

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

March 14, 2016

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

Re: Executive Director's Response to Hearing Requests for The Villas at Timberwood
Homeowners Association; Permit No. WQ0014670001

Dear Ms. Bohac:

Enclosed for filing are the original and seven copies of the "Executive Director's Response to Hearing Requests." If you have any questions or comments, please call me at (512) 239-5778.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony Tatu".

Anthony Tatu
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing List

TCEQ PERMIT NO. WQ0014670001

APPLICATION BY THE VILLAS AT	§	BEFORE THE TEXAS
TIMBERWOOD HOMEOWNERS	§	COMMISSION ON
ASSOCIATION FOR TCEQ	§	ENVIRONMENTAL QUALITY
PERMIT NO. WQ0014670001	§	

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. Introduction

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to hearing requests on the application by The Villas at Timberwood Homeowners Association (Applicant), for a renewal to TCEQ permit number WQ0014670001 and on the Executive Director's preliminary decision. The Office of the Chief Clerk (OCC) received timely hearing requests from:

Joe Freeland on behalf of the San Antonio Water System (SAWS), on November 23, 2015.

Attached for Commission consideration are the following:

- | | |
|--------------|-----------------------------------|
| Attachment A | GIS Map of the Area |
| Attachment B | Summary of Investigation Findings |
| Attachment C | Compliance History Report |

II. Description of the Facility

The Villas at Timberwood Homeowners Association, Inc. has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of Permit No. WQ0014670001 to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 0.018 million gallons per day (MGD) via non-public access subsurface drip irrigation system with a minimum area of 4.13 acres. The existing wastewater treatment facility serves the Villas at Timberwood Homeowners Association.

The Timberwood Development Wastewater Treatment Facility consists of septic tanks and subsurface drip dispersal system. Treatment units include two tanks with a total volume of 28,723 gallons, effluent filter and one storage tank with a volume of 57,446 gallons. The permittee is required to provide at least three days of temporary storage for times when the facility is out of service due to emergency or for scheduled maintenance. The facility is in operation.

Sludge generated from the treatment facility is hauled by a registered transporter to City of LaCoste Wastewater Treatment Facility, Permit No. WQ0010889001 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 wastewater treatment facility is located 820 feet southeast of the intersection of Harmony Hills and Shady Acres and the disposal area is located 1,600 feet southeast of the intersection of Harmony Hills and Shady Acres, in Bexar County, Texas 78260.

The wastewater treatment facility and disposal site are located in the drainage basin of Mustang Creek in Segment No. 1910 of the San Antonio River Basin. No discharge of pollutants into water in the state is authorized by this permit.

III. Procedural Background

The renewal application was received on October 27, 2014, and declared administratively complete on November 17, 2014. The Notice of Receipt of Application and Intent to Obtain Permit (NORI) was published in English on November 26th, 2014, in the *San Antonio Express-News*, Bexar County, Texas and on December 3, 2014, in Spanish in *La Prensa*, Bexar County Texas. The Executive Director completed the technical review of the application on March 23, 2015, and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) was published in English on May 6, 2015, in the *San Antonio Express-News*, Bexar County, Texas and on May 13, 2015, in Spanish in *La Prensa*, Bexar County Texas.

The comment period for this application ended on June 7, 2015. The Executive Director's Response to Comments was filed on original Response was filed on October 21, 2015. This application is subject to the procedural requirements of House Bill 801, 76th Legislature, 1999.

IV. The Evaluation Process for Hearing Requests

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. The Commission implemented HB 801 by adopting procedural rules in Title 30 of the Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. This application is subject to the HB 801 requirements.

A. Responses to Requests

"The executive director, the public interest counsel, and the applicant may submit written responses to [hearing] requests" 30 TAC § 55.209(d).

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

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or of law;
- (4) whether the issues were raised during the public comment period;

- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.

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. As noted in 30 TAC § 55.201(c):

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

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

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

C. Requirement that Requestor be an "Affected Person"

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

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

D. Referral to the State Office of Administrative Hearings

30 TAC § 50.115(b) details how the Commission refers a matter to the State Office of Administrative Hearings: “When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing.” 30 TAC § 50.115(c) further states:

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

E. Permit Applications Where There is No Right to a Contested Case Hearing

30 TAC § 55.201(i)(5) outlines when a renewal or amended permit application proposed to be issued under the Texas Water Code, Chapter 26, is not subject to a contested case hearing. A permit renewal or amendment is not subject to a contested case hearing when:

- (A) the applicant is not applying to:
 - (i) increase significantly the quantity of waste authorized to be discharged; or
 - (ii) change materially the pattern or place of discharge;
- (B) the activity to be authorized by the renewal or amended permit will maintain or improve the quality of waste authorized to be discharged;
- (C) any required opportunity for public meeting has been given;
- (D) consultation and response to all timely received and significant public comment has been given; and
- (E) the applicant's compliance history for the previous five years raises no issues regarding the applicant's ability to comply with a material term of the permit;

V. Analysis of the Request

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

SAWS submitted timely a written contested case hearing (CCH) request that included contact information and raised disputed issues.

The Executive Director recommends finding that SAWS substantially complied with 30 TAC §§ 55.201(c) and (d).

B. Whether the Requestor Meets the Requirements of An Affected Person

This is an application for renewal of a wastewater discharge permit and the Commission must determine whether there is a right to a contested case hearing. In most cases, the Executive Director recommends denial for hearing requests in cases of renewals straightforward renewals which do not seek to increase a discharge. However, in this case, SAWS' hearing request should be granted under 30 TAC § 55.201(i)(5) (E), because the Applicant's Compliance History raises serious issues regarding their ability to comply with a material term of their permit.

Attachment "B" is a Summary of Investigation Findings which has been provided by the San Antonio Regional Office.¹ This investigation summary contains several alleged violations and associated issues including:

- Sludge records were not on file at the facility, nor were they readily accessible.
- Failure to maintain compliance with permitted effluent limits. A review of the weekly BOD5 effluent results from June 23, 2015 back to December 4, 2013 noted 76 exceedances.

¹ Attachment "C" is the Applicant's Compliance History Report. Currently the Applicant has no rating and is "unclassified." That classification is based on violations between September 1, 2010-August 31, 2015. The Applicant will get a new rating on September 1, 2016.

- Failure to notify the TCEQ of exceedances where the effluent analytical results deviated 40% from the permitted single effluent limitation.
- Irrigation fields were poorly maintained with severe maintenance issues.
- Failure to annually sample and analyze soils in the required time frames.
- Failure to provide documentation that all irrigation zones meet the 100 foot buffer zones requirement for the tributary to Mustang Creek.

In addition, SAWS has articulated a personal justiciable interest not common to members of the general public. SAWS states that the facility is located within the City of San Antonio's extraterritorial jurisdiction (ETJ) and is subject to San Antonio's Aquifer Protection Ordinance which is administered by SAWS. Attachment "A" is a representation of where the facility is located with respect to San Antonio's ETJ.

Based on the compliance related issues detailed above, The Executive Director recommends that the Commission find SAWS is entitled to a contested case hearing under 30 TAC § 55.201(i)(5)(E).

C. 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 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.

Issue 1: Whether, based on Timberwood HOA's compliance history, the Applicant is capable of meeting the conditions of the draft permit. (Comment No. 1)

This is an issue of fact. If it can be shown that the Applicant's is not able to comply with the terms of the draft permit, 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.

VI. Duration of Contested Case Hearing

If the Commission determines that this matter should be sent to SOAH for a contested case hearing, the Executive Director recommends a hearing duration of six months from the preliminary hearing to the presentation of a proposal for decision to the Commission.

VII. Request for Reconsideration

The Executive Direction recommends that SAWS' request for reconsideration be denied because the request does not raise any additional information.

VIII. Executive Director's Recommendation

The Executive Director recommends the following actions by the Commission:

1. The Executive Director recommends that the Commission find that SAWS is an affected person under 30 TAC § 55.203 and 30 TAC § 55.201 (i) (5) (E).
2. If referred to SOAH, first refer the matter to Alternative Dispute Resolution for a reasonable period.
3. The Executive Director recommends that the request for reconsideration be denied.
4. If referred to SOAH, the Executive Director recommends referring the following issues:
Issue 1: Whether, based on Timberwood HOA's compliance history, the Applicant is capable of meeting the conditions of the draft permit.
5. If referred to SOAH, the Executive Director recommends that the duration of the hearing between the preliminary hearing and the presentation of a proposal for decision before the Commission be less than **six months**.

Respectfully submitted,
Texas Commission on Environmental Quality

Richard A. Hyde, P.E.
Executive Director

Caroline Sweeney, Deputy Director
Office of Legal Services

Robert Martinez, Director
Environmental Law Division

By: 
Anthony Tatu, Staff Attorney
Environmental Law Division
State Bar No. 00792869
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Phone: (512) 239-5778
Fax: (512) 239-0606

REPRESENTING THE EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY

CERTIFICATE OF SERVICE

I certify that on March 14, 2016, the Executive Director's Response to Public Comment for The Villas at Timberwood Homeowners Association, Inc., TCEQ Permit No. WQ0014670001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Anthony Tatu, Staff Attorney
Environmental Law Division
State Bar No. 00792869

Attachment A

The Villas at Timberwood HOA WQ Permit No. 0014670001

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

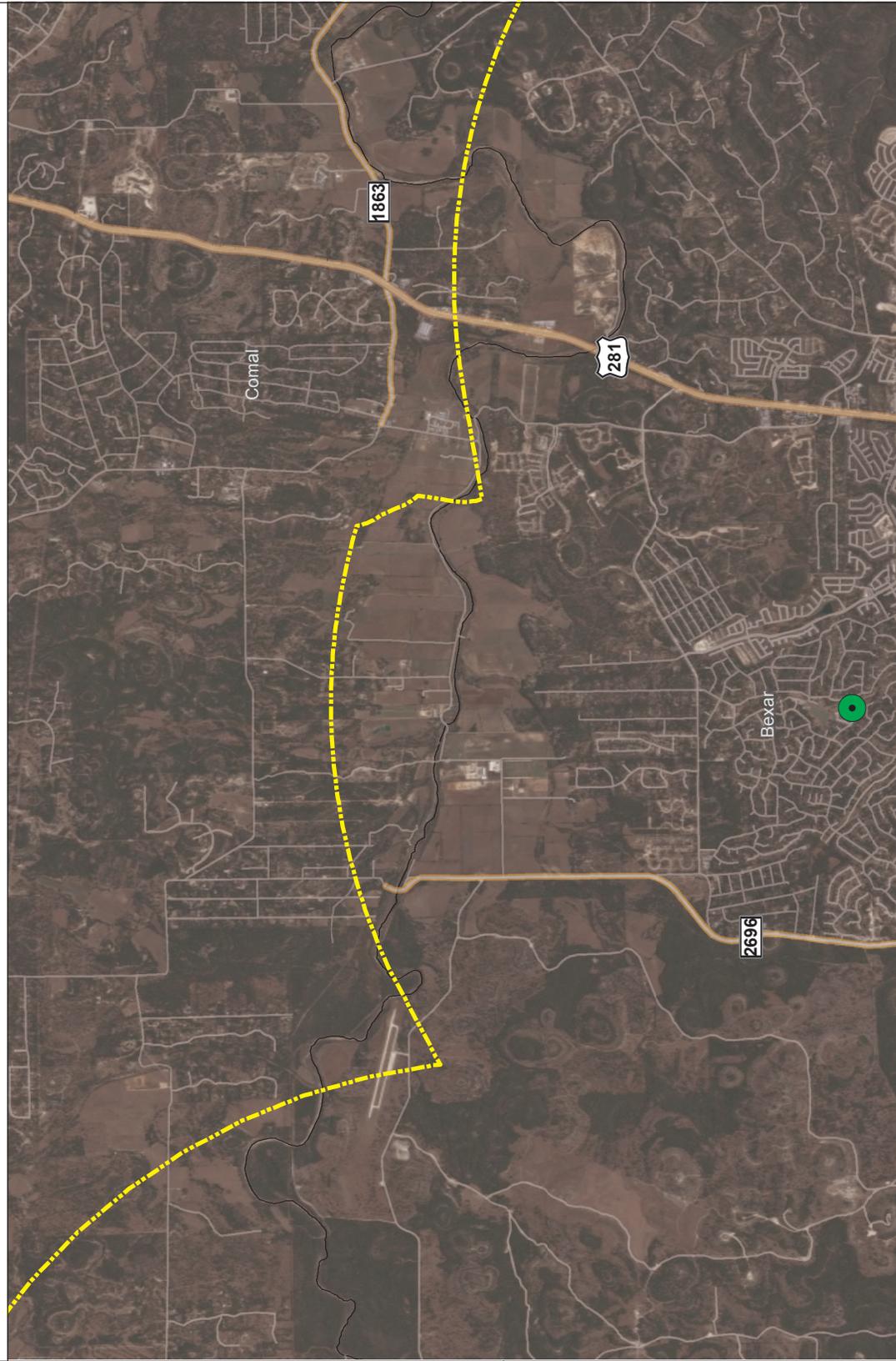


Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 3/9/2016



Legend

-  Wastewater Treatment Facility
-  San Antonio ETJ
-  Toll Roads
-  Major Highways
-  Intermediate Roads
-  Minor Roads





Bexar County



Bexar County



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

The Wastewater Treatment Facility falls within the City of San Antonio 2015 Extraterritorial Jurisdiction Boundary (ETJ).

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.

The City of San Antonio Extraterritorial Jurisdiction (ETJ) Boundary of 2015 was downloaded from the City of San Antonio GIS (Geographic Information Services) web page:
<http://www.sanantonio.gov/GIS/GISdata>

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) 259-0800.

Attachment B

Summary of Investigation Findings

TIMBERWOOD DEVELOPMENT

Investigation # 1273102

**25120 BLANCO RD
SAN ANTONIO, BEXAR COUNTY, TX 78260**

Investigation Date: 07/15/2015

Additional ID(s): WQ0014670001

OUTSTANDING ALLEGED VIOLATION(S) ASSOCIATED TO A NOTICE OF VIOLATION

Track No: 580702 **Compliance Due Date:** 10/22/2015

**30 TAC Chapter 305.125(1)
30 TAC Chapter 305.125(11)(B)**

PERMIT Monitoring Requirements 3.b

"...copies of all records required by this permit, and records of all data used to complete the application for this permit shall be retained at the facility site, or shall be readily available for review by a TCEQ representative..."

Alleged Violation:

Investigation: 1273102

Comment Date: 08/17/2015

Sludge records were not on file at the facility, nor were they readily accessible. The verbal Exit Interview on July 15, 2015, and the Exit Interview emailed on July 22, 2015, requested sludge records for the past five years. Only disposal records for 2015 were submitted in response.

Recommended Corrective Action: Annual sludge reports are required to be filed to the TCEQ Regional Office and Water Quality Compliance by September 1 of each year. Unless hauled to a wastewater treatment facility for further processing, sludge is required to be tested once during the term of the permit for toxicity characteristic leaching procedure (TCLP) and polychlorinated biphenyls (PCBs). Submit a standard operating procedure for the maintenance of sludge records. However, the required information (sludge records) shall be retained at the facility site and/or shall be readily available for review by TCEQ representatives for a period of five years.

Track No: 580784 **Compliance Due Date:** 10/22/2015

PERMIT A. EFFLUENT LIMITATIONS

The following effluent limitations shall be required: Biochemical Oxygen Demand (BOD5), Weekly Single Grab - 65 mg/L.

Alleged Violation:

Investigation: 1273102

Comment Date: 09/16/2015

Failed to maintain compliance with the permitted effluent limits. Specifically, the grab sample collected during the investigation was not compliant with the weekly single grab limit of 65 mg/L for carbonaceous biochemical oxygen demand. The result of the BOD5 analysis was 111 mg/L.

Recommended Corrective Action: Compliance with the permitted effluent limits must be maintained. Submit documentation describing the action taken to prevent the recurrence of carbonaceous biochemical oxygen (BOD5) demand violations.

Track No: 580794 **Compliance Due Date:** 10/22/2015

30 TAC Chapter 305.125(1)

PERMIT A. Effluent Limitations

Quality: The following effluent limitations shall be required: Biochemical Oxygen Demand (BOD5), Single Grab - 65 mg/L.

Alleged Violation:

Investigation: 1273102

Comment Date: 08/18/2015

A review of the weekly BOD5 effluent analytical results dating from June 23, 2015 back to December 4, 2013 noted 76 exceedances. See Item 13 of the August 4, 2015 submittal by SOS Enviro Services.

Recommended Corrective Action: Compliance with the permitted effluent limits must be maintained. Submit documentation describing the action taken to prevent the recurrence of carbonaceous biochemical oxygen demand violations.

Track No: 580801 **Compliance Due Date:** 10/22/2015

30 TAC Chapter 305.125(1)

PERMIT Monitoring Requirements 7.c.

"...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 five working days of becoming aware of the noncompliance."

Alleged Violation:

Investigation: 1273102

Comment Date: 08/18/2015

A review of the weekly BOD5 effluent analytical results dating from June 23, 2015 back to December 4, 2013 noted 76 exceedances. Of these 76 exceedances, there were 65 instances where the results deviated 40% (equal, or greater than 91 mg/L) from the permitted single grab effluent limitation of 65 mg/L. None of these exceedances were reported to the TCEQ.

Recommended Corrective Action: Noncompliance notification shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. Submit the required noncompliance notifications. Also, submit documentation outlining the steps taken to ensure the proper notification of effluent violations.

Track No: 580910 **Compliance Due Date:** 10/22/2015

30 TAC Chapter 305.125(5)

PERMIT Special Provisions Item 6.

"The subsurface drip irrigation system shall be designed and managed so as to prevent ponding or surfacing of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Bermuda grass and rye grass shall be established and well maintained in the irrigation area throughout the year..."

Alleged Violation:

Investigation: 1273102

Comment Date: 09/16/2015

At the time of the investigation evidence of recent and current ground saturation, and surfacing and pooling of unchlorinated effluent, was observed in numerous places in the North and South fields. These conditions create potential health and nuisance conditions, contribute to the transmission of disease by vectors including wildlife, domestic pets and neighborhood residents traversing the area, and promote the potential for surface and ground water contamination. Both the North and South fields were poorly maintained with severe maintenance issues, uneven terrain, and effluent emitter piping exposed on the surface. Surface runoff from the neighborhood streets and yards directed through the irrigation fields seems to be a contributing factor. There were predominantly bunch type grass species in the North field. The South field was predominantly devoid of the requisite grass cover due to the dense canopy of trees preventing adequate sunlight from reaching the ground to help sustain grass cover.

Recommended Corrective Action: Immediately cease the ponding of effluent. Agronomists, arborists and other agricultural specialists should be consulted to prepare a plan for submittal to the TCEQ to rehabilitate both fields.

Track No: 580922 **Compliance Due Date:** 10/22/2015

30 TAC Chapter 305.125(1)

PERMIT Special Provisions Item 28.

Application rates shall not exceed 0.1 gallons per square foot per day. The permittee is responsible for providing equipment to determine the application rate and maintaining accurate records of the volume for effluent applied.

Alleged Violation:

Investigation: 1273102

Comment Date: 08/18/2015

Application rates for effluent application were not available. The verbal Exit Interview on July 15, 2015 and the written Exit Interview emailed on July 22, 2015 requested application rate records for each field. These records were not received.

Recommended Corrective Action: "The issued permit states the "Application rates shall not exceed 0.1 gallons per square foot per day." Submitted design criteria indicate an application rate of 0.2 with a design field area of 180,000 square feet. Submit documentation that:

1. The permitted application rate has been met for the past twelve months; and
2. The permitted application rate is currently being met with Zone 5 in the South field temporarily out-of-service.

Track No: 580938 Compliance Due Date: 10/22/2015**30 TAC Chapter 319.5(d)****PERMIT Special Provisions Item 17**

"...The permittee shall provide annual soil analyses of the irrigation area... The permittee shall submit the results of the soil sample analyses with copies of the laboratory reports to the TCEQ Regional Office (MC Region 13) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 following each sampling year."

Alleged Violation:

Investigation: 1273102

Comment Date: 09/02/2015

Failed to annually sample and analyze soils in the required time frames from the root zones of the land application areas receiving wastewater in December to February, and failure to submit the annual soil reports by September 1 of each year to the TCEQ Regional Office (MC Region 13) and the Water Quality Compliance Monitoring Team (MC 224). The last soils samples taken were on March 21, 2013. No documentation was provided to demonstrate the annual soil reports were filed for 2013 or 2014.

Recommended Corrective Action: Submit documentation indicating that soil sampling, analysis, and annual report submittals are being conducted as required.

Track No: 582676 Compliance Due Date: 10/22/2015**30 TAC Chapter 319.7(c)****PERMIT Special Provision Item 20**

The permittee shall monitor the accumulation of solids in the septic tank once every six months. Solids shall be removed once every two years or more frequently if necessary based upon accumulation of solids. The permittee shall maintain records of the dates of inspection and the dates on which solids are removed. These records shall be maintained on-site for a minimum of three years.

Alleged Violation:

Investigation: 1273102

Comment Date: 09/02/2015

Failed to maintain all monitoring and reporting records at the Facility. Specifically, the permittee failed to maintain monitoring and removal records of the accumulation of solids in the septic tank.

Recommended Corrective Action: All records and information resulting from the required monitoring activities shall be retained for a minimum of three years. Submit a copy of a sludge record log that indicates the date the sludge accumulation level in the septic tank is checked every six months or more frequently, the date of removal, and the associated sludge transporter name and manifest number.

Track No: 582679 Compliance Due Date: 10/22/2015

30 TAC Chapter 305.125(1)

PERMIT Special Provisions Item 21

The permittee shall maintain a buffer of 100 feet from the tributary to Mustang Creek where no wastewater shall be applied.

Alleged Violation:

Investigation: 1273102

Comment Date: 09/03/2015

Failed to provide documentation as per the Exit Interview Form that Zone 5 in the South Field met the 100 foot buffer requirement from the unnamed tributary of Mustang Creek. Subsequent evaluation using aerial assets indicate that a majority of both the North and South Irrigation Zones fail to meet the 100 foot buffer requirement.

Recommended Corrective Action: Permittee shall submit documentation that all irrigation zones in the North and South Fields meet the 100 foot buffer requirement for the tributary to Mustang Creek. If any of these zones do not meet this requirement, the particular zone will be placed out of service. The permittee shall submit a compliance plan how this requirement will be met, and also still meet the application rate for the remainder of the zones.

**ALLEGED VIOLATION(S) NOTED AND RESOLVED
ASSOCIATED TO A NOTICE OF VIOLATION**

Track No: 580690

30 TAC Chapter 317.4(a)(8)

30 TAC Chapter 317.7(i)

PERMIT 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.

Alleged Violation:

Investigation: 1273102

Comment Date: 08/17/2015

The Exit Interview that was verbally conducted on July 15, 2015 and the Written Exit Interview emailed on July 22, 2015 requested a copy of the most current passing test certificate for the backflow prevention device. This information was not received.

Recommended Corrective Action: Submit a passing test certificate for the device.

Resolution: On August 21, 2015, a backflow prevention test was received by the TCEQ Region 13 office. The backflow device was tested on August 14, 2015.

Track No: 580797

30 TAC Chapter 319.5(a)

PERMIT B. Monitoring Requirements

If the effluent is land applied directly from the treatment system, monitoring shall be done after the final treatment unit and prior to land application.

Alleged Violation:

Investigation: 1273102

Comment Date: 08/18/2015

It was noted the operator was collecting samples at the irrigation pump discharge and prior to the filter.

Recommended Corrective Action: Filters are located on the irrigation pump discharge side. Samples are required to be taken after the filters and prior to the effluent being discharged to the fields

Resolution: The cover letter of the August 4, 2015 SOS Enviro Services submittal indicated the sample point has been changed to a location downstream of the pump discharge and filter.

ADDITIONAL ISSUES

Description

Additional Comments

Is the facility operating with a current TPDES permit?

PERMIT CONDITIONS, Permit Amendment and/or Renewal 4.a.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."

The current permit expired March 1, 2015. A wastewater permit renewal was submitted October 27, 2014, therefore, the submittal was not within the required time frame.

Has proper notification (engineering plans and specifications) for plant/collection system modifications been submitted, as required?

The TCEQ has conflicting documentation as to the design and treatment process of the wastewater treatment facility. The verbal Exit Interview held on July 15, 2015 and the written Exit Interview emailed on July 22, 2015 requested an accurate written description of the wastewater flow process and treatment units. Provide a facility flow schematic, and facility construction specifications. Provide an accurate map of the North and South fields with each zone accurately located and correctly identified. This information was not received.

ITEM

Failure to submit and gain approval of an Edwards Aquifer Contributing Zone Plan prior to commencing regulated activities that disturbed approximately 20.16 acres. This has been referred to the TCEQ Region 13 Edwards Aquifer Program for further evaluation.

Has the owner of the collection system designated a responsible individual to comply with the public notification requirements?

During the inspection it was noted there were no written procedures for sanitary sewer overflows and unauthorized discharges, including who is responsible for mitigating the spill, the person who will notify the TCEQ, and if spills of 50,000 gallons or greater occur, the person who will be responsible for issuing the: Notice to Local Officials and Local Media.

Submit documentation of the individual who will be responsible for making the notifications.

Is final effluent only applied to the land application site when the area is not in use?

30 TAC 305.125(1) and) and WQ001467001 Permit Special Provision 14: "Irrigation with effluent shall be accomplished only when the area specified is not in use." During the investigation it was noted that the public had almost complete unrestricted access to the irrigation fields thru the access road to the WWTF, thru the drainage way that runs thru the irrigation area, and thru the poorly maintained three-strand, smooth wire fence. Evidence of people, domestic pets and wildlife accessing the irrigation areas were present.

Permittee shall fully control unauthorized access to this restricted area.

Attachment C



Compliance History Report

PUBLISHED Compliance History Report for CN604095778, RN104814959, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator:	CN604095778, The Villas at Timberwood Homeowners Association	Classification: UNCLASSIFIED	Rating: -----
Regulated Entity:	RN104814959, TIMBERWOOD DEVELOPMENT	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	5	Repeat Violator: NO	
CH Group:	08 - Sewage Treatment Facilities		
Location:	25120 BLANCO RD SAN ANTONIO, TX 78260-6619, BEXAR COUNTY		
TCEQ Region:	REGION 13 - SAN ANTONIO		

ID Number(s):
WASTEWATER PERMIT WQ0014670001

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: March 03, 2016

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

Component Period Selected: October 27, 2009 to March 03, 2016

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

Name: John O. Onyenobi, P.E., NSPE

Phone: (512) 239-6707

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

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.

1	Date:	09/22/2015 (1273102)	CN604095778
	Self Report?	NO	Classification: Minor
	Citation:	30 TAC Chapter 317 317.4(a)(8)	

30 TAC Chapter 317 317.7(i)
 Operational Requirements 1. PERMIT
 Description: Failure to conduct an annual test on the backflow prevention device
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
 Monitoring Requirements 3.b PERMIT
 Description: Failure to submit the annual sludge report. Failure to test the sludge at the
 required frequency. Failure to maintain adequate sludge records.
 Self Report? NO Classification: Moderate
 Citation: A. EFFLUENT LIMITATIONS PERMIT
 Description: Failed to maintain compliance with the permitted effluent limits.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 A. Effluent Limitations PERMIT
 Description: Failed to maintain compliance with the permitted effluent limits.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.5(a)
 B. Monitoring Requirements PERMIT
 Description: Failed to collect effluent samples from the sampling point described in the permit.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Monitoring Requirements 7.c. PERMIT
 Description: Failed to provide notification of any effluent violation which deviates from the
 permitted effluent limitation by more than 40%.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Special Provisions Item 6. PERMIT
 Description: Failure to prevent ponding or surfacing of effluent in the disposal fields.
 Failure to prevent nuisance conditions.
 Failure to maintain required vegetative cover.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Special Provisions Item 28. PERMIT
 Description: Failure to maintain operations and maintenance records.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.5(d)
 Special Provisions Item 17 PERMIT
 Description: Failure to conduct annual soil sampling and failure to submit an annual soils
 report to the TCEQ.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Special Provision Item 20 PERMIT
 Description: Failed to maintain all monitoring and reporting records at the Facility.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Special Provisions Item 21 PERMIT
 Description: Failed to provide documentation as per the Exit Interview Form that Zone 5 in the
 South Field met the 100 foot buffer requirement.

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

MAILING LIST
THE VILLAS AT TIMBERWOOD HOMEOWNERS
ASSOCIATION, INC.
PERMIT NO. WQ0014670001

FOR THE APPLICANT:

Mark Hernandez
The Villas at Timberwood Homeowners
Association
173179 San Pedro Avenue, Suite 318
Austin, Texas 78232

Erin Banks, P.E.
WWD Engineering
9217 Highway 290 West, Suite 110
Austin, Texas 78736

**PROTESTANTS/INTERESTED
PERSONS:**

Joe Freeland
Mathews & Freeland, L.L.P.
8140 North MoPac Expwy, Suite 2-260
Austin, Texas 78759

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Brian Christian, Director
Texas Commission on Environmental
Quality
Environmental Assistance Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Anthony Tatu, Staff Attorney
Texas Commission on Environmental
Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

John O. Onyenobi, P.E., Technical Staff
Texas Commission on Environmental
Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087

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

FOR THE CHIEF CLERK
via electronic filing:

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