. The executive director reserves the right to require the permittee to initiate additional restoration actions, in addition to the permittee's responsibilities under the Restoration Plan.

4. Financial Assurance for Restoration

The permittee shall provide and maintain financial assurance in an amount not less than \$11,000.00 for Restoration. It shall be obtained and maintained in accordance with 30 Texas Administrative Code (TAC) 30 TAC Chapter 37, Subchapter W (relating to Financial Assurance for Quarries) and 30 TAC Chapter 311 Subchapter H §311.81.

The permittee shall submit to the Executive Director, upon request, such information as may be required to determine the adequacy of the financial assurance.

5. Pollution Prevention Plan

The permittee shall develop a Pollution Prevention Plan (P3) that meets the requirements outlined in Attachment A of this permit. The Pollution Prevention Plan shall be submitted to the TCEQ Stormwater & Pretreatment Team (MC-148) within 90 days of permit issuance.

A copy of the P3 must be maintained on-site at all times and made readily available at the time of an on-site inspection to: the executive director; a federal, state, or local agency approving sediment and erosion plans, grading plans, or stormwater management plans; local government officials; and the operator of a municipal separate storm sewer receiving discharges from the site.

6. Revisions to the Restoration Plan, Financial Assurance for Restoration, and Pollution Prevention Plan

The permittee shall revise the Restoration Plan and/or P3 whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the potential for the discharge of pollutants, if the Restoration Plan and/or P3 proves to be ineffective in eliminating or significantly minimizing pollutants in the discharge from the quarry, or if the cost estimate related to financial assurance increases.

The permittee shall submit the revised Restoration Plan, proof of financial assurance for restoration, and/or P3 to the executive director for approval prior to implementation.

7. Stabilization Report

Prior to cancelling this permit, the permittee shall develop a Stabilization Report that meets the requirements outlined in Attachment B of this permit. The Stabilization Report shall be submitted to the TCEQ Stormwater & Pretreatment Team (MC-148) for approval prior to submitting a request to cancel this permit.

The permittee shall continue to meet the requirements of this permit, including maintaining financial assurance for Restoration, until the executive director notifies the permittee in writing that the Stabilization Report is approved and this permit is cancelled.

The executive director may choose to conduct an investigation in addition to the review of the Final Stabilization Report, prior to terminating authorization under the general permit.

8. Additional Requirements Applicable to On-Site Dust Suppression, Soil Compaction, Irrigation, and Fire Protection

The following requirements are applicable to the use of process wastewater, mine dewatering, stormwater associated with industrial activity, construction stormwater, and certain non-stormwater discharges for on-site dust suppression, soil compaction, irrigation, and fire protection. These requirements are in addition to all other requirements outlined in this general permit.

- a. Dust suppression, soil compaction, and irrigation practices must be designed and managed so as to prevent runoff, ponding of effluent, contamination of ground and surface waters, and occurrence of nuisance conditions in the area.
- b. Application of mine dewatering, stormwater associated with industrial activity, construction stormwater, and certain non-stormwater discharges for soil compaction and irrigation must be accomplished only when the area specified is not in use. This restriction does not apply to dust suppression activities. Using mine dewatering, stormwater associated with industrial activity, construction stormwater, and certain non-stormwater discharges for dust suppression, soil compaction, and irrigation with effluent must not occur during times when the ground is frozen, the ground has standing water, the ground is saturated, or within 24 hours of a rainfall event of 0.5 inches or greater during a 24-hour duration. Best management practices must be used to prevent off site tracking of mud resulting from dust suppression activities.
- c. Spray fixtures for the dust suppression, soil compaction, irrigation, and fire protection systems must be designed so that they cannot be operated by unauthorized personnel.
- d. Adequate signs must be erected stating that water used for dust suppression, soil compaction, irrigation, and fire protection systems are from a non-potable water supply. Such signs must consist of a red slash superimposed over the international symbol for drinking water accompanied by the message "Do not drink the water" in both English and Spanish.

9. Domestic Sewage Discharge

This permit does not authorize the operation of, or discharge from a domestic sewage treatment facility. All domestic sewage must be disposed of by an on-site domestic wastewater system authorized under 30 TAC Chapter 285 (relating to On-Site Sewage Systems), or by other methods.

10. Air emissions

The permittee must comply with either 30 TAC §106.533 (relating to Water and Soil Remediation) or 30 TAC Chapter 116 (relating to Control of Air Pollution by Permits for New Construction or Modification), as appropriate.

11. Inspection

This permit may be reopened and amended based on inspections and/or water quality sampling conducted in the John Graves Scenic Riverway in accordance with Texas Water Code §26.555.

12. Compliance and Enforcement

In addition to other conditions and requirements of this permit, the permittee is subject to compliance and enforcement provisions under Texas Water Code §§26.556 and 26.558.

13. Construction and Development Effluent Limitation Guidelines

In accordance with federal Construction and Development Effluent Limitation Guidelines (ELGs) at 40 Code of Federal Regulations (CFR) Part 450:

- a. The permittee shall minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and
- b. Discharges of wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials are prohibited under this general permit.

14. Pollutants Sampling

Beginning with the first available discharge, from the permitted outfall that is discharging, the permittee shall collect a minimum of one sample from Outfall 001 (as applicable) for the pollutants listed on the next page. The discharge must be sampled from each outfall and analyzed for the specific pollutants at least once by grab sample during the first 30 minutes or once by a flow weighted composite sample if equipment is available for compositing by flow. Sample results shall be reported to the:

- a. Texas Commission on Environmental Quality
Stormwater & Pretreatment Section (MC-148)
P.O. Box 13087
Austin, Texas 78711
- b. Texas Commission on Environmental Quality
Compliance Monitoring Team (MC-224)
P.O. Box 13087
Austin, Texas 7871
- c. Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Dr.
Fort Worth, Texas 76118

Testing shall be conducted according to EPA-approved methodology and test methods shall be sensitive enough to detect the constituent at the Minimum Analytical Level (MAL) specified.

Outfall 001	MAXIMUM VALUES (mg/l)		AVERAGE VALUES (mg/l)		Storm Events Sampled	MAL (mg/l)
	Grab Sample Taken During First 30 Minutes	Flow Weighted Composite Sample	Grab Sample Taken During First 30 Minutes	Flow Weighted Composite Sample		
Pollutant	(min)	(max)	(min)	(max)		
pH (Standard Units)						
Total Suspended Solids						
Chemical Oxygen Demand						
Total Organic Carbon						
Oil and Grease						
Total Aluminum						0.030
Total Arsenic						0.010
Total Barium						0.010
Total Cadmium						0.001
Total Chromium						0.010
Trivalent Chromium						N/A
Hexavalent Chromium						0.010
Total Copper						0.010
Total Lead						0.005
Total Mercury						0.0002
Total Nickel						0.010
Total Selenium						0.010
Total Silver						0.002
Total Zinc						0.005

Upon examination of the results from the above analytical tests, this permit may be reopened to incorporate additional effluent limitations or revised monitoring requirements

Attachment A

Pollution Prevention Plan (P3) Requirements

A P3 must be prepared and implemented that covers the entire quarry. Minimum contents of the P3 are as follows:

A. Pollution Prevention Team

1. Team Members and Responsibilities

The P3 must identify a specific individual or individuals at the quarry as members of a Pollution Prevention Team responsible for development, implementation, maintenance, and revision of the P3.

2. Employee Training

An employee training program must be developed to educate personnel responsible for implementing any component of the P3, or otherwise responsible for pollution prevention, with the provisions of the P3. The P3 must identify how often employee training will occur, but it must occur on an annual basis at a minimum. New employees must receive training prior to actively participating in quarrying activities. |

B. Description of Potential Pollutant Sources

The P3 must provide a description of potential pollutant sources (activities and materials) that may reasonably be expected to affect the quality of discharges from the quarry. The following must be developed, at a minimum, in support of developing this description.

1. Site Map - The permittee shall develop and submit a topographic map with the following identified:
 - a. property boundaries and the area(s) where quarrying and mine construction, if applicable, will occur;
 - b. outfall locations;
 - c. the drainage area and direction of flow to the outfalls;
 - d. surface waters (including wetlands) either adjacent to and within one mile of the quarry's property boundaries;
 - e. areas where soil disturbance will occur;
 - f. areas that will not be disturbed;
 - g. slopes for pre- and post- disturbed areas;
 - h. locations of all major structural controls planned or in place;
 - i. locations where stabilization practices are expected to be used;
 - j. locations of materials, waste, overburden, or stock-piles;
 - k. locations of equipment storage areas, material processing areas, and vehicle and equipment maintenance areas; and

1. location of onsite water wells and any offsite water wells within 500 feet of the property boundary.
2. Site Description - A site description must be developed to include:
 - a. a description of activities, potential pollutants and their sources at the quarry;
 - b. a description of the intended schedule or sequence of quarry and construction activities if applicable, that will disturb soils;
 - c. the number of acres of the entire quarry property and the total number of acres where quarrying and soil disturbance will occur; and
 - d. data describing the soil types and anticipated quality of any discharge from the quarry.
3. Inventory of Exposed Materials – An inventory must be developed listing materials handled at the site that may have contact with wastewater or may be exposed to stormwater.
4. Spills and Leaks – The permittee shall develop, maintain, and update a list of significant spills and leaks of toxic or hazardous pollutants that occur in areas that may have contact with wastewater or be exposed to stormwater.

C. Measures and Controls

The P3 must include a description of management controls to regulate pollutants identified in the P3's Description of Potential Pollutant Sources, and a schedule for implementation of the measures and controls. This must include, at a minimum:

1. Good Housekeeping - Good housekeeping measures must be developed and implemented to maintain the quarry in a clean, orderly manner.
 - a. Vehicle and Equipment Storage and Maintenance Areas - The storage of vehicles and equipment awaiting maintenance with actual or expected fluid leaks, and the areas where maintenance activities occur, must be confined to designated areas (delineated on the site map). The P3 must describe measures that prevent or minimize contamination of wastewater or stormwater from these areas. The permittee shall consider the use of drip pans under vehicles and equipment, indoor storage of vehicles and equipment, performing maintenance activities indoors, installation of berms or dikes in storage areas, cleaning pavement surface to remove oil and grease, proper handling and disposal methods for drained fluids, using dry cleanup methods for spills, collecting contaminated stormwater from these areas for disposal or additional treatment, and other equivalent measures.
 - b. Fueling Areas - The P3 must describe measures to prevent or minimize contamination of wastewater and stormwater from areas where fueling occurs. The facility must consider covering fueling areas, using dry cleanup methods for spills, collecting contaminated stormwater runoff for additional treatment, or other equivalent measures.
 - c. Material Processing And Storage Areas - Material processing and storage areas must be maintained in good condition to minimize pollutants in stormwater runoff. The P3 must describe measures that prevent or minimize contamination of wastewater and stormwater in material processing and storage areas. The permittee shall consider indoor storage of materials, minimizing run-on/runoff in these areas, dry cleanup methods for spills, minimizing the duration final product is kept onsite prior to offsite transport,

- placement of waste and unusable product with overburden, and collecting contaminated wastewater and stormwater for additional treatment.
- d. Overburden Areas – Overburden developed during quarry activities must be placed to minimize the amount of surface area exposed to rainfall, and where practicable be placed in previously quarried areas. Overburden must be returned to the quarry pit when quarrying has ceased in that area as soon as practicable to allow for stabilization activities to commence. Alternatively, where placing overburden into the quarry pit is undesirable, overburden may be used to grade the quarry area as soon as practicable to allow for stabilization activities to commence. In no case may overburden piles remain after quarry activities have ceased and stabilization is complete.
 - e. Vehicle and Equipment Cleaning Areas - The P3 must describe measures that prevent or minimize contamination of wastewater and stormwater from vehicle and equipment cleaning activities. The permittee shall consider performing these activities indoors, covering the activities, minimizing the volume of water used in cleaning activities, the frequency of cleaning activities, the types of cleaning agents used in cleaning activities, and collecting contaminated stormwater and wastewater for additional treatment.
 - f. General Daily Activities – On a daily basis, employees shall ensure all trash and other materials that have the potential to be transported offsite by wind or stormwater runoff, are collected and properly disposed.
2. Preventive Measures - A preventive maintenance program must include routine inspection and maintenance of wastewater and stormwater management controls (including oil/water separators, catch basins, drip pans, berms, dikes, sedimentation ponds, and other similar structural control (s) (or practices) as well as inspecting and testing facility equipment and systems to discover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters and ensuring appropriate maintenance and performance of such equipment and systems.
 3. Spill Prevention and Response Procedures - Areas where potential spills can contribute pollutants to wastewater and stormwater must be identified in the P3. Procedures for cleaning up spills must be identified in the P3 and made available to the appropriate personnel.

D. Erosion and Sediment Controls

1. Structural Controls
 - a. The P3 must include a description of any structural control practices used to divert flows away from exposed soils, to limit the contact of stormwater with disturbed areas, or to lessen the off-site transport of eroded soils.
 - b. Erosion and sediment controls must be designed to retain sediment on-site to the maximum extent practicable with consideration for local topography, soil types, and rainfall.
 - c. Control measures must be properly selected, installed, and maintained according to the manufacturer's or designer's specifications. If periodic inspections or other information indicates a control has been used incorrectly, or that the control is performing inadequately, the permittee shall replace or modify the control.
 - i. Runoff Control - Runoff control berms are required to be constructed to direct runoff from quarrying activities into structural control(s)(or practices), prior

to discharge, and to prevent run-on from adjacent property. Berms must be covered with vegetation or impermeable material to prevent erosion and to prevent offsite runoff from becoming a source of pollution. Runoff from undisturbed areas of the property must be directed away from the structural control (s) (or practices), and are not subject to effluent limitations on page 2 of this permit. As quarrying activities progress, berms may be removed and relocated to minimize entrance of runoff from stabilized areas of the quarry.

- ii. Runoff Retention and Treatment - Structural control (s) (or practices) are required to be constructed to allow for retention of sediment at the quarry. Structural control (s) (or practices) must be designed with a minimum capacity to retain the volume of runoff resulting from 100% of the 25-year 24-hour storm event for that area, with an additional two foot reserved for freeboard. The capacity of the structural controls (or practices) must be increased should dry weather flows (e.g., vehicle wash water) be directed into these structures. This additional capacity must be calculated based on dry weather flows resulting from a 30 day period. The final capacity of structural control must be certified by a licensed Texas professional engineer. Calculations utilized in determining the sedimentation pond(s) capacities must be maintained in the Pollution Prevention Plan (P3).
- d. Sediment must be removed from the structural control (s) (or practices) no later than the time when design capacity has been reduced by 50%. Remaining volume capacities must be determined on a quarterly basis and recorded in the P3.

In lieu of removing sediment from the structural controls (or practices), the permittee may construct additional retention capacity (i.e. new the structural controls (or practices) or expansion of existing sedimentation ponds).

- e. If significant quantities of sediment escape the quarry or if notified by the executive director, accumulations must be removed in accordance with the Restoration Plan.

2. Stabilization Practices

The P3 must include a description of temporary and permanent erosion control and stabilization practices for the site, including a schedule of when the practices will be implemented. P3 plans must ensure that existing vegetation is preserved where it is possible.

- a. Stabilization practices may include but are not limited to: establishment of temporary or permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of existing trees and vegetation, slope texturing, temporary velocity dissipation devices, flow diversion mechanisms, and other similar measures.
- b. The following records must be maintained and either attached to or referenced in the P3, and made readily available at the time of an on-site inspection to: the executive director; a federal, state, or local agency approving sediment and erosion plans, grading plans, or stormwater management plans; local government officials; and the operator of a municipal separate storm sewer receiving discharges from the site:
 - i. the dates when major grading activities occur;

effective in preventing significant release of sediment. Additionally, a member of the Pollution Prevention Team shall observe the discharge route to determine if accumulation of sediment is occurring. These inspections must occur at a minimum frequency of once per month and must be documented in the P3. Should no discharge occur during a calendar month, this requirement is waived.

- b. The P3 must be modified based on the results of inspections, as necessary, to better control pollutants in runoff. Revisions to the P3 must be completed within seven (7) calendar days following the inspection. If existing BMPs are modified or if additional BMPs are necessary, an implementation schedule must be described in the P3 and wherever possible those changes implemented before the next storm event. If implementation before the next anticipated storm event is impracticable, changes must be implemented as soon as practicable.
2. **Inspections of Equipment and Vehicle Maintenance and Storage Areas**

A member of the Pollution Prevention Team shall inspect designated equipment and vehicle maintenance and storage areas at least on a quarterly basis and inspections must be documented in the P3. At a minimum, inspections must include areas where vehicles and equipment are stored awaiting maintenance, fueling areas, vehicle and equipment maintenance areas (both indoor and outdoor areas), and vehicle and equipment cleaning areas. Follow-up procedures must be used to ensure that appropriate actions are taken in response to the inspections.
 3. **Comprehensive Site Compliance Evaluation**
 - a. A Texas licensed professional engineer or Texas licensed professional geoscientist shall conduct a comprehensive site compliance inspection/evaluation at an interval that is defined in the P3, but on a yearly basis at a minimum. The evaluation must include the following:
 - i. a complete review of the P3 to determine compliance with inspection, record keeping, and other requirements established in this general permit;
 - ii. a review of all discharge monitoring data to determine compliance with effluent limitations established in the general permit;
 - iii. a determination of the remaining capacity of the sedimentation pond(s);
 - iv. an evaluation of the conditions of the runoff control berms;
 - v. a visual observation of the discharge outfall(s) and an assessment of the discharge route to determine if significant quantities of sediment have been released from the quarry;
 - vi. an assessment of temporary and/or permanent stabilization efforts at the quarry; and
 - vii. a review of restoration activities conducted in receiving waters, if applicable.
 - b. A report summarizing the scope of the comprehensive site compliance evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the P3, and actions taken in response to the findings of the evaluation must be completed and maintained as a part of the P3 for at least 3 years from the date of the evaluation. The report must identify any incidents of noncompliance. Where the report does not identify incidences of noncompliance, the report must contain a statement that the evaluation did not identify an incidence, and

the report must be signed according to 30 TAC §305.128 (relating to Signatories to Reports).

- c. The Comprehensive Site Compliance Evaluation may substitute for one of the required inspections delineated in this section.

F. Blasting

Where blasting is conducted at the quarry, the date and time of blasting must be recorded in the P3.

G. Wells

1. Quarrying is prohibited within 500 feet of any onsite or offsite water supply well.
2. During quarrying activities, should an artificial penetration (e.g. drilled water or gas well) be encountered, quarrying in that area must immediately cease, and the well must be plugged in accordance with 16 TAC Chapter 76.
3. Documentation of well plugging must be maintained in the P3 and quarrying may commence following proper documentation.

H. Rain Gauge

The permittee shall install and maintain a permanent rain gauge at the permitted quarry (RN106849318) and keep daily records of rainfall. Monitoring records must be retained on site, or be readily available for review by a TCEQ representative for a period of three years from the date of the record.

I. Compliance with Permit Requirements

The P3 must specifically address how compliance with the requirements of this permit, particularly those numeric effluent limitations listed on pages 2 and the Other Requirements listed beginning on Page 14. The P3 must specifically address how compliance with Permit Requirements listed in Numeric Effluent Limitations; Other Requirements; Additional Permit Requirements Applicable to On-Site Dust Suppression, Soil Compaction, Irrigation, and Fire Protection will be achieved and maintained for the duration of the authorization.

J. Additional P3 Contents

The P3 must contain the following additional documents:

1. a copy of this permit; and
2. all other correspondence received from the executive director related to quarry operations

K. Availability of the P3

A copy of the P3 must be maintained on-site at all times and made available to the TCEQ immediately upon request.

Attachment B
Stabilization Report

The Final Stabilization Report must, at a minimum, demonstrate the following:

A. Vegetative Cover

1. The permittee shall establish perennial vegetative cover in all areas except where ponds, highwalls, permanent structures, or paved areas exist.
2. Perennial vegetative cover must be uniform (i.e. evenly distributed with no large bare areas) and have a density of at least 70% of the native background vegetative cover for the area.
3. For actives on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to agricultural use. Areas disturbed that were not previously used for agricultural activities, and areas that are not being returned to agricultural use must meet final stabilization conditions (s) in 1 & 2 above.

B. Vehicle and Equipment Storage and Maintenance Areas

1. The permittee shall remove fluids from, and thoroughly clean all vehicles and equipment remaining on-site.
2. All fuel and chemicals must be removed from maintenance areas.
3. Maintenance areas must be thoroughly cleaned and cleared. If maintenance areas are unpaved, these areas must have vegetative cover established as required by Part VIII.B (1) (above).

C. Structural Controls

1. All temporary structural controls must be removed from the site.
2. Remaining permanent structural controls must be adequate to manage remaining on-site drainage.

D. Highwalls

The permittee shall demonstrate that all remaining highwalls are stable and safe.

E. Waste

All waste must be removed from the site and disposed in accordance with applicable TCEQ rules.

The Final Stabilization Report must be signed and certified by a Texas licensed professional engineer or a Texas licensed professional geoscientist.

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0005092000

DESCRIPTION OF APPLICATION

Applicant: TXI Operations, LP; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005092000, (TX0134732).

Regulated Activity: Stormwater Permit - Industrial.

Type of Application: New Permit

Request: New Permit.

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

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. It is proposed that the permit be issued to expire on May 1, 2019.

REASON FOR PROJECT PROPOSED

The applicant has applied to the TCEQ for a new permit to authorize the discharge of stormwater associated with an industrial activity, construction stormwater and certain non-stormwater discharges from TXI Tin Top 2 Quarry. TXI Tin Top 2 Quarry is located in the John Graves Scenic Riverway and is subject to the requirements in 30 TAC Chapter 311.

PROJECT DESCRIPTION AND LOCATION

The applicant proposes to operate a facility that quarries sand and gravel in the John Graves Scenic Riverway. The plant site is located at New Tin Top Road approximately 10 miles south of the intersection of Tin Top Road and I-20 near the City of Weatherford, in Parker County, Texas, 76087.

Applicability of the rules for quarries in the John Graves Scenic Riverway is determined by the date operations at the quarry commenced and location of the quarry. The relevant information for TXI Tin Top 2 quarry is: the quarry will be located within one mile of a waterbody designated by the United States Geological Survey (USGS) as perennial on the most recent topographic map published by the USGS, at a scale of 1:24,000. Based upon this information, TXI Tin Top 2 Quarry is subject to the requirements of 30 TAC §311.71-76, §311.79, and §311.81-82.

TXI Tin Top 2 will operate a sand and gravel quarry. Separate coverage under the Construction General Permit (TXR150000), Multi-Sector General Permit (TXR050000), or other TPDES permit is not required for this facility.

Structural controls are the primary stormwater pollution prevention measures used at the site. These structural controls include grading to insure the stormwater flows to the pit for retention and perimeter berms to contain the stormwater. Perimeter berms will be located around all disturbed areas. All berms will be stabilized.

The effluent discharge route for the above referenced permit is to a man-made tributary of Spring Creek; thence to farm pond 1; thence to a man-made tributary of Spring Creek; thence to farm pond 2;

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0005092000

thence to Spring Creek; thence to Lake Granbury in Segment No. 1205 of the Brazos River Basin. The designated uses for the unclassified receiving waters are: man-made unnamed tributary of Spring Creek, minimal aquatic life use; farm ponds, limited aquatic life use; Spring Creek, high aquatic life use. The designated uses for Segment No. 1205 are primary contact recreation, public water supply, and high aquatic life use. The effluent limits in the draft permit will maintain and protect the existing instream uses. No significant degradation of high quality receiving waters is anticipated. All determinations are preliminary and subject to additional review or revisions.

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

As stated in 30 TAC §307.8(e), controls on the quality of permitted stormwater discharges are largely based on the implementation of best management practices and/or technology-based limits in combination with instream monitoring to assess standards attainment and to determine if additional controls on stormwater quality are needed. The evaluation of instream monitoring data for standards attainment shall include the effects of stormwater as described in 30 TAC §307.9. The procedures used are based on those described in the EPA's Interim Permitting Approach guidance (61 Federal Register 43761, November 6, 1996). Implemented properly the requirements and/or effluent limitations contained within the permit would provide substantial compliance with the Texas Water Quality Standards as specified in 30 TAC §307.1-10.

In accordance with 30 TAC §307.5 and the TCEQ implementation procedures for the Texas Surface Water Quality Standards it has been preliminarily determined that where permit requirements, which may include best management practices and/or technology-based effluent limitations, are properly implemented no significant degradation is expected and existing uses will be maintained and protected.

Segment No. 1205 is not listed on the 2012 Clean Water Act Texas 303(d) List. The discharges, made under this permit, will not cause or contribute to any impairment as it will not contribute an additional pollutant load into the receiving water

SUMMARY OF EFFLUENT DATA

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

PROPOSED PERMIT CONDITIONS

The draft permit authorizes the the discharge of process wastewater, mine dewatering, stormwater associated with industrial activity, construction stormwater, and certain non-stormwater discharges on an intermittent and flow variable basis via Outfall 001.

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0005092000

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

<i>Parameter</i>	<i>Daily Average Limitations</i>	<i>Daily Maximum Limitations</i>	<i>Sample Type</i>	<i>Monitoring Frequency</i>
Flow	Report MGD	N/A	Estimate	One/day
Total Suspended Solids	45 mg/L*2	NA	Grab	One/day *1
Arsenic, Total	0.1 mg/L	0.3 mg/L	Grab	One/year *1
Barium, Total	1.0 mg/L	4.0 mg/L	Grab	One/year *1
Cadmium, Total	0.05 mg/L	0.15 mg/L	Grab	One/year *1
Chromium, Total	0.5 mg/L	5.0 mg/L	Grab	One/year *1
Copper, Total	0.04 mg/L	0.09 mg/L	Grab	One/year *1
Lead, Total	0.35 mg/L	0.75 mg/L	Grab	One/year *1
Manganese, Total	1.0 mg/L	3.0 mg/L	Grab	One/year *1
Mercury, Total	0.002 mg/L	0.004 mg/L	Grab	One/year *1
Nickel, Total	1.0 mg/L	3.0 mg/L	Grab	One/year *1
Selenium, Total	0.02 mg/L	0.04 mg/L	Grab	One/year *1
Silver, Total	0.03 mg/L	0.05 mg/L	Grab	One/year *1
Zinc, Total	0.31 mg/L	0.66 mg/L	Grab	One/year *1

(*1) When Discharging

(*2) Total Suspended Solids (TSS) limitation is not applicable to discharges resulting from a rainfall event greater than the 25-year, 24-hour rainfall event. Monitoring is required when discharges result from a rainfall event greater than the 25-year, 24-hour event, however, compliance with effluent limitations of 45 mg/L is not required

The pH shall not be less than 6.0 standard units or greater than 9.0 standard units and shall be monitored once per day, by grab sample, when discharging.

In addition, the Other Requirements section of the permit requires the permittee to continue to implement a Pollution Prevention Plan and maintain the Restoration Plan and financial assurance for Restoration. The permittee is required to prepare and submit a stabilization report and have the report approved by the executive director before quarry operation can be terminated.

Effluent limitations and other permit conditions are established as follows:

- Effluent Limitations:
 - Effluent limits for total suspended solids and pH are included based upon the rules for quarries in the John Graves Scenic Riverway found at 30 TAC §311.79.

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0005092000

- Effluent limits for arsenic, barium, cadmium, chromium, lead, manganese, and nickel are based on 30 TAC §319.22.
- Effluent limits for copper, mercury, selenium, silver, and zinc are based on criteria outline at 30 TAC §307.
- The Restoration Plan and Financial Assurance for Restoration are required by 30 TAC §311.76 and §311.81. Other Requirements Nos. 3 and 4 are included in the draft permit to ensure that the Restoration Plan and financial assurance for Restoration are maintained and updated as appropriate throughout the permit term. The cost estimate submitted with the Restoration Plan on July 11, 2013, was \$11,000.
- Other Requirements Nos. 1, 2, 5, 6, 7, 8, 9, 13, and 14 are established based on best professional judgment, as well as requirements of 30 TAC Chapter §311.71 to §311.81, the 2011 Multi-Sector General Permit TXR050000, the 2013 Construction General Permit TXR150000, and the 2014 John Graves Scenic Riverway General Permit TXG500000.
- Attachments A and B are established based on 30 TAC Chapter §311.71 to §311.81 and the John Graves Scenic Riverway General Permit TXG500000.

SUMMARY OF CHANGES FROM APPLICATION

None

SUMMARY OF CHANGES FROM EXISTING PERMIT

Not applicable. This is an application for a new permit.

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application submitted with letter dated July 9, 2013, and additional information submitted with letters dated August 13, 2013, September 26, 2013, and December 12, 2013, and emails dated December 18, 2013.
2. John Graves Scenic Riverway General Permit TXG500000.
3. TCEQ Rules.
4. Texas Surface Water Quality Standards - 30 TAC §§ 307.1-307.10, effective July 22, 2010.
5. "Procedures to Implement the Texas Surface Water Quality Standards," Texas Commission on Environmental Quality, June 2010.
6. Memos from the Water Quality Standards Implementation Team and the Water Quality Assessment Team of the Water Quality Assessment Section of the TCEQ.
7. Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits, TNRCC Document No. 98-001.000-OWR-WQ, May 1998
8. General Guidance Industrial Permits for Stormwater Runoff Associated With Industrial Activity, EPA Region 6; March 22, 1999.
9. EPA Effluent Guidelines: 40 CFR Part 436, Subpart A. and 40 CFR Part 450

STATEMENT OF BASIS/TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION
TPDES Permit No. WQ0005092000

PROCEDURES FOR FINAL DECISION

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

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

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

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

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

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

For additional information about this application contact Danny Siebeneicher at (512) 239-4749.

Danny Siebeneicher

Date

ATTACHMENT D

TPDES Permit No. WQ0005092000

**APPLICATION BY
TXI OPERATIONS, LP for a
NEW TPDES PERMIT NO.
WQ0005092000**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

CHIEF CLERK'S OFFICE

2015 JUN 10 10 09 AM '15

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 on the TXI Operations, LP's (Applicant) application for a new Texas Pollutant Discharge Elimination System (TPDES) permit and ED's preliminary decision on the application. As required by Title 30 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 Chief Clerk received substantially identical comment letters (in the form of a petition) from Ann Anderson, Melisa Ashford, Bruce Basden, Larry Eugene Boyd, Cardle Bray, Chris Bray, Jack Buckley, Pat Buckley, Stan Elmore, Lee Felts, Bonnie Ferrell, Ken Ferrell, Denise Garrett, Jenks Garrett, Shelly Graham, Tony Graham, Connie Hahn, Barbara Hard, Nancy Hard, Meridith Hard, Dr. Steve Hard, Marietta Hagemann, Robert Hagemann, Don Heep, Gale Heep, B. E. Jordan, Mary Jo Jordan, Jeanenne Kienle, Christi Linney, Stephen Linney, Terry McCarty, Brian McGrew, Brian Moffitt, Hedi Moffitt, Jane Morgan, Cindy Murdock, Daniel Simmons, Christy Smith, P. Smith, Gayla Spitz, Todd Spitz, Jim Stevens, Sandy Stevens, Roper Vaughn, Susan Vaughn, Jami Winturroth, Peggy Young, and William Young (Petitioners).

Other comment letters were submitted by Larry Eugene Boyd (also a petitioner), Dr. Steve Hard (also a petitioner), and Gary and Susan Rosenbach.

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 Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

A. Description of Facility

The Applicant submitted an application to TCEQ for a new permit, draft Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005092000, to authorize the discharge of stormwater and certain allowable non-stormwater discharges associated with this industrial activity on an intermittent and flow variable rate via Outfall 001. This application was submitted to the TCEQ on July 11, 2013.

The daily average effluent limits in the draft permit are: Flow: Report million gallons per day (MGD); Total Suspended Solids: 45 milligrams per Liter (mg/L); Total Arsenic: 0.1 mg/L; Total Cadmium: 0.05 mg/L; Total Chromium: 0.5 mg/L; Total Copper: 0.04 mg/L; Total Lead: 0.35 mg/L; Total Manganese: 1.0 mg/L; Total Mercury: 0.002 mg/L; Total Nickel: 1.0 mg/L; Total Selenium: 0.02 mg/L; Total Silver: 0.03 mg/L; Total Zinc: 0.31 mg/L.

The proposed operation will be located on New Tin Top Road, approximately 10 miles south of the intersection of Tin Top Road and Interstate 20 near the City of Weatherford, in Parker County, Texas. The discharge route is via Outfall 001 to a man-

made tributary of Spring Creek; then to farm pond 1; then to a man-made tributary of Spring Creek; then to farm pond 2; then to Spring Creek; then to Lake Granbury in Segment No. 1205 of the Brazos River Basin. The designated uses for the unclassified receiving waters are: minimal aquatic life use for the man-made unnamed tributary of Spring Creek; limited aquatic life use for the farm ponds; and high aquatic life use for Spring Creek. The designated uses for Segment No. 1205 are primary contact recreation, public water supply, and high aquatic life use.

B. Procedural Background

The permit application was received on July 11, 2013, and declared administratively complete on August 23, 2013. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on September 10, 2013, in the *Fort Worth Star Telegram* and the alternative language NORI was published in Spanish in *La Prensa Comunidad*. The Notice of Application and Preliminary Decision for a Water Quality Land Application Permit (NAPD) was published on April 10, 2015, in the *Fort Worth Star Telegram* and the alternative language NAPD was published in Spanish in *La Prensa Comunidad*. The public comment period ended on May 11, 2015. This permit application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

C. Access to Rules, Laws, and Records

Please consult the following websites to access the rules and regulations applicable to this permit:

- to access the Secretary of State website: www.sos.state.tx.us;

- for TCEQ rules in 30 TAC : www.sos.state.tx.us/tac/ (select “TAC Viewer” on the right, then “Title 30 Environmental Quality”);
- for Texas statutes: <http://www.statutes.legis.state.tx.us/>;
- to access the TCEQ website: <http://www.tceq.state.tx.us/rules/index.html> (for downloadable rules in Microsoft Word or Adobe PDF formats, select “Rules,” then “Current Rules and Regulations,” then “Download TCEQ Rules”)
- for Federal rules in Title 40 of the Code of Federal Regulations:
<http://www.epa.gov/lawsregs/search/40cfr.html>; and
- for Federal environmental laws: <http://www.epa.gov/lawsregs/>.

Commission records for this facility are available for viewing and copying and are located at TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The permit application, ED’s preliminary decision, and draft permit are available for viewing and copying at the City of Weatherford Public Library, 1014 Charles Street, Weatherford, Texas.

COMMENTS AND RESPONSES

COMMENT 1:

Petitioners have concerns regarding potential water contamination. Dr. Hard also is concerned regarding how the operation will affect his drinking water well.

RESPONSE 1:

The draft permit contains a number of provisions that serve to protect water quality. Other Requirement #8 in the draft permit requires implementation of soil compaction and irrigation practices that are designed to prevent runoff, ponding of effluent, contamination of ground and surface waters, and occurrence of nuisance

conditions in the area. The pollution prevention plan (P3) elements in the draft permit require the Applicant to develop and implement good housekeeping measures to prevent or minimize contamination of wastewater or stormwater from vehicle and equipment storage and cleaning areas, maintenance areas, fueling areas, material processing and storage areas, and overburden areas. The P3 requirements also include a preventive maintenance program of routine inspections and maintenance of wastewater and stormwater management controls (including oil/water separators, catch basins, drip pans, berms, dikes, sedimentation ponds, and other similar controls). Preventive maintenance requirements also include inspecting and testing facility equipment and systems to discover conditions that could cause breakdowns or failures that could result in discharges of pollutants to surface waters.

The P3 also requires inspection once every seven calendar days of disturbed areas of the quarry that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, all structural control measures for effectiveness and necessary maintenance, and locations where vehicles enter or exit the site. There are also buffer distance requirements that prohibit quarrying activity within 500 feet of any onsite or offsite water supply well. During quarrying activities, should an artificial penetration (e.g. drilled water or gas well) be encountered, quarrying in that area must immediately cease, and the well must be plugged in accordance with 16 TAC Chapter 76.

The structural controls required by the draft permit and described in the next response also contribute to the protection of water resources in proximity to the proposed operation.

COMMENT 2:

Dr. Hard and Gary and Susan Rosenbach comment that runoff from the proposed site fills nearby stock ponds and irrigates agricultural land.

RESPONSE 2:

Structural controls are the primary stormwater pollution prevention measures used to control runoff. The permit requires structural controls or practices to contain sediment and prevent its runoff. The structural controls must be designed to retain the runoff resulting from a 25-year, 24-hour storm event for this area, with an additional two feet of freeboard (above and beyond the required sizing). The capacity of the structural controls must be increased should dry weather flows (e.g., vehicle wash water) be directed into the structures. This additional capacity must be calculated based on dry weather flows resulting from a 30-day period. The final capacity of the structural controls must be certified by a licensed Texas professional engineer.

Structural controls include grading to insure the stormwater flows to the pit for retention and perimeter berms to contain the stormwater. Perimeter berms will be located around all disturbed areas. All berms will be stabilized.

The Applicant must also inspect all accessible outfalls, when discharges are occurring, to determine if erosion and sediment control measures are effective in preventing significant release of sediment. Additionally, the Applicant shall observe the discharge route to determine if accumulation of sediment is occurring. These inspections must occur at a minimum frequency of once per month and must be documented in the P3. The P3 should be modified based on the results of inspections to improve control of pollutants in runoff, as necessary.

COMMENT 3:

Dr. Hard and Gary and Susan Rosenbach are concerned regarding the lack of studies to assess run-off controls or potential effects to groundwater in the area around the site.

RESPONSE 3:

Studies to assess run-off controls are not required as part of the stormwater permit application process. However, Attachment A (P3 Requirements) Section D of the draft permit requires construction of control berms to direct runoff from quarrying activities into structural controls prior to discharge and to prevent run-on to and from adjacent property. The structural controls should be constructed upgradient of any outfall to prevent sediment from being discharged from the proposed quarry site. Structural controls must be designed with a minimum volume capacity to retain the runoff resulting from a 25-year 24-hour storm event for that area, with an additional two feet of freeboard.

The capacity of the structural controls must be increased should dry weather flows (e.g., vehicle wash water) be directed into these structures. The final capacity of structural controls must be certified by a licensed Texas professional engineer. This requirement should minimize the need for stormwater discharges from the site. Calculations utilized in determining the sedimentation pond(s) capacities must be maintained in the P3. The P3 and runoff controls must be updated, as needed, to meet this requirement should the initial controls prove inadequate.

COMMENT 4:

Dr. Hard and Gary and Susan Rosenbach have concerns regarding the lack of an environmental impact study or hydraulic assessment to assess how site operations will affect the flow of the river in the region, including potential flooding.

RESPONSE 4:

An environmental impact study or hydraulic assessment to assess how the proposed site operations will affect the flow of the river in the region and potential flooding is not required as part of the TPDES permitting process. The permitting process is intended to control the discharge of pollutants into or adjacent to water in the state and to protect the water quality of the state's rivers, lakes, and coastal waters.

COMMENT 5:

Petitioners and Dr. Hard have concerns regarding dust that may affect nearby landowners that may be caused by operation of this facility. Gary and Susan Rosenbach are concerned with potential air pollution caused by the facility.

RESPONSE 5:

The draft permit includes requirements to minimize dust and to control dust that is generated at the site. Other Requirement #8 requires that dust suppression, soil compaction, and irrigation practices must be designed and managed so as to prevent runoff, ponding of effluent, contamination of ground and surface waters, and occurrence of nuisance conditions in the area. The P3 requirements in the permit require minimization of off-site vehicle tracking of sediments and the generation of dust.

Air issues are not regulated by this draft permit, but the Applicant, as noted in Other Requirement #10, must comply with either 30 TAC § 106.533 (relating to Water and Soil

Remediation) or 30 TAC Chapter 116 (relating to Control of Air Pollution by Permits for New Construction or Modification), as appropriate.

COMMENT 6:

Dr. Hard and Gary and Susan Rosenbach have concerns regarding reclamation practices in the area for these types of facilities.

RESPONSE 6:

The draft permit requires the Applicant to prepare a Final Stabilization Report (Attachment B of the draft permit), prior to cancelling the permit. At minimum, the Final Stabilization Report must demonstrate the following:

- A. Vegetative Cover - (1) The permittee must establish perennial vegetative cover in all areas except where there are ponds, highwalls, permanent structures, or paved areas; (2) Perennial vegetative cover must be uniform (i.e. evenly distributed with no large bare areas) and have a density of at least 70% of the native background vegetative cover for the area; and (3) For activities on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to agricultural use. Areas disturbed that were not previously used for agricultural activities, and areas that are not being returned to agricultural use must meet final stabilization conditions(s) in 1 & 2 above.
- B. Vehicle and Equipment Storage and Maintenance Areas - (1) Fluids must be removed and thoroughly cleaned from all vehicles and equipment on-site; (2) All fuel and chemicals must be removed from maintenance areas; and (3) Maintenance areas must be thoroughly cleaned and cleared. If maintenance areas are unpaved, these areas must have vegetative cover established as required by Part VIII.B (1) (above).

- C. Structural Controls - (1) All temporary structural controls must be removed from the site; and (2) Remaining permanent structural controls must be adequate to manage remaining on-site drainage.
- D. Highwalls - The permittee shall demonstrate that all remaining highwalls are stable and safe.
- E. Waste - All waste must be removed from the site and disposed in accordance with applicable TCEQ rules.

The Final Stabilization Report must be signed and certified by a Texas licensed professional engineer and submitted to TCEQ for approval prior to cancelling the permit. The permittee must continue to meet the requirements of the permit, including maintaining financial assurance for restoration, until the ED notifies the permittee in writing that the Final Stabilization Report is approved and the permit is cancelled. The ED may choose to conduct an investigation in addition to the review of the Final Stabilization Report, prior to terminating the permit.

Additionally, as part of the permit application process, the Applicant was required to submit a Restoration Plan with cost estimates. The ED reviewed the Restoration Plan and cost estimate and determined that they comply with the requirements of 30 TAC § 311.76 – Restoration Plans. The ED approved Restoration Plan is incorporated by reference as a permit requirement. Other Requirements #3 and #4 are included in the permit to ensure that the Restoration Plan and financial assurance for restoration are maintained and updated as appropriate throughout the permit term.

COMMENT 7:

Petitioners have concerns regarding reduction of available surface and ground water supplies.

RESPONSE 7:

The draft permit authorizes the discharge of stormwater associated with industrial activity, construction stormwater, and certain non-stormwater discharges on an intermittent and flow variable rate from a proposed sand and gravel quarry. As such, water use issues are not addressed in stormwater/wastewater discharge permit applications. Therefore, the Applicant has not submitted any information regarding the quantities of groundwater or surface water it plans to use while operating the quarry.

COMMENT 8:

Commenters also expressed concerns regarding noise pollution caused by operation of the proposed facility, quality of life issues, impacts on property values in the area, concerns regarding increases in truck traffic, and associated roadway deterioration.

RESPONSE 8:

TCEQ does not address any of these issues when determining whether to issue a stormwater/wastewater discharge permit. The stormwater/wastewater permitting process is intended to control the discharge of pollutants into or adjacent to water in the state and to protect the water quality of the state's rivers, lakes, and coastal waters.

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

Respectfully submitted,

Texas Commission on Environmental Quality

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

Robert Martinez, Director
Environmental Law Division

By 
Robert D. Brush, Staff Attorney
Environmental Law Division
State Bar No. 00788772

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Representing the Executive Director of the
Texas Commission on Environmental Quality

CERTIFICATE OF SERVICE

I certify that on this day July 10, 2015, the "Executive Director's Response to Public Comment" for Permit No. WQ0005092000 was filed with the Texas Commission on Environmental Quality's Office of Chief Clerk.


Robert Brush, Staff Attorney
Environmental Law Division
State Bar No. 00788772

ATTACHMENT E

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 CN600125157, RN106849318, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN600125157, TXI Operations, LP	Classification:	SATISFACTORY	Rating:	0.27
Regulated Entity:	RN106849318, TXI TIN TOP 2	Classification:	UNCLASSIFIED	Rating:	-----
Complexity Points:	3	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	10 MI S OF THE INTERX OF TIN TOP RD AND IH 20 PARKER, TX, PARKER COUNTY				
TCEQ Region:	REGION 04 - DFW METROPLEX				
ID Number(s):					
STORMWATER PERMIT	WQ0005092000	STORMWATER EPA ID	TX0134732		
Compliance History Period:	September 01, 2009 to August 31, 2014	Rating Year:	2014	Rating Date:	09/01/2014
Date Compliance History Report Prepared:	September 01, 2015				
Agency Decision Requiring Compliance History:	Information Request				
Component Period Selected:	September 01, 2010 to August 31, 2015				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Enforcement Division		Phone:	(512) 239-2545	

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A