

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

December 28, 2015

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

Re: Application by Randolph Todd, LLC for new TPDES Permit No. WQ0015314001;
TCEQ Docket No. 2015-1624-MWD

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 cursive script that reads "Ashley McDonald". The signature is written in black ink and is positioned above a horizontal line.

Ashley McDonald
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing List

TCEQ DOCKET NO. 2015-1624-MWD

APPLICATION BY RANDOLPH	§	BEFORE THE
	§	
TODD COMPANY, LLC	§	TEXAS COMMISSION
	§	
FOR TPDES PERMIT NO.	§	ON
	§	
WQ0015314001	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. Introduction

The Executive Director (ED) of the Texas Commission on Environmental Quality (the TCEQ or Commission) files this Response to Hearing Requests (Response) on the application of Randolph Todd Company, LLC for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015314001. The Office of the Chief Clerk (OCC) received hearing requests from the following individuals:

Connie Terao	Teresa Barnhill
Denise Harris	John Hudson Blodgett
Edmond Hubler	Ronald R. Davis
Edward Harris	Daniel and Michele Laroe
Elizabeth L. Martin	Jerry Barucky
Felicia S. Thomas	Susan R. Dooley Logue
Franklin Houser	Marjorie Marks
James Whitmore	Carl Thompson
Jessica Smith	Kenneth and Victoria Laubach
Nelda S. Davis	John Sturtevant
R. (Randall) Pappas	Brenda Sturtevant
Richard Lamb	Randal Dean White
Rick Peyton	Aurora White Dozier
Sabrina A. Houser-Amaya	Ellen McClellan
Sandy Nott	Bonnie Houser
Sandy Peyton	Hector Amaya
Sharon Elaine Hubler	Phyllis Yvonne Ritter
Susan Ingram	Troy and Patricia Brand
Susan L. Dunlap	Taylor Martin
Ted Martin	Carole Farmer

Attached for Commission consideration are the following:

Attachment A—GIS Satellite Maps and Key

Attachment B—Compliance History

Attachment C—Technical Summary and Proposed Permit

Attachment D—Executive Director’s Response to Public Comment

II. Description of the Facility

Randolph Todd has applied for a new TPDES permit No. WQ0015314001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.15 million gallons per day (MGD) in the Interim I Phase, a daily average flow not to exceed 0.27 MGD in the Interim II Phase and a daily average flow not to exceed 0.39 MGD in the Final Phase. The Proposed wastewater treatment facility will serve the Meyer Ranch subdivision.

The effluent limitations in all phases of the draft permit, based on a 30-day average are: 5 mg/l five-day biochemical oxygen demand (BOD₅), 5 mg/l total suspended solids (TSS), 2 mg/l ammonia nitrogen, 0.5 mg/l Total Phosphorus, 126 colony forming units or most probable number of E.coli per 100 ml, and 4.0 mg/l minimum dissolved oxygen. The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow. On December 16, 2015, TCEQ staff determined that there were miscalculations in the draft permit and submitted the corrections to the TCEQ’s Chief Clerk’s Office.¹ These corrections are reflected in Attachment C.

The facility will be located at 2959 South Cranes Mill Road, in Comal County, Texas 78132. The treated effluent will be discharged to Dry Comal Creek; then to Comal River in Segment No. 1811 of the Guadalupe River Basin. The unclassified receiving water use is minimal aquatic life use for Dry Comal Creek. The designated uses for Segment No. 1811 are high aquatic life use, public water supply, aquifer protection, and primary contact recreation.

In accordance with 30 Texas Administrative Code (TAC) § 307.5 and the TCEQ Procedures to Implement the Texas Surface Water Quality Standards (IPs) (June 2010) for the Texas Surface Water Quality Standards (TSWQS), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action.

¹ The daily average effluent limit for total phosphorus in the Interim I phase has been changed from 0.03 lbs/day to 0.63 lbs/day. The original value of 0.03 lbs/day was incorrectly calculated. Because the daily average effluent limit for total phosphorous measured in milligrams per liter remains the same, this change does not increase the effluent limitations in the draft permit. The 2-hour peak flow for the Interim II phase has been corrected from 1,083 gallons per minute (gpm) to 750 gpm. The original value of 1,083 gpm is the 2-hour peak flow for the Final phase, but the correct value for the Interim II phase is 750 gpm. This change does not increase the effluent limitations in the draft permit.

Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

III. Procedural History

The TCEQ received Randolph Todd's application for a new TPDES permit on November 6, 2014 and declared it administratively complete on January 6, 2015. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on January 13, 2015 in the *New Braunfels Herald-Zeitung*, Comal County, Texas. The Executive Director completed the technical review of the application on March 4, 2015 and prepared a draft TPDES permit. The Notice of Public Meeting and the Notice of Application and Preliminary Decision (NAPD) were published May 15, 2014 in the *New Braunfels Herald-Zeitung*, Comal County, Texas. A public meeting was held June 18, 2015, at the Smithson Valley Middle School Cafeteria. The comment period for this application closed on June 18, 2015. This application was administratively complete on or before September 1, 1999; therefore, this application is subject to procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

IV. Evaluation Process for Hearing Requests

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The Commission implemented House Bill 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The application was declared administratively complete on June 1, 2013; therefore it is subject to the procedural requirement of HB 801.

A. Response to Request

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

Responses to hearing requests must specifically address:

- a) whether the requestor is an affected person;
- b) whether issues raised in the hearing request are disputed;
- c) whether the dispute involves questions of fact or of law;
- d) whether the issues were raised during the public comment period;
- e) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter

- with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- f) whether the issues are relevant and material to the decision on the application; and
 - g) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e).

B. Hearing Request Requirements

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

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

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

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

30 TAC § 55.201(d).

C. “Affected Person” Status

In order to grant a contested case hearing, the Commission must determine that a requestor is an “affected person.” Section 55.203 sets out who may be considered an affected person.

- a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- b) Except as provided by 30 TAC § 55.103, government entities, including local governments and public agencies, with authority under state law over issues raised by the application,
- c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - 1) whether the interest claimed is one protected by the law under which the application will be considered;
 - 2) distance restrictions or other limitations imposed by law on the affected interest;
 - 3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - 4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - 5) likely impact of the regulated activity on the use of the impacted natural resource by the person; and
 - 6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 50.203.

A group or association may also request a contested case hearing. In order for a group or association to request a contested case hearing, the group or association must show that it meets the following requirements:

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

30 TAC § 55.205(a). In addition the Executive Director, Public Interest Counsel, or the Applicant may request that a group or association provide an explanation of how the group or association meets the above requirements. 30 TAC § 55.205(b).

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

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

determining whether an issue may be referred to SOAH. “The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: 1) involves a disputed question of fact; 2) was raised during the public comment period; and 3) is relevant and material to the decision on the application.” 30 TAC § 50.115(c).

V. Analysis of Hearing Requests

The Executive Director (ED) has analyzed the hearing requests to determine whether they comply with Commission rules, who qualifies as affected person, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

A. Whether the Requestors Meets the Requirements of An Affected Person.

The Executive Director has reviewed the hearing requests and recommends finding that Edward Harris, Elizabeth Martin, Nelda S. Davis, R. (Randall) Pappas, Ted Martin, Ronald R. Davis, Daniel and Michele Laroe, Susan R. Dooley Logue, Ellen McClellan, Phyllis Yvonne Ritter, Troy and Patricia Brand, Taylor Martin, and Carole Farmer are affected persons. However, for reasons cited below, the remaining requestors are either not likely to be affected by the proposed activity in a way not common to the general public, or did not meet the requirements for submitting a hearing request.

Unless otherwise specified, the following analysis assumes that the hearing requests substantially complied with the requirements of 30 TAC §§ 55.201 (c) and (d) by being timely submitted, in writing, and by providing: 1) the requestor’s name, address, daytime phone number, 2) a request for a contested case hearing, 3) a personal justiciable interest, and 4) relevant and material disputed issues of fact. Each requestor is listed in relation to the plotted points on the GIS maps, *see Attachment A*.

1. Connie Terao

Connie Terao is not an affected person given her distance from the proposed activities. In her hearing request, Ms. Terao noted general concerns regarding the proposed facility’s impacts to the Edwards Aquifer and nearby resident’s drinking water supply, impacts to tourism in the area, and flooding concerns. Using the address provided by Ms. Terao, the Executive Director has located Ms. Terao’s property in the Vintage Oaks neighborhood, which is identified in **Attachment A**. Ms. Terao’s property is separated from the discharge route by several residential blocks, and numerous properties lie between her property and the proposed discharge route. Therefore, because of her distance from the proposed facility it is not likely that Ms. Terao will be impacted by the proposed activities in a way not common to members of the general public

Connie Terao’s hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Connie Terao **is not an affected person** under 30 TAC §55. 203.*

2. Denise Harris

Ms. Harris withdrew her hearing request on 09/30/2015.

3. Edmund Hubler

Edmond Hubler is not an affected person due to his distance from the proposed activity. In his hearing request Mr. Hubler noted concerns of the potential damage to the surrounding environment and impacts to the Edwards Aquifer from the proposed activities. However, Mr. Hubler's property is located significant distance northwest of the proposed discharge route and wastewater treatment facility in the City of Canyon Lake. Using the address provided by Mr. Hubler, the Executive Director has located Mr. Hubler's property, which is identified in **Attachment A**.

Edmond Hubler's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Edmond Hubler **is not an affected person** under 30 TAC §55. 203.*

4. Edward Harris

Edward Harris withdrew his hearing requests 09/30/2015, however, Mr. Harris resubmitted his hearing request on 10/10/2015. The hearing request period for this permit application ended on 10/12/2015. Therefore, Ms. Harris' resubmission of his hearing request is considered timely.

Mr. Harris stated a personal justiciable interest in the Application and should be considered an affected person. In his hearing request, Mr. Harris noted that his property is located along the discharge route and noted concerns related to the potential contamination of his groundwater well from the discharge of treated wastewater into Dry Comal Creek, and health concerns for his livestock and other native animals that live on his property. Using the address provided by Mr. Harris, the Executive Director has located his property, which is identified as **Attachment A**. Mr. Harris' property is over a mile downstream from the outfall location, adjacent to the Meyer Ranch property. Edward Harris' hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Edward Harris **is an affected person** under 30 TAC §55. 203.*

5. Elizabeth L. Martin

Elizabeth Martin stated a personal justiciable interest in the Application and should be considered an affected person. In her hearing request, Mr. Martin noted concerns related to the potential contamination of her well water from the proposed discharge, and adverse effects to her health and the health of her livestock. Issues regarding groundwater contamination, human and animal health concerns are protected by law under which the Application is being considered and there is a

reasonable relationship to between the regulated activity and Ms. Martin's concerns. In her hearing request, Ms. Martin stated that her property is adjacent to the proposed Meyer Ranch Development. Using the address provided, the Executive Director has located her property, which is identified in **Attachment A**. Ms. Martin's property is located adjacent west of the Meyer Ranch development, less than a mile from the outfall location. Elizabeth Martin's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Elizabeth Martin **is an affected person** under 30 TAC §55.203.*

6. Felicia S. Thomas

Felicia Thomas should not be considered an affected person due to her distance from the proposed activity. In her hearing request, Ms. Thomas noted that she lives in the Vintage Oaks subdivision. In her hearing request, Ms. Thomas noted concerns such as the exposure of surrounding landowners to potential bacterial and viral exposure, impacts of the effluent on Dry Comal Creek, and odors from the wastewater treatment facility. These issues are protected under by the law under which the Application is being considered. However, Ms. Thomas' property is significantly more than one mile away from the proposed facility and her property is not located along the discharge route. Using the address provided by Ms. Thomas, the Executive Director has located her property, which is identified in **Attachment A**. Ms. Thomas' property is separated by several residential blocks and numerous properties, making it unlikely that she will be impacted by the proposed activity in a way not common to members of the general public.

Felicia S. Thomas' hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Felicia S. Thomas **is not an affected person** under 30 TAC §55. 203.*

7. Franklin Houser

Franklin Houser is not affected person due to his distance from the proposed activity. In his hearing request Mr. Houser stated that his home and vineyard operations are approximately three miles downstream from the proposed outfall location. In his hearing requests, Mr. Houser noted issues such as the degradation of water quality in Dry Comal Creek, the increase likelihood of bacteria contaminating his private water wells use as drinking water for his residence and irrigation for his vineyards, and adverse health effects of increased bacteria in the effluent discharge. These issues are protected by the law under which the Application is being considered. However, Mr. Houser's property is a significant distance downstream from the proposed outfall location on Dry Comal Creek, making it unlikely that he will be impacted by the proposed activity in a way that is not common to members of the general public. Using the address provided by Mr. Houser, the Executive Director has located Ms. Houser's property, which is identified in **Attachment A**.

Franklin Houser's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Franklin Houser **is not an affected person** under 30 TAC §55.203.*

8. James Whitmore

James Whitmore did not identify a personal, justiciable interest and should not be considered an affected person. In his hearing Mr. Whitmore noted general concerns such as the proposed activities' impacts to the Edwards Aquifer, increase levels of bacteria in Dry Comal Creek, increased flooding impacts to the 100-year flood plain, and the threat to current landowners' property rights. Mr. Whitmore did not indicate how the facility would impact him in a way not common to the general public. Similarly, because he did not describe his personal justiciable interest in the proposed activity, Mr. Whitmore's hearing request did not substantially comply with the requirements 30 TAC §§55.201 (c) and (d).

Additionally, Mr. Whitmore should not be considered an affected person because of his distance from the proposed discharge. Using the address provided Mr. Whitmore in his hearing request, the Executive Director has located his property, which is identified in Attachment A. Mr. Whitmore's property is over a mile northeast of the proposed outfall location and discharge route; therefore, it is not likely that Mr. Whitmore will be impacted by the discharge in a way not common to the general public.

*The Executive Director recommends that the Commission find that James Whitmore's hearing request **did not substantially comply** with the requirements of 30 TAC §§55.201 (c) and (d) and that he **is not an affected person** under 30 TAC §55.203.*

9. Jessica Smith

Jessica Smith is not an affected person due to her distance from the proposed activity. In her hearing request Ms. Smith stated that she owns property on the other side of Hwy 46 from the proposed site. In her hearing request, Ms. Smith noted that she owns a business and would like to be able to defend the future of her business if necessary. Using the address provided by Ms. Smith, the Executive Director has located Ms. Smith's property, which is identified in **Attachment A**. Ms. Smith's property is a significant distance downstream from the proposed outfall location on Dry Comal Creek, making it unlikely that she will be impacted by the proposed activity in a way that is not common to members of the general public.

Jessica Smith's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Jessica Smith **is not an affected person** under 30 TAC §55.203.*

10. Nelda S. Davis

Nelda Davis stated a personal, justiciable interest in the Application and should be considered an affected person. In her hearing request, Ms. Davis noted concerns regarding the proposed discharge leaching into her private water well and groundwater in the area. This issue is protected by the law under which the Application is being considered, and there is a reasonable relationship between the regulated activity and Ms. Davis's concerns. Using the address provided by Ms. Davis, the Executive Director has located her property, which is identified in **Attachment A**. Ms. Davis's property abuts Dry Comal Creek over one mile downstream of the proposed outfall location, where Dry Comal Creek leaves the Meyer Ranch property. Nelda Davis' hearing request substantially complied with the requirements of §§55.201(c) and (d).

*The Executive Director recommends that the Commission find that Nelda S. Davis **is an affected person** under 30 TAC §55.203.*

11. R. (Randall) Pappas

Randall Pappas stated a personal, justiciable interest in the Application and should be considered an affected person. In his hearing request, Mr. Pappas noted a concern regarding the proposed discharge leaching into his private water well and impacting the water quality. This issue is protected by the law under which the Application is being considered, and there is a reasonable relationship between the regulated activity and Mr. Pappas' concerns. Using the address provided by Mr. Pappas, the Executive Director has located his property, which is identified in **Attachment A**. Mr. Pappas' property is adjacent to the Meyer Ranch property, within approximately half a mile northwest of the proposed outfall location and discharge route. Randall R. Pappas' hearing request substantially complied with the requirements of §§55.201(c) and (d).

*The Executive Director recommends that the Commission find that R. (Randall) Pappas **is an affected person** under 30 TAC §55.203.*

12. Richard Lamb

Richard Lamb should not be considered an affected person due to his distance from the proposed activities. In his hearing request, Mr. Lamb noted concerns such as the proposed activity's impact to the Edwards Aquifer, adverse impacts to the surrounding environment, and consideration of the proposed facility's proximity to the nearby Vintage Oaks proposed wastewater treatment facility. These issues are protected by the law under which the Application is being considered. However, using the address provided by Mr. Lamb, his property is located in the Vintage Oaks subdivision, which is separated from the proposed facility and discharge route by several intervening properties and residential blocks. The Executive Director has located his property, which is identified in **Attachment A**. Because of his distance to the discharge route or proposed facility, Mr. Lamb is not likely to be impacted in a way not common to members of the general public.

Richard Lamb's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Richard Lamb **is not an affected person** under 30 TAC §55.203.*

13. Rick Peyton

Rick Peyton should not be considered an affected person due to his distance from the proposed activities. In his hearing request, Mr. Peyton noted concerns such as the proposed activity's impact to the Edwards Aquifer, adverse impacts to the surrounding environment, and consideration of the proposed facility's proximity to the nearby Vintage Oaks proposed wastewater treatment facility. These issues are protected by the law under which the Application is being considered. However, using the address provided by Mr. Peyton, his property is located in the Vintage Oaks subdivision, which is separated from the proposed facility and discharge route by several intervening properties and residential blocks. The Executive Director has located his property, which is identified in **Attachment A**. Because of his distance to the discharge route or proposed facility, Mr. Peyton is not likely to be impacted in a way not common to members of the general public.

Rick Peyton's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Rick Peyton **is not an affected person** under 30 TAC §55.203.*

14. Sabrina Houser-Amaya

Sabrina Houser-Amaya is not an affected person due to her distance from the proposed activity. In her hearing request Ms. Houser-Amaya stated that her home and vineyard operations are approximately three miles downstream from the proposed outfall location. In her hearing requests, Ms. Houser-Amaya noted issues such as the degradation of water quality in Dry Comal Creek, the increase likelihood of bacteria contaminating her private water wells use as drinking water for her residence and irrigation for her vineyards, and adverse health effects of increased bacteria in the effluent discharge. These issues are protected by the law under which the Application is being considered. However, Ms. Houser-Amaya's property is a significant distance downstream from the proposed outfall location on Dry Comal Creek, making it unlikely that she will be impacted by the proposed activity in a way that is not common to members of the general public. Using the address provided by Ms. Houser-Amaya, the Executive Director has located Ms. Houser-Amaya's property, which is identified in **Attachment A**.

Sabrina Houser-Amaya's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Sabrina Houser-Amaya **is not an affected person** under 30 TAC §55.203.*

15. Sandi Nott

Sandi Nott is not an affected person due to her distance from the proposed activity. In her hearing request Ms. Nott noted concerns regarding the proposed activity's impacts to the Edwards Aquifer, impacts to the 100-year flood plain, and increased levels of bacteria being dumped into Dry Comal Creek. However, Ms. Nott's property is over a mile north of the proposed outfall location and does not border the discharge route, making it unlikely that she will be impacted by the proposed activity in a way that is not common to members of the general public. Using the address provided by Ms. Nott, the Executive Director has located Ms. Nott's property, which is identified in **Attachment A**.

Sandi Nott's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Sandi Nott **is not an affected person** under 30 TAC §55.203.*

16. Sandy Peyton

Sandy Peyton should not be considered an affected person. In her hearing request, Ms. Peyton noted general concerns such as the proposed activity's impact to the Edwards Aquifer, adverse impacts to the surrounding environment, and consideration of the proposed facility's proximity to the nearby Vintage Oaks proposed wastewater treatment facility. These issues are protected by the under which the Application is being considered. However, using the address provided by Ms. Peyton, her property is located in the Vintage Oaks subdivision, which is separated from the proposed facility and discharge route by several intervening properties and residential blocks. The Executive Director has located her property, which is identified in **Attachment A**. Because of her distance to the discharge route and proposed facility, Ms. Peyton is not likely to be impacted by the discharge in a way not common to members of the general public.

Sandy Peyton's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Sandy Peyton **is not an affected person** under 30 TAC §55.203.*

17. Sharon Elaine Hubler

Sharon Hubler is not an affected person due to her distance from the proposed activity. In her hearing request Ms. Hubler noted concerns of the potential damage to the surrounding environment and potential contamination of the Edward's Aquifer from the proposed activities. However, Ms. Hubler's property is located a significant distance north/northwest of the proposed discharge route and wastewater treatment facility in the City of Canyon Lake. Using the address provided by Mr. Hubler, the Executive Director has located Mr. Hubler's property, which is identified in **Attachment A**. Because of her distance to the discharge route, Ms. Hubler is not likely to be impacted by the discharge in a way not common to members of the general public.

Sharon Elaine Hubler's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Sharon Elaine Hubler **is not an affected person** under 30 TAC §55.203.*

18. Susan Ingram

Susan Ingram did not identify a personal, justiciable interest in the Application and should not be considered an affected person. In her hearing request Ms. Ingram noted general concerns regarding probable contamination of the Edwards Aquifer and problems with flooding from the proposed activities. Ms. Ingram did not indicate how the facility or discharge activities would impact her in a way not common to the general public. Similarly, because she did not describe her personal justiciable interest in the proposed activity, Ms. Ingram's hearing request did not substantially comply with the requirements of 30 TAC §§55.201 (c) and (d).

Additionally, Ms. Ingram should not be considered an affected person due to her distance from the proposed discharge. Using the address provided by Ms. Ingram in her hearing request, the Executive Director located her property in the City of Bulverde, which is identified in **Attachment A**. Because of her distance from the discharge route, Ms. Ingram is not likely to be impacted by the discharge in a way not common to members of the general public.

Susan Ingram's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Susan Ingram **is not an affected person** under 30 TAC §55.203.*

19. Susan L. Dunlap

Susan Dunlap should not be considered an affected person due to her distance from the proposed activities. In her hearing request, Ms. Dunlap noted concerns regarding impacts to human health and welfare, and impacts to her well water. These issues are protected by the law under which the Application is being considered. However, using the address provided by Ms. Dunlap, her property is north of the Meyer Ranch property, approximately a mile upstream of the proposed outfall location. The Executive Director has located her property, which is identified in **Attachment A**. Because of her distance to the discharge route and proposed outfall location, Ms. Dunlap is not likely to be impacted by the discharge in a way that is not common to the general public.

Susan L. Dunlap's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Susan L. Dunlap **is not an affected person** under 30 TAC §55.203.*

20. Ted Martin

Ted Martin stated a personal justiciable interest in the Application and should be considered an affected person. In his hearing request, Mr. Martin noted concerns related to the potential contamination of his well water from the proposed discharge, and adverse effects to his health and the health of his livestock. Issues regarding groundwater contamination, human and animal health concerns are protected by law under which the Application is being considered and there is a reasonable relationship to between the regulated activity and Mr. Martin's concerns. In his hearing request, Mr. Martin stated that his property is adjacent to the proposed Meyer Ranch Development. Using the address provided, the Executive Director has located his property, which is identified in **Attachment A**. Mr. Martin's property is adjacent west of the Meyer Ranch development, less than a mile from the outfall location. Ted Martin's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

The Executive Director recommends that the Commission find that Ted Martin is an affected person under 30 TAC §55.203.

21. Teressa Barnhill

Teressa Barnhill is not an affected person due to her distance from the proposed activity. In her hearing request Ms. Barnhill noted concerns such as the proposed activity's effects on the Edwards Aquifer, human and animal (wildlife) health, and increased levels of bacteria being dumped into Dry Comal Creek. These issues are protected by the law under which the Application is being considered. However, Using the address provided by Ms. Barnhill, the Executive Director has located Ms. Barnhill's property, which is identified in **Attachment A**. Ms. Barnhill's property is over a mile north (upstream) of the proposed outfall location and does not border the discharge route, making it unlikely that she will be impacted by the proposed activity in a way that is not common to members of the general public.

Teressa Barnhill's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

The Executive Director recommends that the Commission find that Teressa Barnhill is not an affected person under 30 TAC §55.203.

22. John Hudson Blodgett

John Blodgett is not an affected person due to his distance from the proposed activity. In his hearing request, Mr. Blodgett noted that his property is approximately one and a half miles from the proposed facility. In his hearing request, Mr. Blodgett noted concerns regarding odors from the proposed facility and discharge activities. Issues related to odor are protected by the law under which the Application is being considered. However, because of his distance to the proposed facility and discharge route, it is not likely that Mr. Blodgett will be impacted in a way not common to members of the general public. Based on the address provided by Mr. Blodgett, the Executive Director has located his property, which is identified in **Attachment A**. Mr. Blodgett's property is located in the Vintage Oaks subdivision. His property is separated from the proposed facility and discharge route by several residential blocks, and

numerous intervening properties which lie between his property and the proposed facility and discharge route.

John Hudson Blodgett's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that John Hudson Blodgett **is not an affected person** under 30 TAC §55.203.*

23. Ronald R. Davis

Ronald Davis stated a personal justiciable interest in the Application, and should be considered an affected person. In his hearing requests Mr. Davis noted that his property is about 200 yards from Dry Comal Creek. Mr. Davis raised concerns about the proximity of the proposed discharge to the Edwards Aquifer recharge zone, the likelihood of the seepage and the contamination of his water well. These issues are protected by the law under which the Application is being considered, and there is a reasonable relationship between the regulated activity and Mr. Davis' concerns. Using the address provided, the Executive Director has located his property, which is identified in **Attachment A**. Mr. Davis's property abuts Dry Comal Creek over one mile downstream of the proposed outfall location, where Dry Comal Creek leaves the Meyer Ranch property. Ronald Davis' hearing request substantially complied with the requirements of 30 TAC §§55.201(c) and (d).

*The Executive Director recommends that the Commission find that John Hudson Blodgett **is an affected person** under 30 TAC §55.203.*

24. Daniel and Michele Laroe

Daniel and Michele Laroe stated a personal justiciable interest in the Application, and should be considered affected persons. In the Laroes' hearing requests, they noted that their property is located approximately one half mile west of the proposed discharge point. Using the address provided by the Laroes, the Executive Director has located their property, which is identified in **Attachment A**. In their hearing request the Laroes noted concerns regarding the contamination of their water well from the proposed discharge, and odors emanating from the wastewater treatment facility. These issues are protected by the law under which the Application is being considered, and there is a reasonable relationship between the regulated activity and the Laroes' concerns. The Laroe's property is adjacent to the Meyer Ranch property, less than half a mile from the proposed outfall location and discharge route. Daniel and Michele Laroe's hearing requests also substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Daniel and Michele Laroe **are affected persons** under 30 TAC §55.203.*

25. Jerry Barucky

Jerry Barucky is not an affected person due to his distance from the proposed activity. In his hearing request, Mr. Barucky raised concerns regarding noxious odors

emanating from the treated effluent, and possible well contamination. Issues related to odors of the effluent discharge and well contamination are protected by the law which the application is being considered. However, because of his distance to the discharge route, Mr. Barucky is not likely to be impacted by the discharge in a way not common to members of the general public. Using the address provided by Mr. Barucky, the Executive Director has located his property, which is identified in **Attachment A**. Mr. Barucky's property is located approximately nine miles south, in the City of Garden Ridge.

Jerry Barucky's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Jerry Barucky **is not an affected person** under 30 TAC §55.203.*

26. Susan R. Dooley Logue

Susan R. Dooley Logue stated a personal, justiciable interest in the Application and should be considered an affected person. In her hearing request, Ms. Logue noted concerns regarding odors from the proposed facility, possible contamination of her water well and impacts to the health of the livestock on her property. These issues are protected by the law under which the Application is being considered, and there is a reasonable relationship between the regulated activity and Ms. Logue's concerns. In her hearing request, Ms. Logue stated that her property is adjacent to the Meyer Ranch property and that Dry Comal Creek extends through the mid-portion of her property. Using the address provided by Ms. Logue, the Executive Director has located her property, which is identified in **Attachment A**. Ms. Logue's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Susan R. Dooley Logue **is an affected person** under 30 TAC §55.203.*

27. Marjorie Marks

Marjorie Marks is not an affected person due to her distance from the proposed activity. In her hearing request, Ms. Marks noted that she and her husband are building a home in the Vintage Oaks neighborhood. Using the address provided by Ms. Marks, the Executive Director has located her property, in **Attachment A**. However, Ms. Marks' property was not located in the Vintage Oaks subdivision, but a substantial distance southwest of the proposed discharge route. In her hearing request, Ms. Marks noted concerns such as the impacts of the proposed discharge on Dry Comal Creek, nearby land, and the Edwards Aquifer. These issues are protected by the law under which the Application is being considered. However, based on her distance from the proposed discharge route and facility it is unlikely that Ms. Marks will be impacted by the discharge in a way not common to members of the general public.

Marjorie Marks' hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Marjorie Marks **is not an affected person** under 30 TAC §55.203.*

28. Carl Thompson

Carl Thompson did not identify a personal, justiciable interest in the Application and should not be considered an affected person. In his hearing Mr. Thompson raised issues such as whether the Applicant should be required to conduct an environmental review of the proposed facility's impacts to flooding, the financial incentive of the development to the developers, and requiring the Applicant to use individual septic tanks in the proposed development. None of the issues raised address Mr. Thompson's personal justiciable interest affected by the application, and none of these issues are relevant and material to a decision on the application. Similarly, because he did not describe his personal justiciable interest in the proposed activity, Mr. Thompson's hearing request did not substantially comply with the requirements 30 TAC §§55.201 (c) and (d).

Additionally, Mr. Thompson should be considered an affected person because of his distance from the proposed discharge. Using the address provided by Mr. Thompson in his hearing request, the Executive Director has located his property, which is identified in **Attachment A**. Mr. Thompson's property is located in the Vintage Oaks subdivision, and is separated from the proposed discharge route by several residential blocks and intervening properties. Due to his location, it is not likely that Mr. Thompson will be impacted by the discharge in a way not common to members of the general public.

*The Executive Director recommends that the Commission find that Carl Thompson's hearing request **did not substantially comply** with the requirements of 30 TAC §§55.201 (c) and (d) and that he **is not an affected person** under 30 TAC §55.203.*

29. Kenneth and Victoria Laubach

Kenneth and Victoria Laubach are not affected persons due to their distance from the proposed activity. In their hearing request, the Laubachs stated that their property is located approximately 2.76 miles from the Meyer Ranch development, and they stated that they have two water wells on their property approximately 1000 feet from Dry Comal Creek. In their hearing requests, the Laubachs noted concerns such as possible bacterial contamination of their drinking water wells from the discharge, and impacts of the discharge to the human health and the health of their livestock. These issues are protected by the law under which the Application is being considered. However, based on the Laubachs significant distance downstream from the proposed outfall location and discharge route, they are not likely to be impacted by the discharge in a way not common to members of the general public. Using the address provided, the Executive Director has located their property, which is identified in **Attachment A**.

Kenneth and Victoria Laubach's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Kenneth and Victoria Laubach **are not affected persons** under 30 TAC §55.203.*

30. John Sturtevant

John Sturtevant did not identify his personal justiciable interest affected by the Application and should not be considered an affected person. In his hearing request, Mr. Sturtevant noted general concerns regarding the proximity of the proposed facility to the proposed Vintage Oaks wastewater treatment facility and impacts of the discharge on the Edwards Aquifer recharge zone. Mr. Sturtevant did not indicate how the facility would impact him in a way not common to members of the general public. Therefore, because he did not describe a personal justiciable interest in the proposed activity, Mr. Sturtevant did not substantially comply with the requirements of §§55.201 (c) and (d).

Using the address provided by Mr. Sturtevant, the Executive Director has located his property, which is identified in **Attachment A**. Mr. Sturtevant's property is located in the Vintage Oaks subdivision, which is separated by several residential blocks and numerous intervening properties between his property and the proposed discharge route. Because of the distance of his location downstream of the proposed outfall and discharge route, Mr. Sturtevant is not likely to be impacted by the discharge in a way not common to members of the general public.

*The Executive Director recommends that the Commission find that John Sturtevant's hearing request **did not substantially comply** with the requirements of 30 TAC §§55.201 (c) and (d) and that he **is not an affected person** under 30 TAC §55.203.*

31. Brenda Sturtevant

Brenda Sturtevant did not identify her personal justiciable interest affected by the Application and should not be considered an affected person. In her hearing request, Ms. Sturtevant noted general concerns such as the proximity of the proposed facility to the proposed Vintage Oaks wastewater treatment facility, water quality, future tourism and impacts of the discharge on the Edwards Aquifer recharge zone. Ms. Sturtevant did not indicate how the facility would impact her in a way not common to members of the general public. Therefore, because she did not describe a personal justiciable interest in the proposed activity, Ms. Sturtevant did not substantially comply with the requirements of §§55.201 (c) and (d).

Using the address provided by Ms. Sturtevant, the Executive Director has located her property, which is identified in Attachment A. Ms. Sturtevant's property is located in the Vintage Oaks subdivision, which is separated by several residential blocks and numerous intervening properties between her property and the proposed discharge route. Because of her location downstream of the proposed outfall and discharge route, Ms. Sturtevant is not likely to be impacted by the discharge in a way not common to members of the general public.

*The Executive Director recommends that the Commission find that Brenda Sturtevant's hearing request **did not substantially comply** with the requirements of 30 TAC §§55.201 (c) and (d) and that she **is not an affected person** under 30 TAC §55.203.*

32. Randal Dean White

Randal Dean White is not an affected person due to his distance from the proposed activity. In his hearing request, Mr. White stated that his property is located in the Vintage Oaks subdivision, approximately a mile and half away from the proposed facility. In his hearing request, Mr. White noted concerns regarding the proposed activity's impacts to the Edwards Aquifer and his water well. However, based on his distance from the proposed discharge route and facility it is unlikely that Mr. White will be impacted by the discharge in a way not common to members of the general public. Using the address provided by Mr. White, the Executive Director has located his property, which is identified in **Attachment A**. Mr. White's property is located in the Vintage Oaks subdivision, which is separated by several residential blocks and numerous intervening properties between his property and the proposed discharge route.

Randal Dean White's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Randal Dean White **is not an affected person** under 30 TAC §55.203.*

33. Aurora White Dozier

Aurora White Dozier is not an affected person due to her distance from the proposed activity. In her hearing request, Ms. Dozier stated that her property is located in the Vintage Oaks subdivision, approximately a mile and half away from the proposed facility. In her hearing request, Ms. Dozier noted concerns regarding the proposed activity's impacts to the Edwards Aquifer and her water well. These issues are protected by the law under which this Application is being considered. However, based on her distance from the proposed discharge route and facility it is unlikely that Ms. Dozier will be impacted by the discharge in a way not common to members of the general public. Using the address provided by Ms. Dozier, the Executive Director has located her property, which is identified in **Attachment A**. Ms. Dozier's property is located in the Vintage Oaks subdivision, which is separated by several residential blocks and numerous intervening properties between her property and the proposed discharge route.

Aurora White Dozier's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Aurora White Dozier **is not an affected person** under 30 TAC §55.203.*

34. Ellen McClellan

Ellen McClellan stated a personal, justiciable interest in the Application and should be considered an affected person. In her hearing request, Ms. McClellan noted concerns regarding possible contamination of her water well and impacts to the health of the livestock on her property. These issues are protected by the law under which the Application is being considered, and there is a reasonable relationship between the regulated activity and Ms. McClellan's concerns. In her hearing request, Ms. McClellan

stated that her property directly across from the proposed development. Using the address provided by Ms. McClellan, the Executive Director has located her property, which is identified in Attachment A. Ms. McClellan's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Ellen McClellan **is an affected person** under 30 TAC §55.203.*

35. Bonnie Houser

Bonnie Houser is not an affected person due to her distance from the proposed activity. In her hearing request Ms. Houser stated that her home and vineyard operations are approximately three miles downstream from the proposed outfall location. In her hearing requests, Ms. Houser noted issues such as the degradation of water quality in Dry Comal Creek, the increase likelihood of bacteria contaminating her private water wells use as drinking water for her residence and irrigation for her vineyards, and adverse health effects of increased bacteria in the effluent discharge. These issues are protected by the law under which the Application is being considered. However, Ms. Houser's property is a significant distance downstream from the proposed outfall location on Dry Comal Creek, making it unlikely that she will be impacted by the proposed activity in a way that is not common to members of the general public. Using the address provided by Ms. Houser, the Executive Director has located Ms. Houser's property, which is identified in **Attachment A**.

Bonnie Houser's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Bonnie Houser **is not an affected person** under 30 TAC §55. 203.*

36. Hector Amaya

Hector Amaya is not an affected person due to his distance from the proposed activity. In his hearing request Mr. Amaya stated that his home and vineyard operations are approximately three miles downstream from the proposed outfall location. In his hearing request, Mr. Amaya noted issues such as the degradation of water quality in Dry Comal Creek, the increase likelihood of bacteria contaminating his private water wells use as drinking water for his residence and irrigation for his vineyards, and adverse health effects of increased bacteria in the effluent discharge. These issues are protected by the law under which the Application is being considered. However, Mr. Amaya's property is a significant distance downstream from the proposed outfall location on Dry Comal Creek, making it unlikely that he will be impacted by the proposed activity in a way that is not common to members of the general public. Using the address provided by Mr. Amaya, the Executive Director has located his property, which is identified in **Attachment A**.

Hector Amaya's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Hector Amaya **is not an affected person** under 30 TAC §55. 203.*

37. Phyllis Yvonne Ritter

Phyllis Yvonne Ritter stated a personal, justiciable interest in the Application and should be considered an affected person. In her hearing request, Ms. Ritter noted concerns regarding the potential contamination of her water well from the proposed discharge, and adverse impacts to her health and the health of her cattle. These issues are protected by the law under which the Application is being considered, and there is a reasonable relationship between the regulated activity and Ms. Ritter's concerns. In her hearing request, Ms. Logue stated that her property is 0.3 miles away from Dry Comal Creek, directly across from the Meyer Ranch property. Using the address provided by Ms. Ritter, the Executive Director has located her property, which is identified in **Attachment A**. Ms. Ritter's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Phyllis Yvonne Ritter **is an affected person** under 30 TAC §55.203.*

38. Troy and Patricia Brand

Troy and Patricia Brand stated a personal, justiciable interest in the Application and should be considered affected persons. In their hearing request, the Brands noted concerns regarding the possible contamination of their water well from the discharge activities. This issue is protected by the law under which the Application is being considered, and there is a reasonable relationship between the regulated activity and the Brands concerns. Using the address provided by the Brands, the Executive Director has located her property, which is identified in **Attachment A**. The Brands' property is located on S. Cranes Mill road within relative proximity to the proposed facility and discharge route. Troy and Patricia Brand's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Troy and Patricia Brand **are affected persons** under 30 TAC §55.203.*

39. Taylor Martin

Taylor Martin stated a personal justiciable interest in the Application and should be considered an affected person. In her hearing request, Ms. Martin noted concerns related to the potential contamination of her well water from the proposed discharge, and adverse effects to her health and the health of her livestock. Issues regarding groundwater contamination, human and animal health concerns are protected by the law under which the Application is being considered and there is a reasonable relationship to between the regulated activity and Ms. Martin's concerns. Using the address provided, the Executive Director has located her property, which is identified in **Attachment A**. Ms. Martin's property is located adjacent west of Meyer Ranch development, less than a mile from the outfall location. Taylor Martin's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Elizabeth Martin **is an affected person** under 30 TAC §55.203.*

40. Carole Farmer

Carole Farmer stated a personal, justiciable interest in the Application and should be considered an affected person. In her hearing request, Ms. Farmer raised concerns regarding the impact of the discharge on her family's health and the health of her family members that recreate in Dry Comal Creek, and she also raised the issue odor from the discharge. These issues are protected by the law under which the Application is being considered, and there is a reasonable relationship between the regulated activity and Ms. Farmer's concerns. In her hearing request, Ms. Farmer stated that her property and well are in the path of the discharge of water into the creek. Using the address provided by Ms. Farmer, the Executive Director has located her property, which is identified in **Attachment A**. Ms. Farmer's property is located along S. Cranes Mill Road in relative proximity to the proposed facility location and discharge route. Ms. Farmer's hearing request substantially complied with the requirements of 30 TAC §§55.201 (c) and (d).

*The Executive Director recommends that the Commission find that Carole Farmer **is an affected person** under 30 TAC §55.203.*

B. Whether Issues Raised Are Referable to the State Office of Administrative Hearings for a Contested Case Hearing.

In addition to recommending to the Commission those persons who qualify as affected persons, the Executive Director analyzed the issues raised in the hearing requests in accordance with the regulatory criteria. Except where noted, all issues were raised during the public comment period and none of the issues were withdrawn. All identified issues in the response are considered disputed unless otherwise noted. The Executive Director has also listed the relevant RTC responses.

Issue 1: Whether the proposed discharge will increase the pollutant loading of the receiving stream. (Responses 9 and 16)

This is an issue of fact. If it can be shown that the proposed discharge will increase the pollutant loading of the receiving stream, that information would be relevant and material to a decision on the application. *The Executive Director recommends that the Commission refer this issue to SOAH.*

Issue 2: Whether the proposed discharge will degrade the existing uses of the receiving stream. (Responses 20 and 25)

This is an issue of fact. If it can be shown that the proposed discharge will degrade the existing uses of the receiving stream, that information would be relevant and material to a decision on the application. *The Executive Director recommends that the Commission refer this issue to SOAH.*

Issue 3: Whether the discharge route has been properly characterized as intermittent. (Responses 22, 23 and 24)

This is an issue of fact. If it can be shown that the proposed discharge route has been improperly characterized as intermittent during the application review process, this information would be relevant and material to a decision on the application.

The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 4: Whether the proposed discharge will impact nearby groundwater wells. (Response 34)

This is an issue of fact. If it can be shown that the proposed discharge will impact nearby groundwater, this information would be relevant and material to a decision on the application.

The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 5: Whether the proposed discharge will contaminate the Edwards Aquifer. (Response 18)

This is an issue of fact. If it can be shown that the proposed discharge will contaminate the Edwards Aquifer, that information would be relevant and material to a decision on the application.

The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 6: Whether the draft permit complies with the requirements of 30 TAC §213.6. (Response 32)

This is a mixed issue of fact and law. However, if it can be shown that the draft permit does not comply with the requirements of the Commission rules at 30 TAC §213.6, that information would be relevant and material to a decision on the application.

The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 7: Whether the proposed discharge will negatively impact livestock and wildlife in the area. (Response 39)

This is an issue of fact. If it can be shown that the proposed discharge would negatively impact livestock and wildlife in the area, that information would be relevant and material to a decision on the application.

The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 8: Whether the proposed discharge is protective of human health. (Response 15 and 39)

This is an issue of fact. If it can be shown that the proposed discharge is not protective of human health, that information would be relevant and material to a decision on the application.

The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 9: Whether the proposed discharge will maintain aquatic life uses.
(Response 20 and 39)

This is an issue of fact. If it can be shown that the proposed discharge would not be protective of aquatic life uses, that information would be relevant and material to a decision on the application. The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 10: Whether the proposed discharge will cause odors. (Response 26)

This is an issue of fact. If it can be shown that the proposed discharge will be odorous, that information would be relevant and material to a decision on the application. The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 11: Whether the draft permit complies with the Commission's regionalization policy. (Response 41)

This is a mixed question of fact and law. However, if it can be shown that the draft permit does not comply with the Commission's regionalization policy, this information would be relevant and material to a decision on the application. The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 12: Whether errors in the application would require the Commission to deny the Applicant a discharge permit. (Responses 3- 7)

This is an issue of fact. If it can be shown that errors in the application, if any, would require the Commission to reconsider its decision on the application and draft permit, this information would be relevant and material to a decision on the application. The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 13: Whether the proposed activities will increase flooding in the surrounding area and impact the 100-year floodplain. (Response 48)

This is an issue of fact. However, this issue is not relevant and material to a decision on the application because the TCEQ does not have jurisdiction to consider flooding issues during its review of a wastewater discharge permit. The Executive Director **does not** recommend that the Commission refer this issue to SOAH.

Issue 14: Whether the Applicant should be required to conduct an environmental impact study before approval of the discharge permit.
(Response 10)

This is a mixed issue of fact and law. However, it is not relevant and material to a decision on the application, because the question of requiring the Applicant to conduct an environmental impact study is not part of the TCEQ's wastewater discharge permit

application process. The Executive Director **does not** recommend that the Commission refer this issue to SOAH.

Issue 15: Whether the construction and operations of the proposed facility will increase truck traffic on S. Cranes Mill Road. (Response 50)

This is an issue of fact. However, it is not relevant and material to a decision on the application, as the TCEQ does not have jurisdiction to address issues truck traffic and noise during its review of a wastewater discharge permit application. The Executive Director **does not** recommend that the Commission refer this issue to SOAH.

Issue 16: Whether the proposed development complies with spacing and lot size requirements for Comal County. (Response 51)

This is a mixed issue of fact and law. However, it is not relevant and material to a decision on the application, as the assessment of county spacing and lot size requirements is not part of the TCEQ's wastewater discharge permit application review process. The Executive Director **does not** recommend that the Commission refer this issue to SOAH.

Issue 17: Whether the proposed activities will impact property values of neighboring landowners. (Response 50)

This is an issue of fact. However, it is not relevant and material to a decision on the application, as the TCEQ does not have jurisdiction to consider property values during its review of a wastewater discharge permit application. The Executive Director **does not** recommend that the Commission refer this issue to SOAH.

Issue 18: Whether the proposed development would impact water availability in the area. (Response 36)

This is an issue of fact. However, it is not relevant and material to a decision on the application, as the assessment of water availability is not part of the TCEQ's wastewater discharge permit application review process. The Executive Director **does not** recommend that the Commission refer this issue to SOAH.

Issue 19: Whether the proposed activities will contribute to air pollution in the surrounding area. (Response 47)

This is an issue of fact. However, it is not relevant and material to a decision on the application. Wastewater treatment plants are permitted by rule under TCEQ air permit rules (30 TAC §106.532), and the proposed facility's potential air quality impacts are an air permit issue, not a wastewater discharge permit issue. The Executive Director **does not** recommend that the Commission refer this issue to SOAH.

VI. Duration of the Contested Case Hearing

If there is a contested case hearing on this application, the Executive Director recommends that the duration of the hearing be nine months from the preliminary decision to the presentation of a proposal for decision to the Commission.

VII. Conclusion

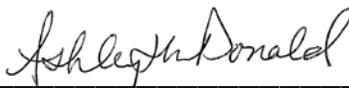
The Executive Director recommends that the Commission find that Edward Harris, Elizabeth Martin, Nelda S. Davis, R. (Randall) Pappas, Ted Martin, Ronald R. Davis, Daniel and Michele Laroe, Susan R. Dooley Logue, Ellen McClellan, Phyllis Yvonne Ritter, Troy and Patricia Brand, Taylor Martin, and Carole Farmer are affected persons under 30 TAC §55.203 and *grant* their respective hearing requests. If this matter is referred to SOAH, the Executive Director recommends referring Issue Nos.1-12 for a nine-month hearing.

Respectfully submitted,

Texas Commission on Environmental Quality

Richard A. Hyde, P.E.
Executive Director

Robert Martinez, Director
Environmental Law Division

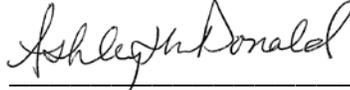


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REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on December 28, 2015, the original and seven copies of the “Executive Director’s Response to Hearing Request” for Randolph Todd Company, LLC Permit No. WQ0015314001 were filed with the TCEQ’s Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



Ashley McDonald, Staff Attorney
Environmental Law Division
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DOCKET NO. 2015-1624-MWD; PERMIT NO. WQ0015314001

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Tel: (512) 239-0058
Fax: (512) 239-4430

Brian Christian, Director
Texas Commission on Environmental
Quality
Environmental Assistance Division
Public Education Program, MC-108
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4000
Fax: (512) 239-5678

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Vic McWherter, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-6363
Fax: (512) 239-6377

FOR ALTERNATIVE DISPUTE
RESOLUTION

via electronic mail:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4010
Fax: (512) 239-4015

FOR THE CHIEF CLERK:

Bridget C. Bohac
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-3300
Fax: (512) 239-3311

REQUESTER(S)/INTERESTED
PERSON(S):

See attached list.

REQUESTER(S)

Hector X Amaya
Dry Comal Creek Vineyards
1741 Herbelin Rd
New Braunfels, TX 78132-1838

Teresa Barnhill
143 Dry Bear Crk
New Braunfels, TX 78132-1665

Dr. Jerry Barucky
20806 Woodland Cv
Garden Ridge, TX 78266-2775

John Hudson Blodgett
Detex Corporation
2345 Appellation
New Braunfels, TX 78132-2775

Mrs Patricia L & Troy C Brand
1980 S Cranes Mill Rd
New Braunfels, TX 78132-1630

Nelda S Davis
1789 S Cranes Mill Rd
New Braunfels, TX 78132-1615

Ronald R Davis
1789 S Cranes Mill Rd
New Braunfels, TX 78132-1615

Mrs Susan R Dooley Logue
10120 W State Highway 46
New Braunfels, TX 78132-1626

Susan L Dunlap
Southwest English Setter Rescue
462 San Marcos Trl
New Braunfels, TX 78132-1653

Carole Farmer
1600 S Cranes Mill Rd
New Braunfels, TX 78132-1651

Bonnie Houser
Dry Comal Creek Vineyards
1741 Herbelin Rd
New Braunfels, TX 78132-1838

Mr Franklin Houser
Dry Comal Creek Vineyards
1741 Herbelin Rd
New Braunfels, TX 78132-1838

Sabrina A Houser-Amaya
Dry Comal Creek Vineyards
1741 Herbelin Rd
New Braunfels, TX 78132-1838

Edmund O Hubler Retired
692 Rock Castle
Canyon Lake, TX 78133-4844

Sharon Elaine Hubler
692 Rock Castle
Canyon Lake, TX 78133-4844

The Honorable Susan Ingram
29751 Twin Creeks Dr
Bulverde, TX 78163-2407

Richard Lamb
1504 Vino Cir
New Braunfels, TX 78132-2771

Daniel Laroe
922 Homestead Rdg
New Braunfels, TX 78132-1644

Kenneth C Laubach
633 Herbelin Rd
New Braunfels, TX 78132-1837

Victoria Beth Laubach
633 Herbelin Rd
New Braunfels, TX 78132-1837

Mrs Marjorie Marks
1355 Ranch Pkwy Apt 112
New Braunfels, TX 78130-3988

Mrs Elizabeth L Martin
900 Heritage Oaks
New Braunfels, TX 78132-1667

Mr Taylor Martin
900 Heritage Oaks
New Braunfels, TX 78132-1667

Mr Ted M Martin
900 Heritage Oaks
New Braunfels, TX 78132-1667

Ellen McClellan
2282 S Cranes Mill Rd
New Braunfels, TX 78132-1604

Sandy L Nott
143 Dry Bear Crk
New Braunfels, TX 78132-1665

R Pappas
1100 Homestead Rdg
New Braunfels, TX 78132-1605

Mr Rick Peyton
1015 Provence Pl
New Braunfels, TX 78132-2769

Mrs Sandy Peyton
1015 Provence Pl
New Braunfels, TX 78132-2769

Mrs Phyllis Yvonne Ritter
2360 S Cranes Mill Rd
New Braunfels, TX 78132-1618

Jessica Smith
The Springs Events
Po Box 936
Dripping Springs, TX 78620-0936

Mrs Brenda R Sturtevant
1170 Sapling Spg
New Braunfels, TX 78132-2676

Mr John Wesley Sturtevant
1170 Sapling Spg
New Braunfels, TX 78132-2676

Connie Terao
2241 Appellation
New Braunfels, TX 78132-2774

Ms Felicia S Thomas
1128 Provence Pl
New Braunfels, TX 78132-2770

Carl Thompson
1026 Stradina
New Braunfels, TX 78132-2778

Aurora Dozier White
2230 Pinot Blanc
New Braunfels, TX 78132-4800

Randal Dean White
2230 Pinot Blanc
New Braunfels, TX 78132-4800

James A Whitmore
Usaf Retired
257 Dry Bear Crk
New Braunfels, TX 78132-1633

James A Whitmore
President, Waggener Ranch
Property Owners Association
4802 S Cranes Mill Rd
New Braunfels, TX 78132-1647

WITHDRAW OF REQUEST(S)

Denise & Edward Harris
1670 S Cranes Mill Rd
New Braunfels, TX 78132-1651

Ms Denise L Harris
1670 S Cranes Mill Rd
New Braunfels, TX 78132-1651

Edward Harris
1670 S Cranes Mill Rd
New Braunfels, TX 78132-1651

PUBLIC OFFICIALS - INTERESTED PERSON(S)

The Honorable Doug Miller
State Representative, Texas House Of
Representatives District 73
Po Box 2910
Austin, TX 78768-2910

INTERESTED PERSON(S)

Eric Allmon
Frederick Perales Allmon & Rockwell Pc
707 Rio Grande St Ste 200
Austin, TX 78701-2733

Marc Arias
10306 Rinder Farm Ct
New Braunfels, TX 78132-3878

Richard Atkinson
1034 Ranger Rdg
New Braunfels, TX 78132-1841

Cindy Ayers
1669 S Cranes Mill Rd
New Braunfels, TX 78132-1613

Dan W Balgemann
1190 Homestead Rdg
New Braunfels, TX 78132-1605

Mrs Heather Beard
2153 Appellation
New Braunfels, TX 78132-2773

Tracey Blackwell
9745 Trophy Oaks Dr
Garden Ridge, TX 78266-2814

Mrs Patricia L Brand
1980 S Cranes Mill Rd
New Braunfels, TX 78132-1630

Mr Troy Calvin Brand
1980 S Cranes Mill Rd
New Braunfels, TX 78132-1630

Suzanne Byrd
1606 Bordeaux Blanc
New Braunfels, TX 78132-2683

Mr Daniel Cevallos Jr
1606 Angolo
New Braunfels, TX 78132-2782

Thomas M Chaney
1135 Sapling Spg
New Braunfels, TX 78132-2676

Kevin Coleman
1040 Diretto
New Braunfels, TX 78132-2776

Mrs Amy E Collins
1470 S Cranes Mill Rd
New Braunfels, TX 78132-1610

Ronald F Diana
1428 Decanter Dr
New Braunfels, TX 78132-2690

Jonni Doeppenschmidt
2911 Morningside Dr
New Braunfels, TX 78130-7014

Becky Dominick
311 Clear Lk
New Braunfels, TX 78132-1847

Leon Dominick
311 Clear Lk
New Braunfels, TX 78132-1847

Kathy Fincher
1505 Syrah
New Braunfels, TX 78132-2699

Ronald E Fincher
1505 Syrah
New Braunfels, TX 78132-2699

Carol Fisher
1802 Blanco Rd
San Antonio, TX 78212-2614

Kelly Follis
1902 Common St Ste 500
New Braunfels, TX 78130-3188

Ron Frisk
1568 Vintage Way
New Braunfels, TX 78132-2670

Terrence M Frost
1014 Blend Way
New Braunfels, TX 78132-2698

Eddie Dwain Glass
1155 S Cranes Mill Rd
New Braunfels, TX 78132-1670

Gloria Glass
1155 S Cranes Mill Rd
New Braunfels, TX 78132-1670

Lynn Graham
1131 Diretto
New Braunfels, TX 78132-2739

Terrell Graham
18645 State Highway 239 W
Kenedy, TX 78119-4739

Debbie Sabins Grun
1041 Homestead Rdg
New Braunfels, TX 78132-1652

Edward A Grun
1041 Homestead Rdg
New Braunfels, TX 78132-1652

Polly Haberkorn
3060 Rebecca Creek Rd
Canyon Lake, TX 78133-5924

Terri Hall
Texans Untiing For Reform And Freedom
(Texas Turf)
Po Box 29254
San Antonio, TX 78229-0254

Cheryl Hamp
1612 Canyon Trce
Canyon Lake, TX 78133-2145

Denise Harris
1670 S Cranes Mill Rd
New Braunfels, TX 78132-1651

Ken Head
1099 Village Shore Dr
Canyon Lake, TX 78133-5537

Mrs Lezlee Katherine Hebert
208 Burr Oak Ln
Canyon Lake, TX 78133-5490

Corey Henderson
3311 S Cranes Mill Rd Unit 3
New Braunfels, TX 78132-1649

Dr. Kenneth Higby
292 Heritage Oaks
New Braunfels, TX 78132-1650

Thomas A Hodge
Po Box 1742
Canyon Lake, TX 78133-0005

Mrs Ricki Ann Holt
1419 Decanter Dr
New Braunfels, TX 78132-2690

Larry Jackson
1988 Round Table
New Braunfels, TX 78130-8316

Mary Jeanes
1309 Decanter Dr
New Braunfels, TX 78132-2686

Mark Johnson
495 S Chestnut Ave
New Braunfels, TX 78130-6331

Bryan S Jordan
1147 Barolo Ct
New Braunfels, TX 78132-2669

Brittany Judd
1630 Oak Mdws
Canyon Lake, TX 78133-1935

Garrett Keller
8 Spencer Rd
Boerne, TX 78006-8192

Mrs Pat Knipe
Blue Water Real Estate
23120 Fm 306
Canyon Lake, TX 78133-2315

Karen Langelier
28405 Oak Creek Dr
New Braunfels, TX 78132-3653

Calli Laubach
633 Herbelin Rd
New Braunfels, TX 78132-1837

Cara Laubach
7703 Derby Run
Selma, TX 78154-3937

Clint Laubach
633 Herbelin Rd
New Braunfels, TX 78132-1837

Kenneth & Victoria Laubach
633 Herbelin Rd
New Braunfels, TX 78132-1837

Mrs Latisha Loria
891 Cypress Dr
Canyon Lake, TX 78133-2619

Jensie S Madden
1281 Serenity
Fischer, TX 78623-2506

Michael Mcchesney
401 Quail Pass
New Braunfels, TX 78132-3093

Matt McClellan
2282 S Cranes Mill Rd
New Braunfels, TX 78132-1604

Mr Carey F Mcwilliams Jr
1544 Connettere
New Braunfels, TX 78132-2777

Mr Casey James Menn
2075 Johnson Rd
Canyon Lake, TX 78133-3157

Jack Millar
1821 S Cranes Mill Rd
New Braunfels, TX 78132-1617

Dale A Miller
1505 Cabernet
New Braunfels, TX 78132-2768

Jamie Miller
5765 Fig Way
Arvada, CO 80002-1157

Marlene Moore
461 Lakeview Blvd
New Braunfels, TX 78130-5231

Kermit Oneal
8414 Fm 2673
Canyon Lake, TX 78133-6426

Sarah Oneal
8414 Fm 2673
Canyon Lake, TX 78133-6426

Sharon O'Toole
301 Main Plz Ste 354
New Braunfels, TX 78130-5136

Nancy Pappas
1100 Homestead Rdg
New Braunfels, TX 78132-1605

Mrs Amanda L Pierson
1069 Madrone Rd
Fischer, TX 78623-2104

Jill Pope
2321 Appellation
New Braunfels, TX 78132-2775

Jason Retzloff
811 Cross Oak
New Braunfels, TX 78132-2664

Richard K Rheinhardt
231 Burr Oak Ln
Canyon Lake, TX 78133-3904

John C Ritter
2360 S Cranes Mill Rd
New Braunfels, TX 78132-1618

John & Phyllis Y Ritter
2360 S Cranes Mill Rd
New Braunfels, TX 78132-1618

Carolyn Roberts
453 N Business Ih 35 Apt 734
New Braunfels, TX 78130-7886

Anne Rogers
Texas Parks And Wildlife Department
4200 Smith School Rd
Austin, TX 78744-3218

Mr Craig Scallan
736 Serene Woods Cir
Canyon Lake, TX 78133-3559

Michael Sinatra
1637 Vintage Way
New Braunfels, TX 78132-2671

Steve Snyder
815 Brazos St Ste 600
Austin, TX 78701-2515

Susan Syamken
815 Heritage Oaks
New Braunfels, TX 78132-1638

Kyle Terao
2241 Appellation
New Braunfels, TX 78132-2774

Jeff Thomas
1225 Teakwood Dr
Fort Collins, CO 80525-1957

Jacques Van Heerden
330 Maple Way
New Braunfels, TX 78132-4879

Ford Wagner
10000 Highway 46 W
New Braunfels, TX 78132-1622

Ms Louann Wagner
10000 Highway 46 W
New Braunfels, TX 78132-1622

Ron Walton
1308 Bordeaux
New Braunfels, TX 78132-2681

G F Watkins
327 Valley Ldg
New Braunfels, TX 78132-3891

Jeanine Marie Watrous
14 Mission Trce
New Braunfels, TX 78130-6620

Jeff Weiler
1528 Decanter Dr
New Braunfels, TX 78132-2693

John Western
2026 Appellation
New Braunfels, TX 78132-2772

Rori White
2230 Pinot Blanc
New Braunfels, TX 78132-4800

Mr Stan Whittenburg
1005 Breve Cir
New Braunfels, TX 78132-2692

Benton Zwart
309 Copper Trce
New Braunfels, TX 78132-3914

ATTACHMENT A

Randolph Todd Company, LLC

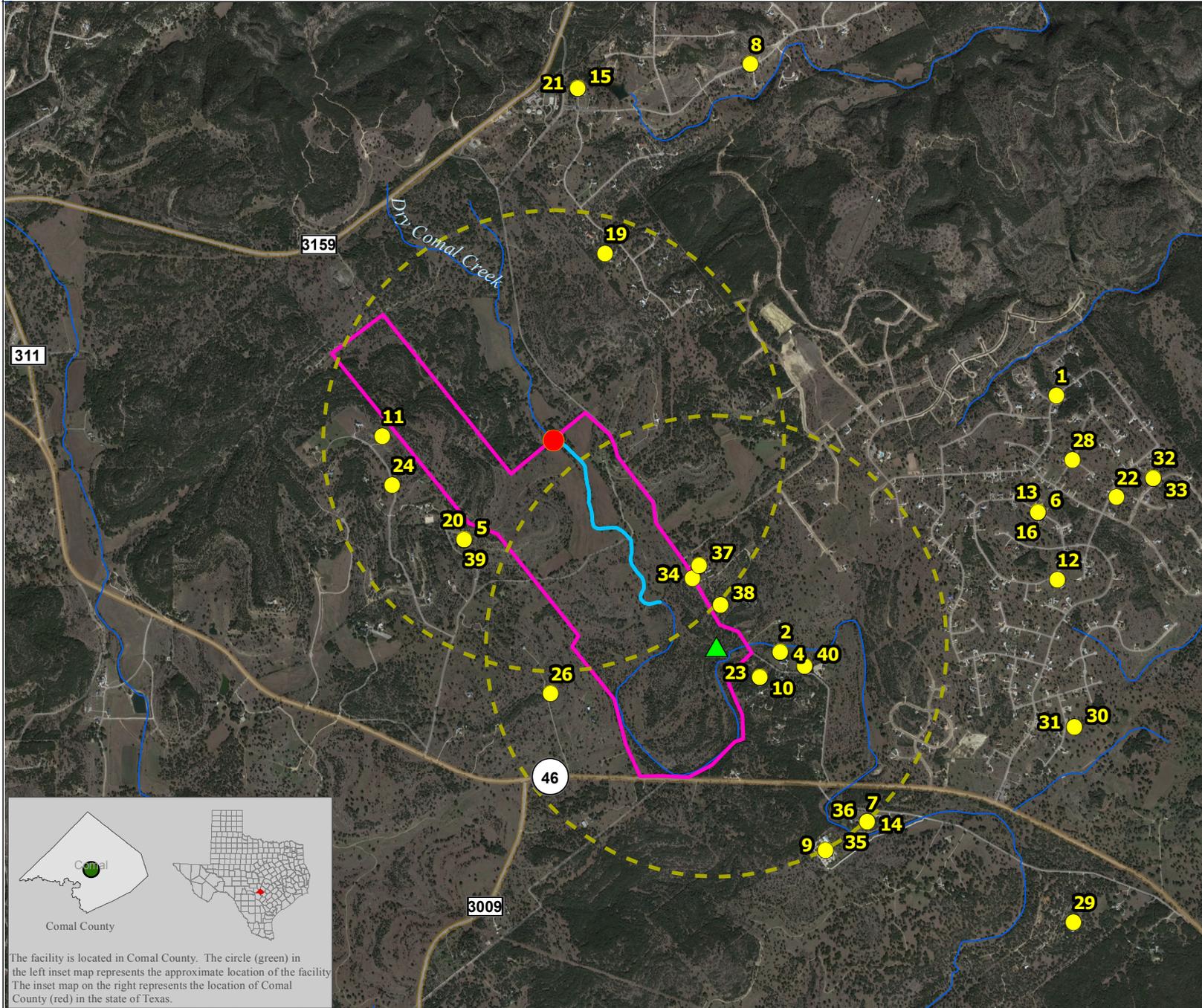
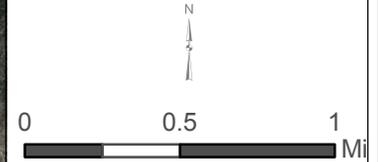
TPDES Permit No. WQ0015314001

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

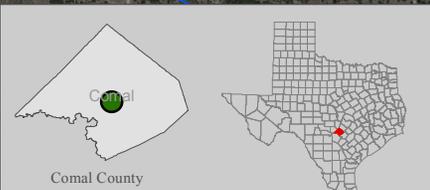
Date: 11/4/2015



- WWTP Facility
- Outfall
- LineEventsTable Events
- Applicants Property Boundary
- 1 mi radial distance
- Watercourse
- Major Highways
- Intermediate Roads
- Ramp
- Minor Roads
- Requester

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

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



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

Randolph Todd Company, LLC

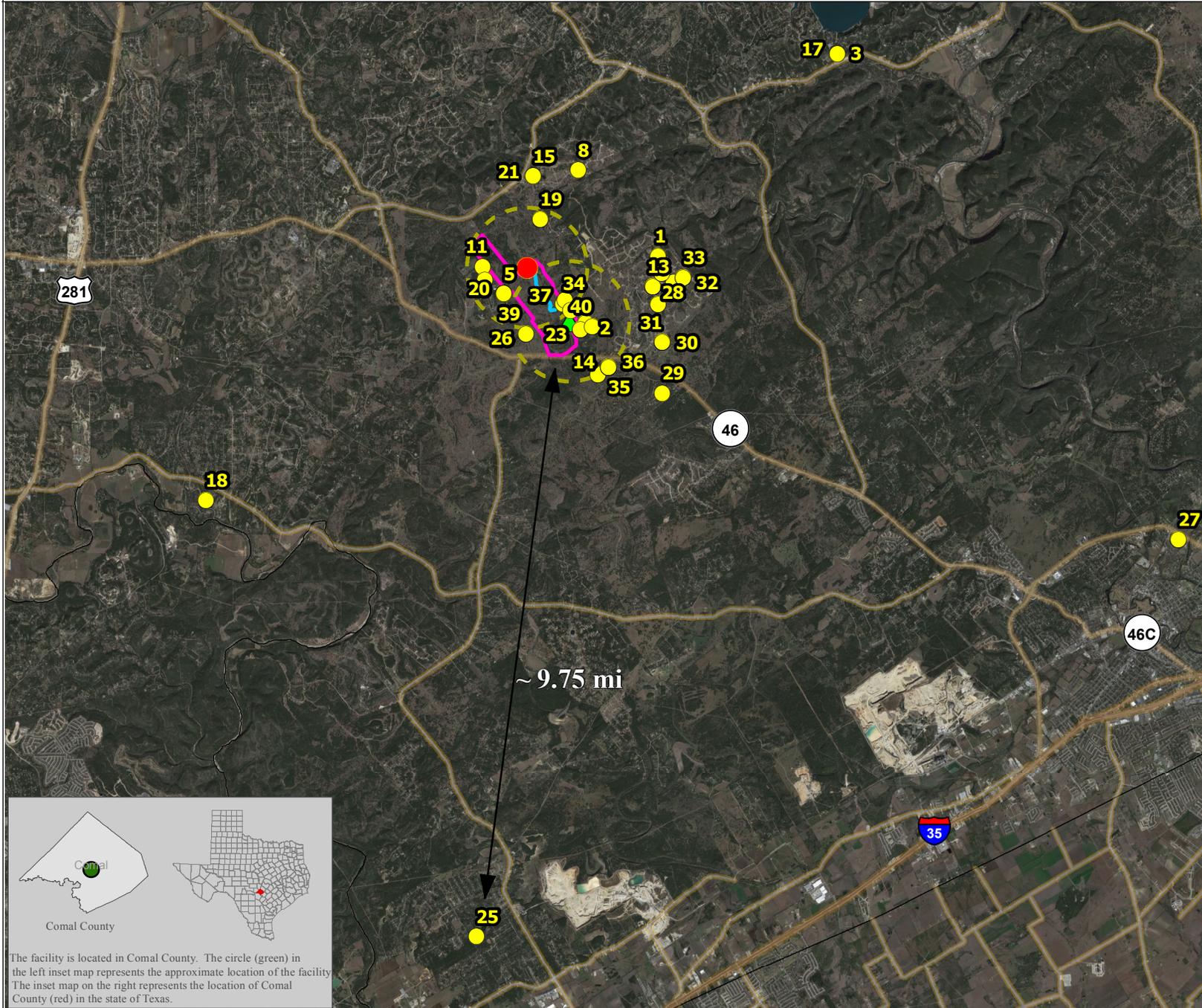
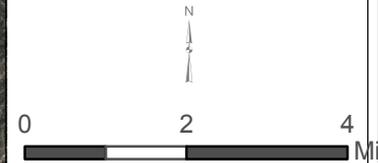
TPDES Permit No. WQ0015314001

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: 11/4/2015



- WWTP Facility
- Outfall
- LineEventsTable Events
- Applicants Property Boundary
- 1 mi radial distance
- Interstate
- Toll Roads
- Major Highways
- Intermediate Roads
- Requester

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.

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

ID	Requestor	Address	City	State	Zip
1	Connie Terao	2241 Appellation	New Braunsfels	TX	78132
2	Denise Harris	1670 S Cranes Mill Rd	New Braunsfels	TX	78132
3	Edmond Hubler	692 Rock Castle	Canyon Lake	TX	78133
4	Edward Harris	1670 S Cranes Mill Rd	New Braunsfels	TX	78132
5	Elizabeth L. Martin	900 Heritage Oaks	New Braunsfels	TX	78132
6	Felicia S. Thomas	1128 Provence Pl	New Braunsfels	TX	78132
7	Franklin Houser	1741 Herbelin Rd	New Braunsfels	TX	78132
8	James Whitmore	257 Dry Bear Crk	New Braunsfels	TX	78132
9	Jessica Smith	1723 Herbelin Rd	New Braunsfels	TX	78163
10	Nelda S. Davis	1789 S Cranes Mill Rd	New Braunsfels	TX	78132
11	R. Pappas	1100 Homestead Ridge	New Braunsfels	TX	78132
12	Richard Lamb	1504 Vino Cir	New Braunsfels	TX	78132
13	Rick Peyton	1015 Provence Pl	New Braunsfels	TX	78132
14	Sabrina A. Houser-Amaya	1741 Herbelin Rd	New Braunsfels	TX	78132
15	Sandy Nott	143 Dry Bear Crk	New Braunsfels	TX	78132
16	Sandy Peyton	1015 Provence Pl	New Braunsfels	TX	78132
17	Sharon Elaine Hubler	692 Rock Castle	Canyon Lake	TX	78133
18	Susan Ingram	29751 Twin Creeks Dr	Bulverde	TX	78163
19	Susan L. Dunlap	462 San Marcos Trl	New Braunsfels	TX	78132
20	Ted Martin	900 Heritage Oaks	New Braunsfels	TX	78132
21	Teressa Barnhill	143 Dry Bear Crk	New Braunsfels	TX	78132

22	John Hudson Blodgett	2345 Appelation	New Braunsfels	TX	78132
23	Ronald R. Davis	1789 S Cranes Mill Rd	New Braunsfels	TX	78132
24	Daniel Laroe	922 Homestead Ridge	New Braunsfels	TX	78132
25	Jerry Barucky	20806 Woodland CV	Garden Ridge	TX	78132
26	Susan R. Dooley Logue	10120 W State Highway 46	New Braunsfels	TX	78132
27	Majorie Marks	1355 Ranch Pkwy, Apt 112	New Braunsfels	TX	78130
28	Carl Thompson	1026 Stradina	New Braunsfels	TX	78132
29	Kenneth and Victoria Laubach	633 Herbelin Rd	New Braunsfels	TX	78132
30	John Sturtevant	1170 Sapling Spg	New Braunsfels	TX	78132
31	Brenda Sturtevant	1170 Sapling Spg	New Braunsfels	TX	78132
32	Randal Dean White	2230 Pinot Blanc	New Braunsfels	TX	78132
33	Aurora White Dozier	2230 Pinot Blanc	New Braunsfels	TX	78132
34	Ellen McClellan	2282 S Cranes Mill Rd	New Braunsfels	TX	78132
35	Bonnie Houser	1741 Herbelin Rd	New Braunsfels	TX	78132
36	Hector Amaya	1741 Herbelin Rd	New Braunsfels	TX	78132
37	Phyllis Yvonne Ritter	2360 S Cranes Mill Rd	New Braunsfels	TX	78132
38	Troy and Patricia Brand	1980 S Cranes Mill Rd	New Braunsfels	TX	78132
39	Taylor Martin	900 Heritage Oaks	New Braunsfels	TX	78132
40	Carole Farmer	1600 S Cranes Mill Rd	New Braunsfels	TX	78132

ATTACHMENT B



Compliance History Report

PUBLISHED Compliance History Report for CN604698464, RN107818577, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN604698464, RANDOLPH TODD COMPANY LLC	Classification:	NOT APPLICABLE	Rating:	N/A
Regulated Entity:	RN107818577, MEYER RANCH	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	2959 S CRANES MILL RD NEW BRAUNFELS TX 78132 USA COMAL, TX, COMAL COUNTY				
TCEQ Region:	REGION 13 - SAN ANTONIO				
ID Number(s):					
WASTEWATER PERMIT	WQ0015314001	WASTEWATER EPA ID	TX0135976		
Compliance History Period:	September 01, 2009 to August 31, 2014	Rating Year:	2014	Rating Date:	09/01/2014
Date Compliance History Report Prepared:	January 21, 2015				
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.				
Component Period Selected:	November 06, 2009 to January 21, 2015				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Becca Moore			Phone:	(512) 239-0058

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

ATTACHMENT C

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

DESCRIPTION OF APPLICATION

Applicant: Randolph Todd Company, LLC;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0015314001, TX0135976

Regulated Activity: Domestic Wastewater Permit

Type of Application: New Permit

Request: New Permit

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

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The draft permit includes an expiration date of **February 1, 2020**, according to 30 TAC § 305.71, Basin Permitting.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.15 million gallons per day (MGD) in the Interim I phase, a daily average flow not to exceed 0.27 MGD in the Interim II phase, and a daily average flow not to exceed 0.39 MGD in the Final phase. The proposed wastewater treatment facility will serve the Meyer Ranch subdivision.

PROJECT DESCRIPTION AND LOCATION

The Meyer Ranch Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units in the Interim I phase will include a bar screen, six flow equalization tanks, six aeration basins, twelve aerated moving bed biofilm reactors, twelve final clarifiers, an alum dosing tank, four filters, three sludge holding tanks, and four chlorine contact chambers. Treatment units in the Interim II phase will include a bar screen, thirteen flow equalization tanks, ten aeration basins, twenty aerated moving bed biofilm reactors, twenty final clarifiers, an alum dosing tank, four filters, five sludge holding tanks, and four chlorine contact chambers. Treatment units in the Final phase will include a bar screen, twenty flow equalization tanks, fourteen aeration basins, twenty-eight aerated moving bed biofilm reactors, twenty-eight final clarifiers, an alum dosing tank, four filters, five sludge holding tanks, and four chlorine contact chambers. The facility has not been constructed.

Sludge generated from the treatment facility will be hauled by a registered transporter to the San Antonio Water System Dos Rios Recycling Center, Permit No. WQ0010137033 to be digested, dewatered, and then disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site or co-disposal landfill.

The plant site will be located at 2959 South Cranes Mill Road, in Comal County, Texas 78132.

The treated effluent will be discharged to Dry Comal Creek; thence to Comal River in Segment No. 1811 of the Guadalupe River Basin. The unclassified receiving water use is minimal aquatic life use for Dry Comal Creek. The designated uses for Segment No. 1811 are high aquatic life use, public water supply, aquifer protection, and primary contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 TAC § 307.5 and the TCEQ implementation procedures (June 2010) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. This review has preliminarily determined that no water bodies with exceptional, high, or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 degradation determination is required. No significant degradation of water quality is expected in water bodies with exceptional, high, or intermediate aquatic life uses downstream, and existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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

In a case such as this, end-of-pipe compliance with pH limits from 6.0 and 9.0 standard units reasonably assures instream compliance with Texas Surface Water Quality Standards for pH due to the relatively small discharge volume authorized and the often-corresponding minimal or limited aquatic life uses within unclassified water bodies. This conservative assumption is based on TCEQ sampling conducted throughout the state that indicates that instream buffering quickly restores pH levels to ambient conditions.

The effluent limits recommended above have been reviewed for consistency with the State of Texas WQMP. The proposed limits are not contained in the approved WQMP. However, these limits will be included in the next WQMP update. A Waste Load Evaluation (WLE) has not prepared for Segment No. 1811.

A priority watershed of critical concern has been identified in Segment No. 1811 in Comal County. The Peck's cave amphipod (*Stygobromus pecki*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), Comal Springs riffle beetle (*Heterelmis comalensis*), and fountain darter (*Etheostoma fonticola*), endangered aquatic species, have been determined to occur in the watershed of Segment No. 1811. 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 United States Fish and Wildlife Service's (USFWS's) biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The presence of the endangered species requires EPA review and, if appropriate, consultation with USFWS.

Segment No. 1811 is not currently listed on the State's inventory of impaired and threatened waters, the 2012 Clean Water Act Section 303(d) list. Dry Comal Creek is listed for bacteria in the lower 25 miles of the water body (AU 1811A_01).

SUMMARY OF EFFLUENT DATA

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

DRAFT PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at an Interim I volume not to exceed a daily average flow of 0.15 MGD, an Interim II volume not to exceed a daily average flow of 0.127, and a Final volume not to exceed a daily average flow of 0.39 MGD.

The effluent limitations in all phases of the draft permit, based on a 30-day average, are 5 mg/l five-day carbonaceous biochemical oxygen demand, 5 mg/l total suspended solids, 2 mg/l ammonia nitrogen, 0.5 mg/l Total Phosphorus, 126 colony forming units or most probable number of *E. coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen. The effluent shall contain a chlorine residual of at least 1.0 mg/l and shall not exceed a chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e).

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation. Sludge generated from the treatment facility will be hauled by a registered transporter to the San Antonio Water System Dos Rios Recycling Center, Permit No. WQ0010137033 to be digested, dewatered, and then disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site or co-disposal landfill.

SUMMARY OF CHANGES FROM APPLICATION

The applicant requested effluent limitations, based on a 30-day average, of 1 mg/l Total Phosphorus in all phases of the permit. However, the total phosphorus effluent limitations in all three phases of the draft permit are 0.5 mg/l due to the proximity of the Edwards Aquifer Recharge Zone and to help preclude the degradation of Dry Comal Creek.

SUMMARY OF CHANGES FROM EXISTING PERMIT

N/A

BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received on November 6, 2014, and additional information received on March 3, 2015.
2. The effluent limitations and conditions in the draft permit comply with the Texas Surface Water Quality Standards, 30 TAC §§ 307.1 - 307.10, effective July 22, 2010 and the EPA approved portions of the 2014 Texas Surface Water Quality Standards, effective March 6, 2014.
3. The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Effluent Limitations.
4. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division.
5. Consistency with the Coastal Management Plan: The facility is not located in the Coastal

Management Program boundary.

6. *Procedures to Implement the Texas Surface Water Quality Standards (IP)*, Texas Commission on Environmental Quality, June 2010, as approved by EPA, and the IP, January 2003, for portions of the 2010 IP not approved by EPA.
7. Texas 2012 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, February 21, 2013; approved by the EPA on May 9, 2013.
8. TNRCC Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits, Document No. 98-001.000-OWR-WQ, May 1998.

PROCEDURES FOR FINAL DECISION

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

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

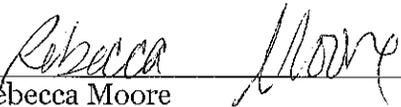
The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's response to comments and final decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will 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

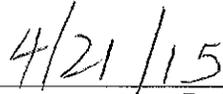
Randolph Todd Company, LL
TPDES Permit No. WQ0015314001
Statement of Basis Summary Executive Directors Preliminary Decision

comments or prepare its own response.

For additional information about this application, contact Rebecca Moore at (512) 239-0058.



Rebecca Moore
Municipal Permits Team
Wastewater Permitting Section (MC 148)



Date



TPDES PERMIT NO. WQ0015314001
[For TCEQ office use only - EPA I.D.
No. TX0135976]

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

Randolph Todd Company, LLC

whose mailing address is

4807 Spicewood Springs Road, Building 2, Suite 104
Austin, Texas 78759

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

located at 2959 South Cranes Mill Road, in Comal County, Texas 78132

to Dry Comal Creek; thence to Comal River in Segment No. 1811 of the Guadalupe 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, **February 1, 2020**.

ISSUED DATE:

For the Commission

INTERIM I EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 0.27 million gallons per day (MGD) facility, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.15 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 417 gallons per minute.

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (6.3)	10	20	30	One/week	Grab
Total Suspended Solids	5 (6.3)	10	20	30	One/week	Grab
Ammonia Nitrogen	2 (2.5)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (0.03)	1	2	3	One/week	Grab
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399	One/month	Grab

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

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 0.27 million gallons per day (MGD) facility and lasting through completion of expansion to the 0.39 MGD facility, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.27 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,083 gallons per minute.

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (11)	10	20	30	One/week	Grab
Total Suspended Solids	5 (11)	10	20	30	One/week	Grab
Ammonia Nitrogen	2 (6.5)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (1.1)	1	2	3	One/week	Grab
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399	One/month	Grab

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

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 0.39 million gallons per day (MGD) facility and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.39 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,083 gallons per minute.

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (16)	10	20	30	One/week	Grab
Total Suspended Solids	5 (16)	10	20	30	One/week	Grab
Ammonia Nitrogen	2 (6.5)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (1.6)	1	2	3	One/week	Grab
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399	One/month	Grab

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

DEFINITIONS AND STANDARD PERMIT CONDITIONS

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

1. Flow Measurements

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

2. Concentration Measurements

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

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

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

- e. Bacteria concentration (*E. coli* or Enterococci) - Colony Forming Units (CFU) or Most Probable Number (MPN) of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the n th root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
 - g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.
3. Sample Type
- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).

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

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

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

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

2. Test Procedures

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

3. Records of Results

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

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

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

4. Additional Monitoring by Permittee

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

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

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

7. Noncompliance Notification

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

9. Changes in Discharges of Toxic Substances

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

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

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

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

10. Signatories to Reports

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

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

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

PERMIT CONDITIONS**1. General**

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

2. Compliance

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

- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and TWC§ 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.
- h. In accordance with 30 TAC § 305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility which does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
- i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).

3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC § 361.
- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC § 7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

4. Permit Amendment and/or Renewal

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

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

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

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

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy

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

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

OPERATIONAL REQUIREMENTS

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

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

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

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

If in the judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 169) 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.

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

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

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

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SLUDGE PROVISIONS

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

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION

A. General Requirements

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

B. Testing Requirements

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

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

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

TABLE 1

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

* Dry weight basis

3. Pathogen Control

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

- a. For sewage sludge to be classified as Class A with respect to pathogens, the density of fecal coliform in the sewage sludge be less than 1,000 most probable number (MPN) per gram of total solids (dry weight basis), or the density of Salmonella sp. bacteria in the sewage sludge be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. In addition, one of the alternatives listed below must be met.

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

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

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

- b. For sewage sludge to be classified as Class AB with respect to pathogens, the density of fecal coliform in the sewage sludge be less than 1,000 MPN per gram of total solids (dry weight basis), or the density of Salmonella sp. bacteria in the sewage sludge be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. In addition, one of the alternatives listed below must be met.

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

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

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

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

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

- c. Sewage sludge that meets the requirements of Class AB sewage sludge may be classified a Class A sewage sludge if a variance request is submitted in writing that is supported by substantial documentation demonstrating equivalent methods for reducing odors and written approval is granted by the executive director. The executive director may deny the variance request or revoke that approved variance if it is determined that the variance may potentially endanger human health or the environment, or create nuisance odor conditions.
- d. Three alternatives are available to demonstrate compliance with Class B criteria for sewage sludge.

Alternative 1

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

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

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

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

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

- ii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;
- iii. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review;
- iv. The Executive Director will accept from the U.S. Environmental Protection Agency a finding of equivalency to the defined PSRP; and
- v. If the sewage sludge is generated from a mixture of sources resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the Processes to Significantly Reduce Pathogens, and shall meet the certification, operation, and record keeping requirements of this paragraph.

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

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

- viii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.
- ix. Land application of sludge shall be in accordance with the buffer zone requirements found in 30 TAC § 312.44.
4. Vector Attraction Reduction Requirements

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

- Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38%.
- Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30° and 37° Celsius. Volatile solids must be reduced by less than 17% to demonstrate compliance.
- Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20° Celsius. Volatile solids must be reduced by less than 15% to demonstrate compliance.
- Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° Celsius.
- Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40° Celsius and the average temperature of the sewage sludge shall be higher than 45° Celsius.
- Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container.
- Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials at the time the sludge is used. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

- Alternative 9 -
- i. Sewage sludge shall be injected below the surface of the land.
 - ii. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.
 - iii. When sewage sludge that is injected below the surface of the land is Class A or Class AB with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

- Alternative 10-
- i. Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.
 - ii. When sewage sludge that is incorporated into the soil is Class A or Class AB with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

C. Monitoring Requirements

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

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

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

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

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

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

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

A. Pollutant Limits

Table 2

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

Table 3

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

*Dry weight basis

B. Pathogen Control

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

C. Management Practices

1. Bulk sewage sludge shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters in the State.
2. Bulk sewage sludge not meeting Class A requirements shall be land applied in a manner which complies with Applicability in accordance with 30 TAC § 312.41 and the Management Requirements in accordance with 30 TAC § 312.44.
3. Bulk sewage sludge shall be applied at or below the agronomic rate of the cover crop.
4. An information sheet shall be provided to the person who receives bulk sewage sludge sold or given away. The information sheet shall contain the following information:
 - a. The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land.
 - b. A statement that application of the sewage sludge to the land is prohibited except in accordance with the instruction on the label or information sheet.
 - c. The annual whole sludge application rate for the sewage sludge application rate for the sewage sludge that does not cause any of the cumulative pollutant loading rates in Table 2 above to be exceeded, unless the pollutant concentrations in Table 3 found in Section II above are met.

D. Notification Requirements

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

E. Record keeping Requirements

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

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

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

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

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

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

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

F. Reporting Requirements

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

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

17. When the amount of any pollutant applied to the land exceeds 90% of the cumulative pollutant loading rate for that pollutant, as described in Table 2, the permittee shall report the following information as an attachment to the annual reporting form.

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

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

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

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

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

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

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

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

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

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

G. Reporting Requirements

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

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

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

TCEQ Revision 12/2014

SECTION IV. REQUIREMENTS APPLYING TO SLUDGE TRANSPORTED TO ANOTHER FACILITY FOR FURTHER PROCESSING

These provisions apply to sludge that is transported to another wastewater treatment facility or facility that further processes sludge. These provisions are intended to allow transport of sludge to facilities that have been authorized to accept sludge. These provisions do not limit the ability of the receiving facility to determine whether to accept the sludge, nor do they limit the ability of the receiving facility to request additional testing or documentation.

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC Chapter 312 and all other applicable state and federal regulations in a manner that protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present in the sludge.
2. Sludge may only be transported using a registered transporter or using an approved pipeline.

B. Record Keeping Requirements

1. For sludge transported by an approved pipeline, the permittee must maintain records of the following:
 - a. the amount of sludge transported in dry tons per year;
 - b. the date of transport;
 - c. the name and TCEQ permit number of the receiving facility or facilities;
 - d. the location of the receiving facility or facilities;
 - e. the name and TCEQ permit number of the facility that generated the waste; and
 - f. copy of the written agreement between the permittee and the receiving facility to accept sludge.
2. For sludge transported by a registered transporter, the permittee must maintain records of the completed trip tickets in accordance with 30 TAC § 312.145(a)(1)-(7) and amount of sludge transported in dry tons per year.
3. The above records shall be maintained on-site on a monthly basis and shall be made available to the TCEQ upon request. These records shall be retained for at least five years.

C. Reporting Requirements

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

1. the annual sludge production in dry tons per year;
2. the amount of sludge transported in dry tons per year;
3. the owner of each receiving facility;
4. the location of each receiving facility; and
5. the date(s) of disposal at each receiving facility.

TCEQ Revision 2/2015

OTHER REQUIREMENTS

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

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

2. The facility is not located in the Coastal Management Program boundary.
3. The permittee is hereby placed on notice that this permit may be reviewed by the TCEQ after the completion of any new intensive water quality survey on Segment No. 1811 of the Guadalupe River Basin and any subsequent updating of the water quality model for Segment No. 1811 to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC § 305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling a protocol approved in the TCEQ Continuing Planning Process.
4. The permittee shall comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the permittee shall comply with the requirements of 30 TAC § 309.13(e).
5. The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.
6. In accordance with 30 TAC § 319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee may be given a less frequent measurement schedule. For this permit, 1/month may be reduced to 1/quarter in all phases. **A violation of any bacteria limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return to the standard frequency schedule and submit written notice to the TCEQ Wastewater Permitting Section (MC 148).** The permittee may not apply for another reduction in measurement frequency for at least 24 months from the date of the last violation. The Executive Director may establish a more frequent measurement schedule if necessary to protect human health or the environment.
7. Prior to construction of the treatment facility, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary submittal letter in accordance with the requirements in 30 TAC Section 217.6(c). If requested by the Wastewater Permitting Section, the permittee shall submit plans and specifications and a final engineering design report which comply with 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems. The permittee shall clearly show how the

treatment system will meet the permitted effluent limitations required on Pages 2, 2a, and 2b of this permit.

8. Reporting requirements according to 30 TAC Sections 319.1-319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge from the facility described by this permit, whichever occurs first. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 13) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first, and prior to the completion of each additional phase on Notification of Completion Form 20007.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

TO: Bridget C. Bohac, Chief Clerk

DATE: December 16, 2015

THRU: Firoj Vahora, Team Leader
Municipal Permits Team

FROM: Rebecca Moore
Municipal Permits Team

SUBJECT: **CHANGES TO THE DRAFT PERMIT**
Randolph Todd Company, LLC, TPDES Permit No.
WQ0015314001, EPA ID No. TX0135976

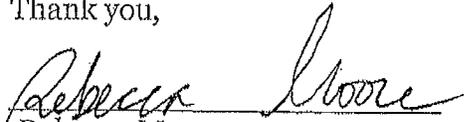
We request that the attached pages be updated in the permit file, which was filed with the Chief Clerk's office on May 7, 2015. The changes are:

Draft permit

Page 2: The daily average has been corrected for total phosphorus from 0.03 lbs/day to 0.63 lbs/day

Page 2a: The 2-hour peak flow has been corrected from 1,083 gallons per minute (gpm) to 750 gpm.

Thank you,


Rebecca Moore

*End of Notice Period has past
and changes have been incorporated into
draft permit by: _____*

CHIEF CLERK'S OFFICE

2015 DEC 16 PM 4:02

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

INTERIM I EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 0.27 million gallons per day (MGD) facility, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.15 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 417 gallons per minute.

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (6.3)	10	20	30	One/week	Grab
Total Suspended Solids	5 (6.3)	10	20	30	One/week	Grab
Ammonia Nitrogen	2 (2.5)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (0.63)	1	2	3	One/week	Grab
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399	One/month	Grab

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

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 0.27 million gallons per day (MGD) facility and lasting through completion of expansion to the 0.39 MGD facility, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.27 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 750 gallons per minute.

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (11)	10	20	30	One/week	Grab
Total Suspended Solids	5 (11)	10	20	30	One/week	Grab
Ammonia Nitrogen	2 (4.5)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (1.1)	1	2	3	One/week	Grab
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399	One/month	Grab

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

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 0.39 million gallons per day (MGD) facility and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.390 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,083 gallons per minute.

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (16)	10	20	30	One/week	Grab
Total Suspended Solids	5 (16)	10	20	30	One/week	Grab
Ammonia Nitrogen	2 (6.5)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (1.6)	1	2	3	One/week	Grab
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399	One/month	Grab

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

ATTACHMENT D

**APPLICATION BY
RANDOLPH TODD COMPANY,
LLC
FOR TPDES PERMIT NO.
WQ00015314001**

**BEFORE THE
TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the Executive Director's preliminary decision to approve Randolph Todd Company, LLC's (Randolph Todd) application for a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015314001. As required by 30 Texas Administrative Code (TAC) Section 55.156, before this permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk received a timely comment letters or formal comments at the public meeting from Eric Allmon on behalf of Fredrick, Perales, Allmon and Rockwell (FPAR), Leon Dominick on behalf of Waggener Ranch, Carol Fischer on behalf of the Greater Edwards Aquifer Alliance (GEAA), Denise Harris and Edward Harris on behalf of the Friends of Dry Comal Creek (FDCC), Thomas Hodge on behalf Canyon Lake Water Service Co. (CLWS), Victoria Laubach on behalf of Friends of Dry Comal Creek (FDCC), Anne Rogers on behalf of Texas Parks and Wildlife Department (TPWD), and Steve Snyder on behalf of Environment Texas, as well as the individuals listed below:

Hector Amaya	Daniel Cevallos	Ron Frisk
Sabrina Houser-Amaya	Thomas Chaney	Terrance M. Frost
Marc Arias	Kevin Coleman	Travis Galvan
Dan Balgemann	Amy Collins	Dwain Glass
Teressa Barnhill	Nelda Davis	Eddie Edwin Glass
Jerry Barucky	Ronald Davis	Gloria Glass
Heather Beard	Jonni Doeppenschmidt	Terrell Graham
Tracy Blackwell	Becky Dominick	Debbie Sabins Grun
John Hudson Blodgett	Susan L. Dunlap	Edward Grun
Patricia Brand	Carole Farmer	Terri Hall
Troy Calvin Brand	Kathy Fincher	Cheryl Hamp
Suzanne Byrd	Ronald Fincher	Ken Head

Cory Henderson	Elizabeth Martin	John Ritter
Lezlee Katherine Herbert	Taylor Martin	Phyllis Y. Ritter
Kenneth Higby	Ted Martin	Carolyn Roberts
Ricki Ann Holt	Michael McChesney	Craig Scallan
Franklin Houser	Ellen McClellan	Jessica Smith
Edmund O. Hubler	Carey McWilliams	Susan Syamken
Sharon Elaine Hubler	Casey James Menn	Connie Terao
Susan Ingram	Dale Miller	Kyle Terao
Mark Johnson	Jack and Jo Marie Miller	Felicia S. Thomas
Brittany Judd	Marlene Moore	Carl Thompson
Pat Knipe	Sandy Nott	Ford Wagner
Richard Lamb	Kermit O'Neal	Louann Wagner
Karen Langelier	Sarah O'Neal	GF Watkins
Daniel Laroe	Nancy Pappas	Jeanine Marie Watrous
Calli Laubach	R. Pappas	Jeff Weiler
Cara Laubach	Rick Peyton	John Western
Clint Laubach	Sandy Peyton	Aurora Dozier White
Kenneth Laubach	Amanda Pierson	Randal D. White
Latisha Loria	Jill Pope	James Whitemore
Susan R. Dooley Logue	Jason Retzloff	Stan Whittenburg
Marjorie Marks	Richard K. Rheinhardt	

Additionally, State Representative Doug Miller requested a public meeting. This response addresses all timely filed public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.gov.

I. Background

A. Description of Facility

Randolph Todd has applied for a new TPDES Permit No. WQ0015314001 to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.15 million gallons per day (MGD) in the Interim I Phase, a daily average flow not exceed 0.27 MGD in the Interim II Phase and a daily average flow not to exceed 0.39

MGD in the Final Phase. The proposed wastewater treatment plant will serve the Meyer Ranch subdivision.

The facility will be located at 2959 South Cranes Mill Road, in Comal County, Texas 78132. The treated effluent will be discharged to Dry Comal Creek; then to Comal River in Segment No. 1811 of the Guadalupe River Basin. The unclassified receiving water use is minimal aquatic life use for Dry Comal Creek. The designated uses for Segment No. 1811 are high aquatic life use, public water supply, aquifer protection, and primary contact recreation.

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

B. Procedural Background

The TCEQ received Randolph Todd's application for a new TPDES permit on November 6, 2014 and declared it administratively complete on January 6, 2015. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on January 13, 2015 in the *New Braunfels Herald-Zeitung*, Comal County, Texas. The Executive Director completed the technical review of the application on March 4, 2015 and prepared a draft TPDES permit. The Notice of Public Meeting and the Notice of Application and Preliminary Decision (NAPD) were published May 15, 2014 in the *New Braunfels Herald-Zeitung*, Comal County, Texas. A public meeting was held June 18, 2015, at the Smithson Valley Middle School Cafeteria. The comment period for this application closed on June 18, 2015. This application was administratively complete on or before September 1, 1999; therefore, this application is subject to 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: <http://www.sos.state.tx.us>;
- for TCEQ rules in Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select "View the current Texas Administrative Code" on the right, then "Title 30 Environmental Quality");
- for Texas statutes: <http://www.statutes.legis.state.tx.us/>;

- to access the TCEQ website: www.tceq.texas.gov (for downloadable rules in Adobe PDF format, select “Rules” then “Download TCEQ Rules”);
- for Federal rules in Title 40 of the Code of Federal Regulations: www.ecfr.gov; and
- for Federal environmental laws: <http://www2.epa.gov/laws-regulations>.

Commission records on the Application are available for viewing and copying and are located at Bulverde/Spring Branch Public Library, 131 Bulverde Crossing, Bulverde, Texas.

II. Comments and Responses

Comment 1:

Multiple commenters expressed general opposition to the permit.

Response 1:

The Executive Director acknowledges the comments.

Comment 2:

Multiple commenters stated that they did not receive mailed notice of the Applicant’s submission of the permit application. Ed Harris, Franklin Houser, Sabrina Houser-Amaya and Marlene Moore stated that the draft permit was not available for review at Bulverde/Spring Branch Public Library after publication of the combined Notice of Public Meeting and NAPD.

Response 2:

For new permit and major amendment applications, the applicant must provide a list of affected landowners and a map showing their location(s). Affected landowners are landowners located adjacent to the wastewater treatment plant site and landowners with property on either side of the receiving stream approximately one mile downstream from the point of discharge. The TCEQ mails notice of the application to the affected landowners and others on the mailing list for the application, which is maintained by the Office of the Chief Clerk.

Additionally, for all applications (new, major amendment and renewal applications), the agency prepares two public notices; the NORI (published on January 13, 2015) and the Notice of Application and Preliminary Decision (published on May 15, 2015). The applicant is required to publish these notices in a local newspaper and to provide a copy of the application, proposed draft permit and Executive Director’s Preliminary Decision in a public place for viewing.

According to Randolph Todd’s Public Notice Verification Form, submitted on June 4, 2015, the permit application and draft permit were made available for review and copying at the Spring Branch Public Library in Bulverde, Texas. During the public meeting it was brought to the attention of the Executive Director’s staff, that the draft permit was not readily available for public viewing. In order to resolve this issue, the Executive Director has required Randolph Todd to replace the draft permit for public viewing at the Spring Branch Public Library until either the TCEQ acts on the

application or the application is referred to the State Office of Administrative Hearings (SOAH) for hearing.

Comment 3:

Multiple commenters noted that there are incorrect statements in the Randolph Todd application for a discharge permit. Similarly, commenters noted that the deficiencies should result in the permit being denied.

Response 3:

TCEQ staff uses the permit application and several sources of information, including maps and databases, when evaluating a permit application. The TCEQ permit application process requires all applicants to certify that under penalty of law that the document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. The understanding is that the information provided is true, accurate and complete. In most cases, an applicant is sent a notice of deficiency (NOD) if there is missing information that is required to complete the review of the permit application. Randolph Todd was sent a NOD from the Applications Team on November 14, 2014; Randolph Todd responded via letter received on December 30, 2014.

Comment 4:

GEAA questioned why the application indicated that they are not within the vicinity of a POTW or sewage line and then answer 'yes' to the outfall being located in New Braunfels. Additionally, GEAA questioned where is the extra information referred to in the application, for qualifying counties regarding the Edwards Aquifer, and which coordinates were used to determine whether the property and discharge are on which zones of the Edwards Aquifer. Also, GEAA asked about the areas that are left blank on the technical portion of the application and whether staff performs an analysis and fills in the blanks for the applicant; if not, why was the applicant allowed to leave blanks, considering there is a public notice requirement.

Response 4:

Randolph Todd was required to provide information regarding other wastewater treatment facilities or collection systems in the area that are willing and able to accept wastewater from the new subdivision. Randolph Todd indicated in the application that there are no treatment facilities or collection systems located within three miles of the proposed facility. TCEQ uses the threshold of three miles to determine if there is another entity in the vicinity that is willing and able to accept wastewater from a proposed facility to meet the regionalization requirement in the Texas Water Code (TWC) § 26.0282.

Randolph Todd was also required to indicate whether the proposed facility will be located within a county where the Edwards Aquifer underlies.¹ These counties include: Bexar, Comal, Hays, Kinney, Medina, Travis, Uvalde and Williamson County. This

¹ Randolph Todd Company, LLC Permit Application, Domestic Administrative Report 1.1, Item No. 7(c), page 11.

information is requested in the permit application because the rules at 30 TAC § 213, may be applicable to an activity located within the Edwards Aquifer.

TCEQ staff does not fill in any blanks in the application. As mentioned in Response 4, if there is information missing or incomplete, the Applications Review and Processing Team will send the applicant a NOD or email requesting that the additional information be provided. Randolph Todd was sent a NOD from the Applications Team on November 14, 2014; Randolph Todd responded via letter received on December 30, 2014.

Comment 5:

Edward Harris noted the following errors in the permit application's Domestic Technical Report: page 2, Item 3, he noted that the pipe diameter is not defined; page 8-9, Items No. 5 & 6, he noted that the discharge will run through property with storm water and questioned where is the storm water management plan; page 17, Item 13(e) he noted that there are neighbors in the area with water wells nearby; Domestic Technical Report 1.1 page 25, Item 5, he noted that there was a 500 year flood in 1998; Domestic Technical Report Worksheet 2.0 page 28, Item 1, he noted that the Copper Ridge Subdivision uses a New Braunfels Utility well five miles away; page 29, Item 3, he notes that the site is over the Edwards Recharge Zone check latitude/longitude; page 30, Item 4(b), he noted that the area downstream of the discharge point is dry 40 weeks a year but floods frequently during wet years; page 32, Item 4(c), he noted that there is no description checked, and if it called an "other stream" then it is mostly a natural area; page 34, Stream Transects, he noted that at his neighbor's house next door, a natural pool in bed rock is present, where cattle drink from year round.

Response 5:

Domestic Technical Report--Page 2, Item 3: The applicant will be required to submit plans and specifications before the construction of the treatment facility is authorized. The size of the pipe will be required to conform to 30 TAC § 217 rules.

Domestic Technical Report--Pages 8-9, Items No. 5 & 6: Item 5 refers to stormwater entering the wastewater treatment plant and being discharged with the treated domestic wastewater. The applicant has indicated that stormwater will not enter the collection system. The TCEQ application form number 10054 notes the following: "The facility is required to obtain authorization to discharge stormwater to surface water in the state. This requirement applies to all areas of facilities with treatment plants or systems that treat, store, recycle, or reclaim domestic sewage, wastewater or sewage sludge (including dedicated lands for sewage sludge disposal located within the property boundaries) that meet the applicability criteria of above. An applicant has the option of obtaining coverage under the Multi-Sector General Permit (MSGP) for direct discharges (recommended), or obtaining coverage under this individual permit." Randolph Todd has not requested coverage under this individual permit and therefore will obtain coverage under the MSGP for direct discharges.

Domestic Technical Report--Page 17, Item 13(e): This item in the application is in reference to sludge lagoons.² The facility will not have a sewage sludge lagoon and therefore is not required to complete this item.

² Randolph Todd Company, LLC Permit Application, Domestic Technical Report 1.0, Item No. 13, page 14.

Domestic Technical Report 1.1--Page 25, Item 5: Randolph Todd indicated the facility will be located above the 100-year frequency flood level. If a facility is located within the 100-year flood plain, the applicant is required to protect the facility during a flood event.

Domestic Technical Report 2.0--Page 28, Item 1: This item in the application refers to the location of surface water intakes for domestic drinking water supply, within five miles a of the discharge point. This information does not apply to groundwater sources.

Domestic Technical Report 2.0--Page 29, Item 3: This item in the application refers to a classified surface water segment. The facility would not discharge directly into (or within 300 feet of) a classified segment.

Domestic Technical Report 2.0--Page 30, Item 4(b): Randolph Todd indicated the receiving stream is intermittent, which means it is dry for at least one week during most years.

Domestic Technical Report 2.0--Page 32, Item 4(c): This page of information is useful in the review of the discharge route. However, the reviewer uses several sources of information, including available aerials, USGS maps, and applicant photographs, to evaluate the discharge route and surrounding areas.

Domestic Technical Report 2.0--Page 34: Photos or an affidavit of the pool along with a map of the location may be submitted to assist in the assessment of this reach. If the pool is more than 3 miles downstream of the discharge, it will not be included in the assessment reach. However, the presence of a pool is not expected to affect the effluent limits incorporated into the draft permit since the limits are currently dictated by the Edwards Aquifer Rules.

Comment 6:

Edward Harris noted the following errors in the permit application's Domestic Wastewater Permit Application Administrative Report: page 14, Item 8(d) he identified a spelling error; page 15, Item 8(h) he noted that the proposed discharge makes its way to a state highway and county road, per the map.

Supplemental Permit Information Form page 19, Item 7, he noted that the Applicant's description fails to identify that the Dry Comal Creek is 20 to 30 miles long; page 20, Item 10 he noted that sludge trucks will involve the use of all applicable boxes, and that each box should be checked; page 20 Item 11 he noted there are caves and karst formations all over the area.

Additionally, Edward Harris noted the following errors in the Applicant's attachment titled "Plans and Specifications for a Wastewater Treatment System Design" dated October 27, 2014: page 1, Project Description and Location, he noted that Dry Comal Creek never enters Cibolo Creek; page 2, top of page, he noted that the Applicant's description of the discharge route is completely incorrect; page 4, Plans and Specifications, he noted that most university studies say 240 gallons per day (gpd) per home is [illegible], that the new direction is estimating 150 gpd per bedroom, that Texas is 2 persons per bedroom, so gpd times 4 bedrooms is 240, and that Texas uses the lowest gpd estimate in the country.

Response 6:

Domestic Wastewater Permit Application Administrative Report-- Page 3, Item 1(a): It is not within the jurisdiction of the TCEQ to judge the size of the company as the applicant may contract with a third company for operation of the wastewater treatment facility.

Domestic Wastewater Permit Application Administrative Report-- Page 14, Item 8(d): The Executive Director acknowledges the comment.

Domestic Wastewater Permit Application Administrative Report-- Page 15, Item 8(h): The Executive Director acknowledges the comment. The correct discharge route is to a creek and not a city or state highway right-of-way or flood control district.

Supplemental Permit Information Form--Page 19, Item 7: The Executive Director acknowledges the comment. This page of information is useful in the review of the discharge route. However, the reviewer uses several additional sources of information, including available aerials, USGS maps, and applicant photographs, to evaluate the discharge route and surrounding areas.

Supplemental Permit Information Form--Page 20, Item 10: The Executive Director acknowledges the comment. Before building on the recharge, transition, or contributing zones of the Edwards Aquifer, an applicant must have building plans reviewed and approved by the TCEQ Edwards Aquifer Protection Program (EAPP). Once a plan is approved, the site will be monitored for compliance with applicable Edwards Aquifer Rules.

Supplemental Permit Information Form--Page 20, Item 11: The Executive Director acknowledges the comment. Before building on the recharge, transition, or contributing zones of the Edwards Aquifer, an applicant must have building plans reviewed and approved by the TCEQ EAPP. Once a plan is approved, the site will be monitored for compliance with applicable Edwards Aquifer Rules.

Plans and Specifications, page 1: As Mr. Harris noted, the correct discharge route description is to Comal Creek, not Cibolo Creek. The Plans and Specifications have not been approved at this time. They cannot be reviewed and approved until the municipal wastewater permit has been approved. The facility may not be constructed until the Plans and Specifications have been approved.

Plans and Specifications, page 2: The Plans and Specifications have not been approved at this time. They cannot be reviewed and approved until the municipal wastewater permit has been approved. The facility may not be constructed until the Plans and Specifications have been approved.

Plans and Specifications, page 4: Table B.1. of 30 TAC § 217.32 outlines the organic loadings and loads for a new facility. Randolph Todd is assuming 75 gallons per day per person at 250 mg/l five-day biochemical oxygen demand (BOD₅), which is within the range outlined in the table. However, Randolph Todd has not specified the number of people expected per household. If Randolph Todd has under-estimated the flow to the wastewater treatment facility, they will be required to move to the next phase of their permit. The draft permit requires that whenever the flow reaches 75% of the permitted daily average flow for three consecutive months, the permittee shall start planning for the next phase.³ Additionally, the draft permit requires that whenever the flow reaches 90% of the permitted daily average or annual average flow for three

³ Randolph Todd Company, LLC, Draft Permit, Operational Requirements, Item No. 8(a), page 14.

consecutive months, the permittee shall obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection facilities.⁴ Additionally, the Plans and Specifications have not been approved at this time. They cannot be reviewed and approved until the municipal wastewater permit has been approved. The facility may not be constructed until the Plans and Specifications have been approved.

Comment 7:

Several commenters questioned whether the Applicant is required to be the owner of the property where the proposed facility will be located. Edward Harris asserted that Randolph Todd does not currently own the property in question; therefore, the Commission should not issue the draft permit.

Response 7:

TCEQ rules require that applications for use of state water include proper ownership documents (including easements and consents) to be included in the application for a wastewater discharge permit.⁵ During the public meeting, it was brought to the Executive Director's staff attention that Randolph Todd incorrectly indicated that the company is the owner of the property where the proposed wastewater facility will be located. As a result, Randolph Todd was required to provide a copy of an executed option to purchase contract (agreement) to show that the company will have ownership upon permit approval. This document has been provided by Randolph Todd and filed with the TCEQ's Office of the Chief Clerk as of August 11, 2015.

Comment 8:

Leon Dominick questioned how many contested case hearings have been granted in the past three years versus how many permits were approved. Additionally, he questioned how many permits were disapproved over the past three years.

Response 8:

The TCEQ does not track the number of all permits denied or approved over a time period. Given that the TCEQ authorizes permits for different media, including but not limited to, air, waste, and water, the Commission receives a multitude of permit applications on a rolling basis. Information regarding a specific permit application can be accessed in the TCEQ's Central File Room, located at TCEQ's Main Campus, Bldg. E Room 103, First Floor. For information regarding the Records Service facilities, please call (512)239-2900 or email at cfrreq@tceq.texas.gov. All TCEQ records are available for public viewing unless one of the exceptions to disclosure listed in the Public Information Act applies. Government Code § 552 - Public Information, lists the exceptions.

Comment 9:

Mark Arias questioned what regulations apply to the permitted dumping of wastewater into the tributaries of the Comal River. Terrence Frost questioned whether

⁴ Randolph Todd Company, LLC, Draft Permit, Operational Requirements, Item No. 8(a), page 14.

⁵ 30 TEX. ADMIN. CODE § 281.4 (regarding information required for applications requesting the use of state water).

the Applicant has complied with Texas laws and regulations concerning the protection of the environment and water quality.

Response 9:

The State of Texas assumed authority under federal mandate to administer the National Pollutant Discharge Elimination System (NPDES) program under Section 402 of the Clean Water Act in 1998. The NPDES is a federal regulatory program to control discharges of pollutants to surface waters of the United States. The TCEQ is responsible for the protection of water quality with federal regulatory authority over discharges of pollutants to Texas surface water, with specific exceptions for oil and gas exploration and development activities. The TCEQ has a legislative responsibility to protect water quality in the State of Texas and to authorize wastewater discharge TPDES permits under TWC Chapter 26 and 30 TAC §§ 305, 307 and 309, including specific statutes regarding wastewater treatment systems under 30 TAC §§ 217 and 309.

Randolph Todd has applied to the TCEQ for a new TPDES permit, authorized and regulated under the Texas Water Code and applicable Commission rules. The Executive Director has completed the technical review of the application and prepared a draft permit. The Executive Director has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements. The TCEQ also submitted the draft permit to the US Environmental Protection Agency (EPA) Region 6 for review. The EPA reviewed the draft permit and did not have any objections to the issuance of the draft permit.

Comment 10:

Multiple commenters questioned whether the TCEQ has conducted an environmental impact study or analysis of the area during the review of the wastewater permit application for the Randolph Todd Company, LLC.

Response 10:

The TCEQ has not conducted an environmental impact study of the area. An environmental impact study is not required as part of the wastewater permit application process. However, because this facility would be located within the Edwards Aquifer area, Randolph Todd will be required to submit plans to the EAPP for approval. The EAPP is the body within the TCEQ that is responsible for implementing the Edwards Aquifer Rules, found at 30 TAC § 213 (213.1-213.31). The EAPP handles requests from regulated entities for interpretations of the Edwards Aquifer Rules, reviews the required applications of the Edwards Aquifer Rules that are submitted by regulated entities, and ensures that regulated entities comply with the Edwards Aquifer rules.

Before building on the recharge, transition, or contributing zones of the Edwards Aquifer, an applicant must have building plans reviewed and approved by the TCEQ EAPP. Once a plan is approved, the site will be monitored for compliance with applicable Edwards Aquifer Rules. The headquarters of the EAPP is Austin's Region 11 field office and San Antonio's Region 13 office.

Comment 11:

GEAA questioned whether the numerical effluents in the interoffice memo from Tom Harrigan, Qual-Tex modeler address additional loading from other wastewater

treatment facilities in the area. Also, GEAA asked if the standardized default values for the coefficients and kinetics used in the Qual-Tex modeler. Additionally, GEAA questioned whether there has been a waste load evaluation completed for segments 1810, 1811 or 1811a.

Response 11:

It is TCEQ practice to include all appropriate permitted discharges in an area when performing a dissolved oxygen (DO) analysis if they are close enough to one another to have a cumulative effect. In the case of the proposed Randolph Todd discharge, no other facilities were close enough to warrant their inclusion in the analysis. A waste load evaluation has been prepared for Segment N. 1810. However, a waste load evaluation has not been prepared for Segment No. 1811 or 1811A. It should be noted that this proposed discharge is not into the watershed of Segment No. 1810 (Plum Creek).

Comment 12:

John Hudson questioned whether there will be an independent third-party to confirm the amount of treated effluent, being dumped into the west fork of Dry Comal Creek.

Response 12:

The TCEQ does not require a third-party review of any applications received for a wastewater discharge permit. As previously mentioned in Response 3, the TCEQ permit application process requires all applicants to complete Item No. 10 in the Administrative Report of the application where they certify under penalty of law that the document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. The understanding is that the information provided is true, accurate, and complete and persons directly responsible for gathering the information are aware of the significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Comment 13:

GEAA questioned whether TCEQ staff has been in the field prior to approving this permit, either EAPP staff or Water Quality (WQ) staff.

Response 13:

The TCEQ does not require staff site visits for every permit application received at the Agency. During the application review process, the Water Quality staff reviews available aerials, USGS maps, and applicant photographs, to evaluate the discharge route and surrounding areas. However, on June 18, 2015 TCEQ staff conducted a site visit to observe the discharge route, proposed facility site, and neighboring properties in preparation for the public meeting.

Comment 14:

Amy Collins stated that the draft permit does not specify the diameter of the discharge pipe, therefore allowing the developer to determine the size of the pipe used to convey the effluent discharge.

Response 14:

Randolph Todd indicated in an attachment to the application (the Plans and Specifications) that the effluent will be pumped through a 4-inch force main to the discharge point. However, the Plans and Specifications have not been approved at this time. They cannot be reviewed and approved until the municipal wastewater permit has been approved. The facility may not be constructed until the Plans and Specifications have been approved.⁶

Comment 15:

TFWD and several individuals commented that Dry Comal Creek is not suitable to receive the proposed amount of effluent discharge, and a discharge permit is not appropriate for the chosen location. Several commenters expressed concern that 390,000 gallons of sewage would be discharged into a dry creek, which would pose a threat to human health and the surrounding environment. Additionally, several individuals stated that they are against a direct discharge into Dry Comal Creek.

Response 15:

The Executive Director cannot mandate which method of effluent disposal an applicant requests. In its application, Randolph Todd requested authorization to discharge treated effluent to surface waters, not sewage. The Executive Director evaluated the permit application request according to applicable statutory and regulatory requirements, as well as Commission policies, and determined that the draft permit complies with all applicable statutory and regulatory requirements, as well as Commission policies.

There are no rules prohibiting a discharge at the location proposed by Randolph Todd. A DO modeling analysis was performed in order to ensure that DO levels will be maintained above the criteria established by the Standards Implementation Team for Dry Comal Creek (2.0 mg/L). These criteria have been established in order to protect aquatic life in these water bodies. The proposed effluent limits of 5 mg/l five-day carbonaceous biochemical oxygen demand (CBOD₅), 2 mg/l ammonia-nitrogen (NH₃-N), and 4.0 mg/l minimum effluent DO are predicted to be adequate to ensure that instream DO concentrations will be maintained above these levels.

In addition, there is a disinfection requirement with a corresponding permit limit of 126 Colony Forming Units (CFU) or Most Probable Number (MPN) of *E. coli* per 100 ml to ensure that treated effluent discharged to public waters will be safe for contact recreational activities. Furthermore, a 0.5 mg/l total phosphorus limit was added to the draft permit to address nutrient concerns. The effluent limits contained in the draft permit are also consistent with the requirements stipulated in the Edwards Aquifer Rules for discharges between five and ten miles upstream from the recharge zone. The total suspended solids (TSS) effluent limit of 5 mg/l is taken from the effluent set required by the rule for discharges between zero and five miles upstream from the Edwards Aquifer recharge zone.

⁶ Randolph Todd Company, LLC Draft Permit, Other Requirements, Item No. 7, page 33.

Comment 16:

GEAA asked how the effluent limit of 2 mg/l of DO was derived during the application review process and incorporated into the draft permit. Additionally, GEAA questioned whether the proposed limits for NH₃-N, DO, and CBOD₅ are more protective or less protective than the current Water Quality Management Plan (WQMP), and whether there is a need for a 1 mg/l CBOD₅ since this is a pristine area. GEAA questioned when does the WQMP referred to in the Technical Memo dated Feb. 10, 2015 will take effect.

CLWS stated that the TCEQ should consider the total pollutant loading in pounds (lbs.) of BOD per day versus the development of the property without the treatment plant, which would result in greater water quality rather than an on-site sewage facility (OSSF).

Response 16:

As discussed in Response 15, a DO modeling analysis was performed using Qual-Tex modeling for proposed effluent flows of 0.15, 0.27 and 0.39 MGD in order to ensure that DO levels will be maintained above the criteria established by the Standards Implementation Team for Dry Comal Creek (2.0 mg/l) and the Comal River Segment No. 1811 (5.0 mg/l). These criteria have been established in order to protect aquatic life in these water bodies. The proposed effluent limits of 5 mg/l CBOD₅, 2 mg/l NH₃-N, and 4.0 mg/l minimum effluent DO are predicted to be adequate to ensure that instream DO concentrations will be maintained above these levels.

The TCEQ does include an effluent limit for BOD loading based on the daily average concentration recommended by the modeling team and the design flow.

The draft permit incorporates effluent discharge limitations at a daily average in milligrams per liter (mg/l) and pounds per day (lbs/day). Effluent limitations for CBOD₅ also include a 7-day average in mg/l, daily max average in mg/l, and a single grab sample in mg/l.⁷

The memorandum, dated January 20, 2015 (modeling memo), from Tom Harrigan of the Water Quality Assessment sections, states that the effluents limits recommend in the proposed limits of 5 mg/l CBOD₅, 2 mg/l NH₃-N, and 4.0 mg/l minimum effluent DO were not included in the then approved WQMP. However, subsequent to the preparation of the modeling memo, this permit has been formally included in the WQMP which was approved on March 30, 2015.

Comment 17:

Jason Retzloff commented that the draft permit would authorize approximately 300,000 gallons per day of 'greywater'.

Response 17:

The draft permit does not authorize the discharge of graywater. The draft permit would authorize the discharge of treated domestic wastewater at a volume not to exceed a daily average flow of 150,000 gallons per day in the Interim I phase, a volume not to exceed a daily average flow of 270,000 gallons per day in the Interim II phase, and a

⁷ Randolph Todd Company, LLC Draft Permit, Effluent Limitations, pages 2-2b.

volume not to exceed a daily average flow of 390,000 gallons of treated domestic wastewater in the Final phase.

Graywater, as defined by 30 TAC § 210.82, includes wastewater from showers, bathtubs, handwashing lavatories, sinks that are not used for disposal of hazardous or toxic ingredients, sinks not used for food preparation or disposal, and clothes-washing machines.

Comment 18:

Sabrina Houser-Amaya asserted that the proposed flow is beyond what is allowed by Commission rules at 30 TAC § 217.32 (regarding treatment facility design requirements: organic loadings and flows). GEAA questioned where are the process flow diagrams. Edmond Hubler states that the proposed 390,000 gallons per day of effluent discharge will likely result in high risk of accidents at the proposed facility and a substantial probability of contaminating the Edwards Aquifer.

Response 18:

The Commission rules at 30 TAC § 217.32 Table B.1 outlines the organic loadings and loads for a new facility. Randolph Todd is assuming 75 gallons per day per person at 250 mg/l BOD₅, which is within the range outlined in the table. However, Randolph Todd has not specified the number of people expected per household. If Randolph Todd has under-estimated the flow to the wastewater treatment facility, they will be required to move to the next phase of their permit. TCEQ requires permittees to start planning for the next phase of the wastewater treatment facility when the flow from the treatment facility reaches 75% of the permitted flow and requires the permittee to start construction of the next phase when the flow reaches 90% of the permitted flow.⁸ Randolph Todd submitted a process flow diagram as an attachment to the application on October 31, 2014.

Additionally, the Plans and Specifications have not been approved at this time. They cannot be reviewed and approved until the municipal wastewater permit has been approved. The facility may not be constructed until the Plans and Specifications have been approved.

Comment 19:

FPAR, Environment Texas, and Sabrina-Houser Amaya stated that the Dry Comal Creek has been listed on the TCEQ's integrated report of the Clean Water Act 303(d) list for impaired surface water bodies for having increased levels of bacterial contamination. Additionally, FPAR states that the proposed discharge will include bacteria, thus further contributing to this impairment. Environment Texas expressed concern as to whether the Executive Director's preliminary determination is saying that the proposed discharge will not harm the creek since the creek is already on the 303(d) list for impaired surface water bodies. Sabrina House-Amaya questioned why the river Segment No. 1811-A was not considered in the review by TCEQ when this segment has been identified as a Category 5 for bacteria since 2000.

Response 19:

⁸ Randolph Todd Company, LLC Draft Permit, Operational Requirements, Item 8(a), page 14.

Segment No. 1811 is not currently listed on the State's inventory of impaired and threatened waters, the 2012 Clean Water Act 303(d) list. Dry Comal Creek is listed for bacteria in the lower 25 miles of the water body (AU 1811_01). The TCEQ considered this during the review of the application. To address this issue, a daily average limit of 126 colony forming unit (CFU) or most probably number (MPN) per 100 ml *E. coli* was added to the draft permit.

Comment 20:

FPAR stated that there are oxygen-demanding constituents and nutrients in the wastewater, therefore resulting in algae growth and adverse impacts to aquatic life. Also, FPAR stated that the discharge of these contaminants as authorized by the permit will potentially lead to the excessive growth of algae in the receiving waters, and adverse impacts on aquatic wildlife and vegetation.

Similarly, FPAR asserted that it has not been demonstrated that draft permit complies with the rules set forth at 30 TAC § 307.4, regarding the general criteria for TSWQS review; further stating that it has not been shown that the proposed discharge will not adversely impact the aesthetic qualities of the receiving waters. FPAR stated that it has not been shown that the proposed discharge will be adequately protective so as to prevent the excessive growth of algae due to the discharge of nutrients.

Response 20:

The Executive Director has determined that, provided that Randolph Todd will comply with the terms of the permit, the discharge from the wastewater treatment facility (WWTF) will not cause degradation of Dry Comal Creek. To evaluate degradation the Executive Director's staff performed an antidegradation review, which included a nutrient screening. A nutrient screening consistent with the current 2010 IPs was performed by TCEQ staff to determine if nutrient limits may be needed to preclude degradation in Dry Comal Creek. Site specific screening factors are applied to assess the potential need for a total phosphorus limit to control instream vegetation growth. These screening factors include the following: size of the discharge, instream dilution, sensitivity to growth of attached algae-type of bottom, sensitivity to growth of attached vegetation-depth, sensitivity to nutrient enrichment-water clarity, sensitivity to growth of aquatic vegetation-observation, sensitivity to growth of aquatic vegetation- shading and sunlight, streamflow sustainability, impoundments and pools, consistency with other permits, and the existence of concern for nutrients or aquatic vegetation in the TCEQ's integrated report.

The results indicated that nutrient limits may be needed. Because of the effluent dominated, open canopy, and shallow bedrock nature of the Dry Comal, it was determined that a permit limit to address nutrients in the treated effluent was appropriate and consistent with nearby permits with similar concerns. Total phosphorus is typically the nutrient of concern in freshwater streams and lakes in Texas, so that was the nutrient of concern addressed in the draft permit. The Edwards aquifer rules require a total phosphorus limit of 1 mg/l, however, a 0.5 mg/l total phosphorus limit was added to the draft permit to further protect against nutrient concerns in this sensitive region.

In accordance with Commission rules at 30 TAC § 213.6(c)(1), all new or increased discharges of treated wastewater into or adjacent to water in the state, other

than industrial wastewater discharges, within zero to five miles upstream from the recharge zone, at a minimum, shall achieve the following level of effluent treatment:

- (A) five milligrams per liter of carbonaceous biochemical oxygen demand, based on a 30-day average;
- (B) five milligrams per liter of total suspended solids, based on a 30-day average;
- (C) two milligrams per liter of ammonia nitrogen, based on a 30-day average; and
- (D) one milligram per liter of phosphorus, based on a 30-day average.⁹

A DO modeling analysis was performed in order to ensure that DO levels will be maintained above the criteria established by the Standards Implementation Team for Dry Comal Creek (2.0 mg/l) and the Comal River Segment No. 1811 (5.0 mg/l). These criteria have been established in order to protect aquatic life in these water bodies. The proposed effluent limits of 5 mg/l CBOD₅, 2 mg/l NH₃-N, and 6.0 mg/l minimum effluent DO are predicted to be adequate to ensure that instream DO concentrations will be maintained above these levels.

In addition, there is a disinfection requirement with a corresponding permit limit of 126 CFU or MPN of *E. coli* per 100 ml to ensure that treated effluent discharged to public waters will be safe for contact recreational activities.

Comment 21:

Pat Knipe questioned whether pharmaceuticals will be treated at the plant. Sarah O'Neal questioned whether the TCEQ will implement any protective measures to ensure pharmaceuticals will not harm local wildlife or enter the Edwards Aquifer. Additionally, GEAA asserted that pharmaceuticals in wastewater can lower test results for CBOD₅ by suppressing microbial communities. Mark Arias questioned whether the buildup of chemicals and phosphates were considered during this review.

Response 21:

Neither the TCEQ nor the EPA has promulgated rules limiting pharmaceutical and personal care products (PPCPs). Examples of pharmaceuticals are antibiotics and analgesics; and examples of personal care products are cosmetics and fragrances. The EPA is investigating PPCPs, and has, to date, stated that scientists have not found evidence of adverse human health effects from PPCPs in the environment. Although PPCP removal during municipal wastewater treatment has been documented in scientific studies, standard removal efficiencies have not been established for PPCPs nor are there state or federal effluent limits.

Comment 22:

Several commenters expressed concern regarding the adverse impacts of the proposed discharge into a dry creek. Additionally, Victoria Laubach stated that standing water is a nuisance under Texas Water law, and she believes that the proposed discharge will likely result in standing water along Dry Comal Creek. Also, Victoria Laubach stated that the name of the creek is dry; indicating that it is dry all the time and the effluent will not be diluted.

⁹ 30 TEX. ADMIN. CODE § 213.6(c)(1)(A-D).

Response 22:

Dry Comal Creek is currently assessed as an intermittent stream, as determined by staff review of USGS maps and aerial photos. The TSWQS implementation standards define an intermittent stream as having “a period of zero flow for at least one during the most years or a seven-day, two-year low-flow (7Q2) less than 0.1 ft³/s (where flow records are available).”¹⁰ The fact that Dry Comal Creek is dry many weeks out of the year and therefore will not be diluted by other flows during those weeks, has been taken into consideration when developing effluent limitations for this permit. The modeling was performed assuming that the only water in the receiving stream was from the discharge.

However, the presence of a pool is not expected to affect the effluent limits since the limits are currently driven by the Edwards Aquifer rule, which incorporates a stringent standard of effluent limitations.

The TSWQS states that “Water in the state shall be maintained to preclude adverse toxic effects on aquatic life, terrestrial wildlife, livestock, or domestic animals, resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three.”¹¹ The effluent limitations and conditions in the draft permit comply with the TSWQS, 30 TAC §§ 307.1 - 307.10. Given that Randolph Todd operates the facility in accordance with the TCEQ rules and the provisions of the proposed permit, aquatic life, livestock and the environment will be protected.

Comment 23:

Sabrina-Houser Amaya asserts that the true outfall location of the treated effluent is one river Segment No. 1811-A, not 1811, as alluded to in the permit. GEAA questioned why the Applicant was allowed to use Dry Comal Creek as unclassified and Comal as classified 1810 and not have to make the requisite corrections.

Response 23:

The assessment reach of Dry Comal Creek (which includes 3 miles downstream of the outfall) was presumed intermittent due to the absence of evidence of perennial pools, based on staff review of USGS maps and aerial photos. The discharge route is to Dry Comal Creek; then to Comal River in Segment No. 1811 of the Guadalupe River Basin. As established by the TSWQS, Comal River is a classified segment and Dry Comal Creek is unclassified. Classified refers to a water body that is listed and described in Appendix A and Appendix C in 30 TAC § 307.10. The segment number in the discharge route always refers to the classified segment, which in this case is Segment No. 1811.

Comment 24:

TPWD and Edward Harris assert that the Dry Comal Creek should be correctly designated as intermittent with perennial pools.

Comment 24:

¹⁰ *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010).

¹¹ 30 TEX. ADMIN. CODE § 307.6(b)(4).

As mentioned in Response 22 above, Dry Comal Creek has been designated as intermittent. The assessment reach of Dry Comal Creek, which includes three miles downstream of the outfall, was presumed intermittent due to the absence of evidence of perennial pools, based on staff review of USGS maps and aerial photos. The TCEQ has received photos from individuals at the public meeting showing bodies of water along the discharge route. However, they do not indicate the distance from the discharge point. If the pool is more than three miles downstream of the discharge, it will not be included in the assessment reach. The presence of pools is not expected to affect the effluent limits since the limits are currently driven by the Edwards Aquifer rules, which are already stringent.

Comment 25:

FPAR asserts that the Applicant's proposed discharge will negatively impact Dry Comal creek. Specifically, the discharge will contribute to more than *de minimis* lowering of water quality in the receiving stream. Furthermore, FPAR asserts that the antidegradation review required at 30 TAC § 307.5(b)(2) has not been performed. Therefore, he asserts that issuance of the permit also violates the Tier 2 anti-degradation requirements of the TCEQ rules.

Response 25:

In accordance with 30 TAC § 307.5(b) and TCEQ IPs (June 2010) for the TSWQS, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review was performed and preliminarily determined that existing water quality uses will not be impaired by this permit action. This review has preliminarily determined that no water with exceptional, high or intermediate aquatic life uses are present within the stream reach assessed; therefore, no Tier 2 review was required. The stream reach assessed is 3 miles downstream of the outfall.

Comment 26:

Jerry Barucky, Amy Collins, Daniel Laroe, Latisha Loria, Dale Miller, Felicia Thomas, and James Whitmore all expressed concerns regarding the likelihood of odors emanating from the proposed facility and the effects on neighboring property owners use and enjoyment of their properties. Similarly, Daniel Laroe commented that easterly winds would carry odor onto his neighboring property causing a nuisance that would affect the use and enjoyment of his property.

FPAR expressed concern regarding odor of the effluent discharge.

Response 26:

All wastewater treatment facilities have the potential to generate odors. To control and abate odors the TCEQ rules require domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides three options for applicants to satisfy the nuisance odor abatement and control requirements. Randolph Todd can comply with the rule by: 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property

owners for any part of the buffer zone not owned by Randolph Todd; or 3) providing odor control.¹²

According to its application, Randolph Todd intends to comply with the requirement to abate and control nuisance of odor by locating the treatment units at least 150 feet from the nearest property line.¹³ This requirement is incorporated in the draft permit.¹⁴ Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the draft permit.

According to its application, Randolph Todd proposes that the Meyer Ranch WWTF will be an activated sludge process plant operated in the extended aeration mode. The activated sludge process is the most frequently used biological wastewater treatment process for treating domestic wastewater, and the use of the extended aeration variation has been known to produce highly treated effluent with low biosolids production. When properly treated by the proposed wastewater treatment process, the effluent is not expected to have an offensive odor.

If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules they may be reported to TCEQ by calling toll-free 1-888-777-3186 or the TCEQ Region 11 Office in Austin at (512) 339-2929. Citizen complaints may also be filed on-line at <http://www.tceq.state.tx.us/compliance/complaints/index.html>. If Randolph Todd fails to comply with all requirements of the permit, it may be subject to enforcement action.

Moreover, the permit does not limit the ability of an individual to seek legal remedies against Randolph Todd regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

Comment 27:

John Ritter questioned the TCEQ oversight in monitoring the operations of the proposed facility.

Response 27:

The TCEQ, through its Office of Compliance and Enforcement, ensures compliance with state and federal regulations and the terms and conditions of the permit by way of routine compliance investigations and complaint investigations, and review of self-reported monitoring data. The regional office (the TCEQ Region 11 office) conducts on-site investigations. The central office, through the Monitoring Division, reviews the self-reported data for compliance with the permitted effluent limits and other permit conditions. Additionally, the public may report possible violations of the permit or regulations by contacting the TCEQ Region 11 office in Austin at 512-339-2929, or the statewide toll-free number at 1-888-777-3186. In addition, complaints may be filed online: <http://www.tceq.texas.gov/complaints>.

If the facility is found to be out of compliance with the terms or conditions of the permit, Randolph Todd may be subject to enforcement. Please reference the TCEQ

¹² 30 TEX. ADMIN. CODE §309.13(e).

¹³ Randolph Todd Company, LLC Permit Application, Administrative Report, 1.1, Item No. 2, and Attachment 4.

¹⁴ Randolph Todd Company, LLC Draft Permit, Other Requirements, Item No. 4, page 33.

Enforcement Initiation Criteria (EIC) for full details on agency standards and protocols for addressing violations: <http://www.tceq.state.tx.us/enforcement/policy/eic.html>.

Comment 28:

Jerry Barucky stated that the hybrid aerobic waste system proposed is not sufficient to properly treat effluent.

GEAA stated that the discharge standard should be raised to tertiary treatment and drinking water standard. Also, GEAA questioned why ozone, UV disinfection and sand filtration are not required to be used to treat the effluent discharged in this sensitive area.

Response 28:

Randolph Todd has applied to the TCEQ for a new TPDES permit to authorize the discharge of treated effluent into water of the state. The TWC provides that the TCEQ may authorize discharges into water in the state.¹⁵ The Executive Director does not have authority to mandate the treatment technology that a permittee uses, provided that the treatment technology will be able to provide effluent that conforms to the effluent limits in the permit. The Executive Director evaluates applications for wastewater treatment facilities based on the information provided in the application.

The Meyer Ranch WWTF will be an activated sludge process plant operated in the extended aeration mode. The activated sludge process is the most frequently used biological wastewater treatment process for treating domestic wastewater, and the use of the extended aeration variation has been known to produce highly treated effluent with low biosolids production. Treatment units in the Interim I phase will include a bar screen, six flow equalization tanks, six aeration basins, twelve aerated moving bed biofilm reactors, twelve final clarifiers, an alum dosing tank, four filters, three sludge holding tanks, and four chlorine contact chambers. Treatment units in the Interim II phase will include a bar screen, thirteen flow equalization tanks, ten aeration basins, twenty aerated moving bed biofilm reactors, twenty final clarifiers, an alum dosing tank, four filters, five sludge holding tanks, and four chlorine contact chambers. Treatment units in the Final phase will include a bar screen, twenty flow equalization tanks, fourteen aeration basins, twenty-eight aerated moving bed biofilm reactors, twenty-eight final clarifiers, an alum dosing tank, four filters, five sludge holding tanks, and four chlorine contact chambers.

The rules at 30 TAC § 309.3(g)(1) require that disinfection of domestic wastewater must be protective of both public health and aquatic life, however the rules do not require a specific method of disinfection. For this facility, Randolph Todd has chosen chlorine disinfection. Additionally, there is no rule that requires ozone, UV disinfection, and sand filtration to discharge into this area.

Comment 29:

Carl Thomas, Felicia Thomas, and Jeanine Watrous assert that the current residents in the area use septic systems and suggest that these systems should be used in the proposed development versus the proposed WWTF.

¹⁵ TEX. WATER CODE § 26.027 (West 2014).

Response 29:

It is the policy of the State "...to encourage and promote development and use of regional and area-wide wastewater collection, treatment and disposal systems to serve the wastewater disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy."¹⁶ A septic tank is defined as "watertight covered receptacle constructed to receive, store, and treat sewage by: separating solids from the liquid; digesting organic matter under an aerobic conditions; storing the digested organic matter under anaerobic conditions; storing the digested solids through a period of detention; and allowing the clarified liquid to be disposed of by a method approved under this chapter."¹⁷

A septic tank is often associated with an on-site sewage disposal facility (OSSF). An on-site sewage disposal system can be permitted by the Commission under Chapter 285 of the Commission rules if the system does not treat or dispose of sewage produced on a site where any part of the system is located.¹⁸ The Meyer Ranch WWTF has an anticipated daily average flow of 390,000 gallons per day and is intended to serve multiple dwellings and commercial units. The use of septic tanks is not allowed for this magnitude of flow and the nature and type of development that will be served by the WWTF. Additionally, TCEQ's rules require that an OSSF that serves an individual home be on at least a one-half acre lot.¹⁹

Comment 30:

Amanda Pierson asserted that Randolph Todd has no emergency plan for the proposed plant operations. Several commenters stated that the facility may not be designed or operated properly, resulting in the discharge of untreated or raw sewage into the receiving stream which would then become polluted and eventually spill (seep) into the Edwards Aquifer.

Response 30:

To help ensure that a WWTF will not fail, the TCEQ issues permits that describe the conditions under which the WWTF must operate. All WWTFs must be designed, operated, and maintained consistent with applicable TCEQ rules. All permits include: provisions for monitoring effluent; sludge disposal; reporting requirements (including test procedures, instrument calibration, records management, and notification); and operational requirements (including process control, provision of adequate power supply, and flow monitoring). These provisions ensure that the WWTF is properly operated and maintained at all times.

Comment 31:

Edward Harris questioned whether there will be an operator at the facility 24-7 to address emergency situations. Amanda Pierson stated that an operator will not always be readily available and questions how long it will take an operator to reach the facility in an emergency situation.

¹⁶ 30 TEX. ADMIN. CODE § 307.1.

¹⁷ 30 TEX. ADMIN. CODE § 285.2(65).

¹⁸ 30 TEX. ADMIN. CODE § 285.2(44).

¹⁹ 30 TEX. ADMIN. CODE § 285.4.

Response 31:

Randolph Todd is responsible for operating the facility; however, an applicant may contract with an individual operator, company, or other entity to operate the facility. Anyone who operates a domestic wastewater facility is required to hold a current wastewater operator registration issued by the TCEQ.

TCEQ rules require the facility to be operated by a licensed wastewater operator who must hold a specific level of license based on the type of treatment and permitted daily average flow. The proposed facility will be an activated sludge process plant operated in extended aeration mode operating at a daily average flow not to exceed 390,000 gallons per day. By rule, this Category C facility must be operated and by a chief operator or an operator holding a Category C license or higher.²⁰ The rules state that the chief operator or operator with the required C level of license or higher must be present at the facility five days per week and available by phone or pager seven days per week. The amount of time per day that the operator is required to be onsite is not stipulated in the rules.

Comment 32:

Multiple commenters stated that they are concerned that the proposed WWTF and the effluent discharge will have a negative environmental impact on the Edwards Aquifer given the proximity of the facility and outfall to the Edwards Aquifer Recharge Zone.

GEAA and Terrell Graham assert that Randolph Todd is attempting to circumvent the Edwards Aquifer Rules at 30 TAC § 213 by allowing the discharge to be piped upstream and discharged into Dry Comal Creek, which flows directly into the Edwards Recharge Zone.

GEAA questioned what measures have been taken since the discharge flows to the ERZ. Mark Arias questions whether the TCEQ has conducted a review of the draft permit and the potential impacts to the Trinity Aquifer.

Response 32:

The Executive Director has made a preliminary determination that significant impacts to threatened and endangered species are not likely from discharges associated with this permit, and the permit effluent limitations are as stringent as required by the Edwards Aquifer rules in 30 TAC § 213.

The Commission rules at 30 TAC § 213.6 state that “all new or increased discharges of treated wastewater into or adjacent to water in the state, other than industrial wastewater discharges, within zero to five miles upstream from the recharge zone, at a minimum, shall achieve the following levels of effluent treatment”: 5 mg/l CBOD₅, 5 mg/l TSS, 2 mg/l NH₃-N, and 1 mg/l Total Phosphorus. The effluent limits contained in the draft permit are more stringent than required by the Edwards Aquifer rules²¹ and are consistent with the effluent limits required for aquifer protection.²²

²⁰ 30 TEX. ADMIN. CODE § 30.350 (e); *see also*, Randolph Todd Company, LLC Draft Permit, Other Requirements, Item No. 1, page 33.

²¹ 30 TEX. ADMIN. CODE § 213 (Edwards Aquifer Rules).

²² 30 TEX. ADMIN. CODE § 307.7 (b)(2)(A)(iii)(regarding appropriate use and criteria for site specific standards for domestic water supply and aquifer protection).

The TCEQ has not conducted a review of the potential impacts to the Trinity Aquifer. However, because this facility would be located within the Edwards Aquifer area, Randolph Todd will be required to submit plans to the EAPP for approval. The EAPP is the body within the TCEQ that is responsible for implementing the Edwards Aquifer Rules, found at 30 TAC, § 213 (213.1-213.31). The EAPP handles requests from regulated entities for interpretations of the Edwards Aquifer rules, reviews the required applications of the Edwards Aquifer Rules that are submitted by regulated entities, and ensures that regulated entities comply with the Edwards Aquifer Rules.

Comment 33:

Environment Texas questioned whether Randolph Todd has submitted an Edwards Aquifer Protection Plan.

Response 33:

At this time, Randolph Todd has not submitted any plans to the EAPP for approval. The EAPP is the body within the TCEQ that is responsible for implementing the Edwards Aquifer Rules, found at 30 TAC § 213 (213.1-213.31). The EAPP handles requests from regulated entities for interpretations of the Edwards Aquifer Rules, reviews the required applications of the Edwards rules that are submitted by regulated entities, and ensures that regulated entities comply with the Edwards Aquifer rules.

Before building on the recharge, transition, or contributing zones of the Edwards Aquifer, an applicant must have building plans reviewed and approved by the TCEQ EAPP. Once a plan is approved, the site will be monitored for compliance with applicable Edwards Aquifer Rules. The headquarters of the EAPP is Austin's Region 11 field office and San Antonio's Region 13 office.

Comment 34:

Several commenters express concern regarding the effluent discharge leaching into the ground and contaminating groundwater and nearby private groundwater wells.

Response 34:

The Water Quality Division has determined that the draft permit complies with the TSWQS, which ensure that the effluent discharge is protective of aquatic life, human health, and the environment. Both the Standards Implementation Team and Water Quality Assessment Team surface water modelers conduct the review process for surface water quality. The Water Quality Division has determined that if the surface water quality is protected, then the groundwater quality will not be impacted.

Comment 35:

Several commenters express concern regarding the proposed effluent discharge effects on the Edwards Aquifer and the availability of public drinking water. Eddie Glass expressed concern regarding how the plant will ensure discharge will be treated properly on a continual basis so as not to contaminate drinking water coming from the Edwards Aquifer.

Victoria Laubach asserted that the chlorination of the effluent will result in high levels of trihalomethanes accumulating in private water wells and making it unsafe for human consumption.

Response 35:

The TCEQ does not require geological surveys of receiving streams for TPDES permits. The Water Quality Division has determined that the draft permit is in accordance with the TSWQS, which ensures that the effluent discharge is protective of aquatic life, human health, and the environment. The review process for surface water quality is conducted by the Standards Implementation Team and Water Quality Assessment Team surface water modelers. The Water Quality Division has determined that if the surface water quality is protected, then the groundwater quality in the vicinity will not be impacted by the discharge.

The proposed discharge point will be located in the Edwards Aquifer Contributing Zone. The effluent limits contained in the draft permit are consistent with the requirements of the Edwards Aquifer Rules for a discharge in this location.²³ Permit limits given in the draft permit intended to maintain the existing uses of the surface waters and preclude degradation will also protect groundwater and, if applicable, spring flows elsewhere in the Edwards Aquifer.

Minor municipal wastewater permits, those with a flow less than one million gallons per day, are not required to test for trihalomethanes. The permit does contain effluent limits of total chlorine residual to minimize the possible formation of trihalomethanes. The permit limitation for maximum total chlorine residual is 4.0 mg/l to be monitored five times per week.

Comment 36:

Multiple commenters stated that the proposed permit would perpetuate drinking water shortages in the area. Phyllis Ritter states that the proposed development will result in the lowering of the water table and water availability in the Edwards Aquifer.

Latisha Loria asserts that Randolph Todd plans to drill multiple wells within the proposed development and suggests that the additional wells will deplete the Edwards Aquifer and dry-out the existing smaller wells in the area.

Response 36:

Water availability and the drilling of drinking water wells are issues that are not a part of the wastewater permitting process. However, 30 TAC § 305.45(a)(6)(A) requires that applicants submit maps of a sufficient quality, size, and scale capable of sufficiently illustrating wells, springs, other surface water bodies, and water in the state. During the application process, Randolph Todd provided a USGS Topographic Quadrangle map that indicates, among other things, public water supply wells within a one-mile radius of the proposed facility location. Additionally, 30 TAC § 309.13 requires that a wastewater treatment plant unit may not be located closer than 500 feet from a public water well or 250 feet from a private water well. Based on the maps provided by Randolph Todd, no wastewater treatment plant units would be located within 500 feet of a public well nor within 250 feet of a private well.

Comment 37:

²³ 30 TEX. ADMIN. CODE § 213.6(c)(1).

Edward Harris, Richard Lamb, Rick Peyton and Sandy Peyton commented that the proposed facility will adversely impact the 100-year flood plain. Daniel Laroe asserted that the proposed facility is within a 100-year flood plain.

Response 37:

According to the information that Randolph Todd provided in its permit application, the proposed WWTF is not within the 100-year floodplain.²⁴ For additional protection, the draft permit includes Other Requirement No. 5, which states that Randolph Todd must provide protection for the WWTF from a 100-year flood.²⁵

Comment 38:

John Blodgett, Becky Dominick, TWPD, Jeff Weiler, and Randy White expressed concern regarding the impacts of the proposed facility and discharge on endangered species in the area. Specifically, TPWD stated that there are three federally-listed endangered species (the Comal Springs Riffle beetle, the Comal Springs Dryopid beetle, and the Peck's Cave Amphipod) as well as several other species of greatest conservation need which occur in the Comal Springs. Therefore, TPWD asserts that water quality permits, especially, nutrient limits, should be evaluated to be protective of these species.

Kenneth Laubach stated that the salamander in Landa Park and other marine life will be affected by the effluent discharge. Becky Dominick and Jeff Weiler stated that the 'golden cheek warbler' has been seen to nest in the general area of the proposed facility.

Response 38:

The San Antonio segment of the Edwards Aquifer is characterized as a watershed of critical concern that extends into Comal County and includes both the recharge and contributing zones of the Edwards Aquifer, as noted in Appendix A of the United States Fish and Wildlife Service's (USFWS) Biological Opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998, update). Segment No. 1811 is not currently listed on the State's inventory of impaired and threatened waters, the 2012 Clean Water Act Section 303(d) list. Dry Comal Creek is listed for bacteria in the lower 25 miles of the water body (AU 1811A_01). The Peck's cave amphipod (*Stygobromus pecki*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), Comal Springs riffle beetle (*Heterelmis comalensis*), and fountain darter (*Etheostoma fonticola*), endangered aquatic species, have been determined to occur in the watershed of Segment No. 1811.

The Executive Director has made a preliminary determination that significant impacts to threatened and endangered species are not likely from discharges associated with this permit. The effluent limits contained in the draft permit are consistent with the requirements of the Edwards Aquifer Rules for a discharge in this location.²⁶

Comment 39:

Several commenters expressed concern that the discharge of sewage will pollute the receiving stream; harm aquatic life and vegetation; harm livestock and wildlife that graze in the area and drink from the creek; cause health problems for people who use

²⁴ Randolph Todd Company, LLC Permit Application, Domestic Technical Report 1.1, pg. 25.

²⁵ Randolph Todd Company, LLC Draft Permit, Other Requirements, Item No. 5, Page 33.

²⁶ 30 TEX. ADMIN. CODE, § 213.

the stream for recreational uses; and negatively impact the irrigation and watering of crops.

Response 39:

The draft permit was drafted in accordance with the TSWQS and the IPs. The TSWQS provide that surface waters cannot be toxic to aquatic or terrestrial organisms.²⁷ While the TSWQS and the IPs do not specifically designate criteria for the protection of cattle or wildlife, they do designate criteria for the protection of aquatic life that should preclude negative impacts to the health and performance of cattle or wildlife.

The draft permit was developed to protect aquatic life and human health in accordance with the TSWQS. As part of the application review process, TCEQ must determine the uses of the receiving water and set effluent limitations that are protective of those uses, including aquatic and terrestrial life uses. The Commission does not have specific water-quality based effluent limitations for cattle. However, the Executive Director has determined that the proposed draft permit for the facility meets the requirements of the TSWQS, which are established to protect human health, terrestrial, and aquatic life. Aquatic organisms are more sensitive to water quality components than terrestrial organisms.

In this case, the treated wastewater from the plant will be discharged into Dry Comal Creek, then to Comal River Segment No. 1811 of the Guadalupe River Basin. The unclassified receiving water use is minimal aquatic life use for Dry Comal Creek. The designated uses for Segment No. 1811 are high aquatic life use, public water supply, aquifer protection, and primary contact recreation.

The draft permit includes effluent limits and monitoring requirements for CBOD₅, TSS, NH₃-N, DO, *E. Coli*, chlorine residual, and pH to ensure that discharges from the proposed wastewater treatment plant meet water quality standards for the protection of surface water, groundwater, and human health in accordance with TCEQ rules and policies. The proposed draft permit includes requirements for the disposal of domestic sludge generated from the WWTF based on TCEQ rules. The Executive Director expects that human health and the environment will be protected if Randolph Todd operates and maintains the facility as permitted and in accordance with TCEQ rules. Any noncompliance with the terms of the draft permit could result in an enforcement action against Randolph Todd.

Comment 40:

Daniel Cevallos, Dwain Glass, and Marlene Moore expressed concern that the proposed discharge will negatively impact the surrounding landowner's quality of life.

Response 40:

TPDES permits establish terms and conditions that are intended to provide water quality pollution control, therefore, the TCEQ's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. TCEQ does not have jurisdiction to address concerns such as those listed above in the wastewater permitting process. However, this permit action does not affect or limit the

²⁷ 30 TEX. ADMIN. CODE § 307.4.

ability of a landowner to seek relief from a court in response to activities that interfere with the landowner's use and enjoyment of their property.

Comment 41:

FPAR stated that the proposed facility is not consistent with the state's regionalization policy. Richard Lamb stated that the TCEQ should take into consideration pending permits for similar facilities in very close proximity to the proposed Randolph Todd wastewater treatment plant.

Response 41:

The TWC § 26.0282 provides that "in considering the issuance, amendment, or renewal of a permit to discharge waste, the Commission may deny or alter the terms and conditions of the proposed permit, amendment, or renewal based on consideration of need, including the expected volume and quality of the influent and the availability of existing or proposed area wide or regional waste collection, treatment, and disposal systems not designated as area wide or regional disposal systems by Commission Order". This section is expressly directed to the control and treatment of conventional pollutants normally found in domestic wastewater. According to TWC § 26.081, TCEQ has been mandated to "encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state."

The Domestic Wastewater Permit Application Technical Report requires information concerning regionalization of wastewater treatment plants.²⁸ Randolph Todd is required to review a three-mile area surrounding the proposed facility to determine if there is a wastewater treatment plant or sewer collection lines within the area that the permittee can use. The wastewater treatment plant must have sufficient existing capacity to accept the additional wastewater. Randolph Todd has indicated in its permit application that there are no other wastewater treatment facilities within a three-mile area surrounding the proposed facility.²⁹

Comment 42:

FPAR and Aurora White commented that Randolph Todd has not shown sufficient need for the facility; stating that Randolph Todd cannot apply for wastewater permit based on a mere business decision and that the proposed subdivision plans are speculative.

Response 42:

In the application for a wastewater discharge permit an applicant must provide a justification of permit need.³⁰ Randolph Todd indicated that the facility will serve a new subdivision of approximately 1,500 homes located on 735.881 acres of land. Additionally, Randolph Todd was required to provide information regarding other wastewater treatment facilities or collection systems in the area that are willing and able

²⁸ Randolph Todd Company, LLC permit application, Domestic Technical Report 1.1, pages 20 & 21.

²⁹ Randolph Todd Company, LLC permit application, Domestic Technical Report 1.1, page 21.

³⁰ Randolph Todd Company, LLC permit application, Domestic Technical Report 1.1, page 20; *see also*, Randolph Todd Company LLC permit application, Revised Attachments, dated 12/09/2014.

to accept wastewater from the new subdivision. Randolph Todd indicated in the application that there are no treatment facilities or collection systems located within three miles of the proposed facility.

Comment 43:

Terrell Graham asserted that issuance of the proposed permit would adversely impact use and enjoyment of property owners downstream of the wastewater treatment plant and that the issuance of the draft permit would result in the taking of property rights from affected landowners. Similarly, John Blodgett stated that the proposed permit would infringe on property owner's rights and Carole Farmer questioned the right of another to run wastewater onto her property or place anything on her property. Also, Terrell Graham stated that the Dry Comal Creek does not constitute 'water in the state' most of the time.

Response 43:

The TWC provides that the TCEQ is the agency primarily responsible for "implementing the constitution and laws for this state relating to the conservation of natural resources and the protection of the environment."³¹ The TWC prohibits the discharge of waste or pollution into or adjacent to water in the state without authorization from the Commission. To implement this policy TCEQ was given the authority to issue TPDES permits for the discharge of waste or pollutant into or adjacent to water in the state.³² Water in the state is defined as, "[g]roundwater, percolating water or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, canals...and all other water bodies of surface water...navigable or nonnavigable, and including the bed banks of all watercourses and bodies of surface water..."³³

Randolph Todd has applied to the TCEQ for authorization to discharge wastewater under state law. TPDES permits establish terms and conditions that are intended to provide water quality pollution control, as directed by federal law, state law and the Commission rules. If the permit is issued, it does not grant the permittee the right to use private or public property for conveyance of water along the discharge route. The permit does not authorize any invasion of personal rights or any violation of federal, state or local laws and regulations. It is the responsibility of the permittee to acquire all property rights necessary to use the discharge route.

Comment 44:

Terrance Frost questioned whether Randolph Todd plans to file a request for approval under 'eminent domain' and asks which citizens in Comal County are represented by the Randolph Todd's request for 'eminent domain'.

Response 44:

The TWC provides that the TCEQ is the agency primarily responsible for "implementing the constitution and laws for this state relating to the conservation of

³¹ TEX. WATER CODE § 5.012 (West 2014).

³² TEX. WATER CODE § 26.121 (West 2014).

³³ TEX. WATER CODE § 26.121 (West 2014).

natural resources and the protection of the environment.”³⁴ Eminent domain is a real property right established by the Texas Constitution, which authorizes an entity that is granted the power of eminent domain under law, to take private property with compensation for public use.³⁵ TCEQ does not have the power of eminent domain.

TPDES permits establish terms and conditions that are intended to provide water quality pollution control, as directed by federal law, state law and the TAC. If the permit is issued, it does not grant the permittee the right to use private or public property for conveyance of water along the discharge route.³⁶ Additionally, the permit does not authorize any invasion of personal rights or any violation of federal, state or local laws and regulations.³⁷ It is the responsibility of the permittee to acquire all property rights necessary to use the discharge route.

Comment 45:

Edward Harris and Phyllis Ritter stated that the Commission should consider the facts in the Administrative Law Judge’s (ALJ) ruling in the Johnson Ranch (DHJB-WQ0014975001) application.

Response 45:

The Executive Director evaluates each application for a wastewater permit individually. Permit-specific factors, such as the volume of discharge and the type and quality of receiving water, are considered for each permit application. The DHJB Development, LLC has applied to the TCEQ for an amendment to its existing permit which would authorize the discharge of treated domestic wastewater at a daily average flow not exceed 350,000 gallons per day in the final phase in Comal County. On July, 2015 the Commission considered the ALJ’s amended proposal for decision and amended proposed concerning the contested case hearing on the DHB permit application. After reviewing the record, filings, and hearing for the ALJ and parties during oral argument, the Commission found certain improper Findings of Fact and Conclusions of law in the Proposal for Decision. Therefore, the Commission made a determination to grant DHJB’s application for amendment of TPDES permit WQ0014975001. However, the final Commission Order has not been issued.

Both the Randolph Todd permit application and the DHJB permit application were evaluated to ensure that the effluent limits in the permits are constituent with the requirements of the Edwards Aquifer Rule.³⁸ The discharge point authorized by the DHJB permit is located between five and zero miles of the Edwards Aquifer Recharge Zone, as is the proposed Randolph Todd discharge point. Consequently, both permits must comply with the effluent limit requirements stipulated by the rules for discharges located between zero and five miles upstream of the recharge zone; specifically effluent limits of, at a minimum, 5 mg/l CBOD₅, 5 mg/l TSS, 2 mg/l, 1 mg/l total phosphorous, based on a 30-day average, and 4.0 mg/l minimum effluent DO. The effluent limits of Randolph Todd’s draft permit, include a minimum of 5 mg/l CBOD₅, 5 mg/l TSS, 2 mg/l NH₃-N, 0.5 mg/l total phosphorus, based on a 30-day average, and 4.0 mg/l minimum

³⁴ TEX. WATER CODE § 5.012 (West 2014).

³⁵ Tex. Const. Art. 1, § 17.

³⁶ 30 TEX. ADMIN. CODE § 305.122 (d); *see also*, Randolph Todd Company, LLC Draft Permit, page 1.

³⁷ 30 TEX. ADMIN. CODE § 305.122 (c); *see also*, Randolph Todd Company, LLC Draft Permit, page 1.

³⁸ 30 TEX. ADMIN. CODE § 213.

effluent DO, which are more stringent than the limits required in the Edwards Aquifer Rules for a discharge upstream of the recharge zone.

Nutrient limits are given based on site-specific conditions in the receiving stream and the proposed flow of treated effluent. A permit limit of 0.5 mg/l total phosphorus was included in the draft permit due to the proximity to the Edwards Aquifer Recharge Zone and to help preclude degradation to the Dry Comal Creek.

Comment 46:

Tracy Blackwell questioned whether during the review of this application for a wastewater discharge permit if the TCEQ considered the contributing environmental effects of an asphalt plant proposed to be located near a feeder creek to Dry Comal Creek.

Response 46:

TPDES permits establish terms and conditions that are intended to provide water quality pollution control, therefore, the TCEQ's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. Review of a proposed asphalt plant's cumulative impacts on the area is an outside TCEQ's jurisdiction to address during the review of a wastewater permit application.

Comment 47:

Dale Miller, Jason Retzloff, Connie Terao expressed concern regarding the impacts of the proposed WWTF on air quality in the surrounding area. Additionally, Thomas Chaney questioned whether studies have been done to determine the effects of the WWTF on air quality.

Response 47:

The TCEQ is the agency responsible for enforcing air pollution laws. The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health and the environment will be protected.

According to the TCEQ rules in 30 TAC § 106.532, WWTFs have undergone this review and are permitted by rule, provided the wastewater treatment plant only performs the functions listed in the rule. Therefore, the TCEQ's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. Air quality issues are not considered during this review.

Comment 48:

Several commenters expressed concern regarding the impacts of the proposed discharge activities and flooding of the receiving stream. Additionally, Calli Laubach and Clint Laubach commented that the proposed development and high-density housing will result in increased flooding and runoff in the area. Ellen McClellan questioned how the Applicant will prevent flooding from occurring on S. Crane Mills Road.

Response 48:

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

Randolph Todd's draft permit includes effluent limits and other requirements that it must meet even during rainfall events and periods of flooding. The draft permit would require Randolph Todd to provide protection for the facility from a 100-year flood.³⁹ You can contact your local floodplain administrator at 830-608-2090 if you have additional flooding concerns.

Comment 49:

Troy Brand, Eddie Glass, Edmund Hubler, Sharon Hubler and Mark Johnson expressed concern about spills and the release of untreated wastewater and chemicals during heavy rains.

Response 49:

The design criteria for wastewater treatment systems in TCEQ's rules specify requirements for minimum freeboard. Freeboard is the additional storage depth generally used to contain added flow from rainfall. According to the design criteria, the system must provide 18 inches of freeboard in the aeration basins and 12 inches of freeboard in the clarifiers at four times the permitted average flow.⁴⁰

In addition, among other things, the draft permit:

- prohibits the unauthorized discharge of wastewater or any other waste;⁴¹
- requires the permittee to take action to prevent a potentially harmful discharge;⁴²
- requires the permittee to notify the TCEQ of any unauthorized discharge;⁴³ and
- requires the permittee to prevent discharge of inadequately treated wastewater during power failures.⁴⁴

Comment 50:

Mark Arias, Tory Brand, Daniel Cevallos, Amy Collins, Richard Lamb, Daniel Laroe, Ricky Peyton, Sandy Peyton, and Felicia Thomas expressed concern about the proposed WWTF's negative impact to property values of neighboring properties. Casey James stated that she is concerned about the facility operations and discharge activities impacts to aesthetics.

³⁹ Randolph Todd Company, LLC Draft Permit, Other Requirements, Item No. 5, page 33.

⁴⁰ 30 TEX. ADMIN. CODE § 217.153(b).

⁴¹ Randolph Todd Company, LLC Draft Permit, Permit Conditions, Item No. 2(g), page 10; *see also*, TEX. WATER CODE § 26.121 (West 2014).

⁴² Randolph Todd Company, LLC Draft Permit, Permit Conditions, Item 2(a), page 9; *see also*, 30 TEX. ADMIN. CODE § 305.125.

⁴³ Randolph Todd Company, LLC Draft Permit, Monitoring and Reporting Requirements, Item No. 7(b)(i), page 7; *see also*, 30 TEX. ADMIN. CODE § 305.125(9).

⁴⁴ Randolph Todd Company LLC Draft Permit, Operational Requirements, Item 4; *see also*, 30 TEX. ADMIN. CODE § 217.37.

Multiple commenters stated that the proposed development would increase traffic in the area beyond an already high level of traffic in the area on roads that are not equipped to support such traffic. Edward Harris asserted that the TCEQ should require sludge truck traffic to enter and exit the Applicant's property off State Hwy. 46 and not S. Crane Mills Road. James Whitmore questioned whether the increased truck traffic requires widening of S. Crane Mills Road.

Response 50:

The TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process. While the Texas Legislature has given the TCEQ the responsibility to protect water quality, the water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. The TCEQ cannot consider issues such as property value, aesthetics, and traffic.

Furthermore, 30 TAC § 305.122(d) states that the issuance of the permit does not authorize any injury to persons or property, an invasion of other property rights, or any infringement of state or local statutes or regulations. Under 30 TAC § 305.122(d) and 30 TAC § 305.125(16), the issuance of a permit does not convey and property right or exclusive privilege. The draft permit incorporates those rules into Permit Conditions Item 8, which states that a permit does not convey any property right of any sort or any exclusive privilege.

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

Comment 51:

Denise Harris and Edward Harris questioned how EPA's new Clean Water Rule will affect the permit application and draft permit issuance. Michael McChesney stated that the Applicant's proposed development does not meet Comal County rules for minimum lot size system viability; therefore, TCEQ and Comal County should deny this permit.

Response 51:

The EPA's Clean Water Rule will not affect this permit application and issuance of the draft permit. The EPA's Clean Water Rule is a federal regulation that, in short, revises the definition of the Waters of the US under the Clean Water Act. The rule does not create any new permitting requirements, and does not affect this permit application and approval of the draft permit by the Commission. To learn more about the Clean Water Rule, please visit the EPA website: <http://www2.epa.gov/cleanwaterrule>.

Additionally, the TCEQ is not required to seek the approval from county governments in determining whether to authorize Randolph Todd's permit application. The permit does not authorize any invasion of personal rights or any violation of federal

state or local laws and regulations.⁴⁵ If the permit is issued, it will be the responsibility of Randolph Todd to acquire all property rights necessary to construct and operate the WWTF and use of the discharge route.

Comment 52:

Terrance Frost questioned whether this high density housing development is compatible with the existing land development in the local community. Similarly, Mark Johnson, Daniel Laroe, Calli Laubach, Kenneth Laubach, and R. Pappas expressed concern about the high density of the entire development and how it will affect water usage and availability in the surrounding area.

Response 52:

Randolph Todd has applied for a domestic wastewater treatment discharge permit under the TPDES permitting program with the TCEQ. TPDES permits establish terms and conditions that intended to provide water quality pollution control, therefore, the TCEQ's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state. Applicants are not required to provide information regarding local land use requirements for a facility and/or development or the source of the water for the development in an application for a TPDES permit. As previously mentioned in Response 50, issuance of the proposed permit does not 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.

Comment 53:

Several commenters stated that Randolph Todd should not be allowed to construct the proposed facility given that the company has never constructed this size facility before. Additionally, Calli Laubach, Clint Laubach, Victoria Laubach and Aurora White stated that Randolph Todd has applied for a wastewater discharge permit for the financial gain of the company against the risk of harm to surrounding property owner's health, safety, and the environment.

Response 53:

The TCEQ's rules do not require that an applicant have a track record of building and operating wastewater treatment plants in order to obtain a permit. If the draft permit is issued, Randolph Todd will have to comply with all of TCEQ's rules regarding the design and operation of the wastewater system.

All new domestic wastewater treatment plants must be designed according to the design criteria for domestic wastewater systems found in 30 TAC § 217. The 30 TAC § 217 rules require, among other things, that Randolph Todd build its wastewater collection system and treatment facility according to the plans and specifications approved by the Executive Director, and that its facility plans and specifications meet all design requirements in its associated wastewater permit.⁴⁶ Randolph Todd will be required to submit a final engineering report for its proposed collection system and

⁴⁵ 30 TEX. ADMIN. CODE § 305.122(c).

⁴⁶ 30 TEX. ADMIN. CODE § 217.5.

treatment facility.⁴⁷ The final engineering report must include the signed and dated seal of the engineer responsible for the report.⁴⁸

Additionally, if the draft permit is issued; the WWTF must be operated at a minimum of five days per week by an operator holding a Category C license or higher.⁴⁹ An individual holding a Category C license must have at least two years of experience and 60 hours of education.⁵⁰

The TCEQ may not prohibit an applicant from receiving authorization if it complies with all statutory and regulatory requirements. Further, the TCEQ does not consider a company's profit motive in determining whether a wastewater discharge permit should be issued.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

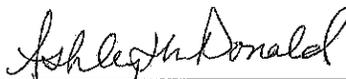
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Richard A. Hyde, P.E.
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TEXAS COMMISSION ON
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⁴⁷ 30 TEX. ADMIN. CODE § 217.10.

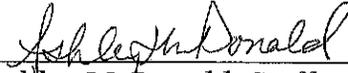
⁴⁸ 30 TEX. ADMIN. CODE § 217.10(d).

⁴⁹ Randolph Todd Company, LLC Draft Permit, Other Requirements, Item No. 1, page 33.

⁵⁰ 30 TEX. ADMIN. CODE § 30.340(a) (attached graphic chart regarding the educational, work experience and required training for each class of wastewater operators).

CERTIFICATE OF SERVICE

I certify that on September 8, 2015 the Executive Director's Response to Public Comment for Randolph Todd Company, LLC. Permit No. WQ0015314001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Ashley McDonald, Staff Attorney
Environmental Law Division
State Bar No. 24086775