

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 25, 2016

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 8 Mile Park, L.P. for a major amendment of TPDES Permit No. WQ0013796001; TCEQ Docket No. 2015-1792-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".

Ashley McDonald
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing List

TCEQ DOCKET NO. 2015-1792-MWD

APPLICATION BY	§	BEFORE THE
8 MILE PARK, L.P.	§	
FOR	§	TEXAS COMMISSION ON
TPDES PERMIT NO.	§	
WQ0013796001	§	ENVIRONMENTAL QUALITY

Executive Director’s Response to Hearing Requests

I. Introduction

The Executive Director of the Texas Commission on Environmental Quality (the TCEQ or Commission) files this Response to Hearing Requests (Response) on the application of 8 Mile Park, L.P. for a major amendment of the existing permit Texas Pollutant Discharge Elimination System Permit (TPDES) No. WQ0013796001. The Office of the Chief Clerk (OCC) received a timely hearing request from Mr. Roy and Mrs. Jan Edwards.

Attached for Commission consideration are the following:

- Attachment A – GIS Map
- Attachment B – Technical Summary/Fact Sheet
- Attachment C – Draft Permit
- Attachment D – Executive Director’s Response to Public Comment

II. Description of the Facility

8 Mile Park, L.P. (Applicant) has applied to the TCEQ for a major amendment to Permit No. WQ0013796001 to authorize a reduction in the frequency of monitoring for *E. coli* bacteria from five times per week to once per quarter. The existing permit authorizes the discharge of treated domestic wastewater a daily average flow not to exceed 7,200 gallons per day. The facility is located in the Autumn Shadows Subdivision on the south side of State Highway 35 approximately 570 feet east of the intersection of State Highway 35 and Farm-to-Market Road 1459, in Brazoria County, Texas 77480.

The effluent limitations in the draft permit, based on a 30-day average are 20 mg/l five-day biochemical oxygen demand (BOD5), 20 mg/l total suspended solids (TSS), 126 colony forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml and 2.0 mg/l minimum dissolved oxygen (DO). 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 application requests a reduction of the monitoring frequency requirements for *E. coli* from five per week to once per quarter based on the appropriate frequency for a facility of this size.

The treated effluent is discharged to a drainage ditch; then to an unnamed tributary; then to a pond; then to an unnamed tributary; then to the San Bernard River Tidal in Segment No. 1301 of the Brazos-Colorado Coastal Basin. The unclassified receiving water uses are minimal aquatic life use for drainage ditch, unnamed tributaries and limited aquatic life use for the pond. The designated uses for Segment No. 1301 are high aquatic life use and primary contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses.

III. Procedural Background

TCEQ received the permit application on May 13, 2014 and declared it administratively complete on July 29, 2014. The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published on August 7, 2014, in The Facts. The technical review was completed on April 14, 2014, and the combined Notice of Public Meeting and Notice of Application and Preliminary Decision (NAPD) was published on June 29, 2015, in The Facts. The public meeting was held on August 04, 2015, at the West Columbia Civic Center. The public comment period ended on August 4, 2015. The Executive Director's Final Decision Letter was mailed on November 06, 2015, and the period for filing a Request for Reconsideration or Contested Case Hearing ended on December 07, 2015. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the 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 of 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 the Request

The Executive Director has analyzed the hearing request to determine whether it complies with Commission rules, who qualifies as an affected person, what issues may be referred for a contested hearing, and what is the appropriate length of the hearing.

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

a. Roy and Jan Edwards

The period for timely filing a request for a contested case hearing on this permit application ended December 07, 2015. The Edwards filed their hearing request on August 08, 2014 with the TCEQ's Chief Clerk. In their hearing request, the Edwards

failed to identify the location/distance of their property in relation to the activity and how they will be adversely affected by the wastewater treatment facility and discharge activities. Based on the address provided, the Edwards are located over 20 miles south of the Autumn Shadows facility. Additionally, the Edwards failed to identify how they will be adversely affected by the proposed facility and activity in a way not common to members of the general public.

*The Executive Director recommends that the Commission find that **Roy and Jan Edward's** hearing request **does not substantially comply** with the requirements of 30 TAC §55.201 (c) and (d).*

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

The Edwards' property is located over 20 miles south of the Autumn Shadows wastewater treatment facility. In their hearing requests, the Edwards raise issues of concern regarding the *E. Coli* monitoring requirements, the impact of the discharge on the bacterial impairment of the San Bernard River, future expansion of the facility, and concerns regarding the compliance history of the Applicant. The Edwards raised general issues of concern, none of which, address their personal justiciable interest affected by the application that is not common to member of the general public. Additionally, due to their distance from the wastewater treatment facility and discharge location, it is not likely that the Edwards will be impacted by the activity in a way not common to members of the general public.

*The Executive Director recommends that the Commission find that **Roy and Jan Edwards** do not meet the affected persons requirements of 30 TAC §55.203.*

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 the proposed monitoring frequency for *E. Coli* under the draft permit is appropriate. (Comment 1)

This is an issue of fact. If it can be shown the monitoring frequency for *E. Coli* is not appropriate under Commission rules, this issue 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 issuance of the draft permit will increase the bacterial impairment of the San Bernard River. (Comment 4)

This is an issue of fact. If it can be shown that the draft permit will increase or contribute to the impairment of the San Bernard River, 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 3: Whether the proximity of the Autumn Shadows WWTP to the Phillips gas station will require the WWTP to increase in size for future development in the area. (Comment 10)

This is an issue of fact. However, this issue is not relevant and material to a decision on the application. The proposed draft permit only authorizes the discharge of a maximum daily average of 7,200 gallons per day. If the Applicant seeks to expand and/or upgrade the facility, it must obtain necessary authorization from the Commission to commence construction of the necessary treatment and/or collection units.

The Executive Director recommends that the Commission not refer this issue to SOAH.

Issue 4: Whether, based on its compliance history, the Applicant's request for a reduction in the monitoring frequency for *E. Coli* should be granted.

(Comment 2)

This is an issue of fact. If it can be shown that the Applicant's compliance history does not indicate that the Applicant would be able to comply with the terms and conditions of its 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. Executive Director's Recommendation

The Executive Director recommends the following actions by the Commission:

1. The Executive Director recommends that the Commission find that Mr. Roy and Mrs. Jane Edwards are not affected persons under 30 TAC §55.203.
2. If referred to SOAH, first refer the matter to Alternative Dispute Resolution for a reasonable period.
3. If referred to SOAH, the Executive Director recommends referring the following issues:

Issue 1: Whether the proposed monitoring frequency for *E. Coli* under the draft permit is appropriate.

Issue 2: Whether issuance of the draft permit will increase the bacterial impairment of the San Bernard River.

Issue 4: Whether, based on its compliance history, the Applicant's request for a reduction in the monitoring frequency for *E. Coli* should be granted.

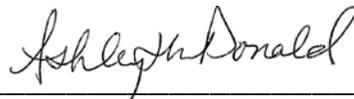
4. If referred to SOAH, the Executive Director recommends that the duration of the hearing between the preliminary hearing and the presentation of a proposal for decision before the Commission be less than **six months**.

Respectfully submitted,

Texas Commission on Environmental Quality

Richard A. Hyde, P.E.
Executive Director

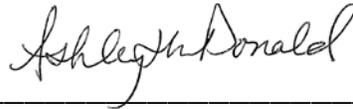
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REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on January 25, 2016, the original and seven copies of the “Executive Director’s Response to Hearing Requests” for 8 Mile Park, L.P. WQ0013796001 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 S. McDonald, Staff Attorney
Environmental Law Division
State Bar No. 24086775

**MAILING LIST
8 MILE PARK, L.P.
DOCKET NO. 2015-1792-MWD; PERMIT NO. WQ0013796001**

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REQUESTER(S)/ INTERESTED
PERSON(S):

See attached list.

REQUESTER(S)

Jan & Roy Edwards
162 Fishermans Isle
Brazoria, TX 77422-7914

PUBLIC OFFICIALS - INTERESTED PERSON(S)

The Honorable Dennis Bonnen
House Of Representatives
Po Box 2910
Austin, TX 78768-2910

INTERESTED PERSON(S)

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Brazoria, TX 77422-9696

Brian & Katy Benavides
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Sweeny, TX 77480-7014

Robert Broox
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Brazoria, TX 77422-6516

Jack Brown
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Brazoria, TX 77422-7552

Cynthia Connell
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Brazoria, TX 77422-6516

Will Connell
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Brazoria, TX 77422-7178

Amy & Doug Dunham
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Sweeny, TX 77480-7036

Jan Edwards
162 Fishermans Isle
Brazoria, TX 77422-7914

Darrell Fletcher
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Sweeny, TX 77480-8032

Marc Garrison
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Sweeny, TX 77480-7016

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Houston, TX 77055-6522

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Joe & Lurna Petty
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Floyd & Peggy Randolph
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Brazoria, TX 77422-6842

Nancy Wollam
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Angleton, TX 77515-4739

Ken & Linda Wright
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Brazoria, TX 77422-6519

Jeri Yenne
Criminal Dist Atty, Brazoria County
111 E Locust St Ste 408A
Angleton, TX 77515-4672

ATTACHMENT A

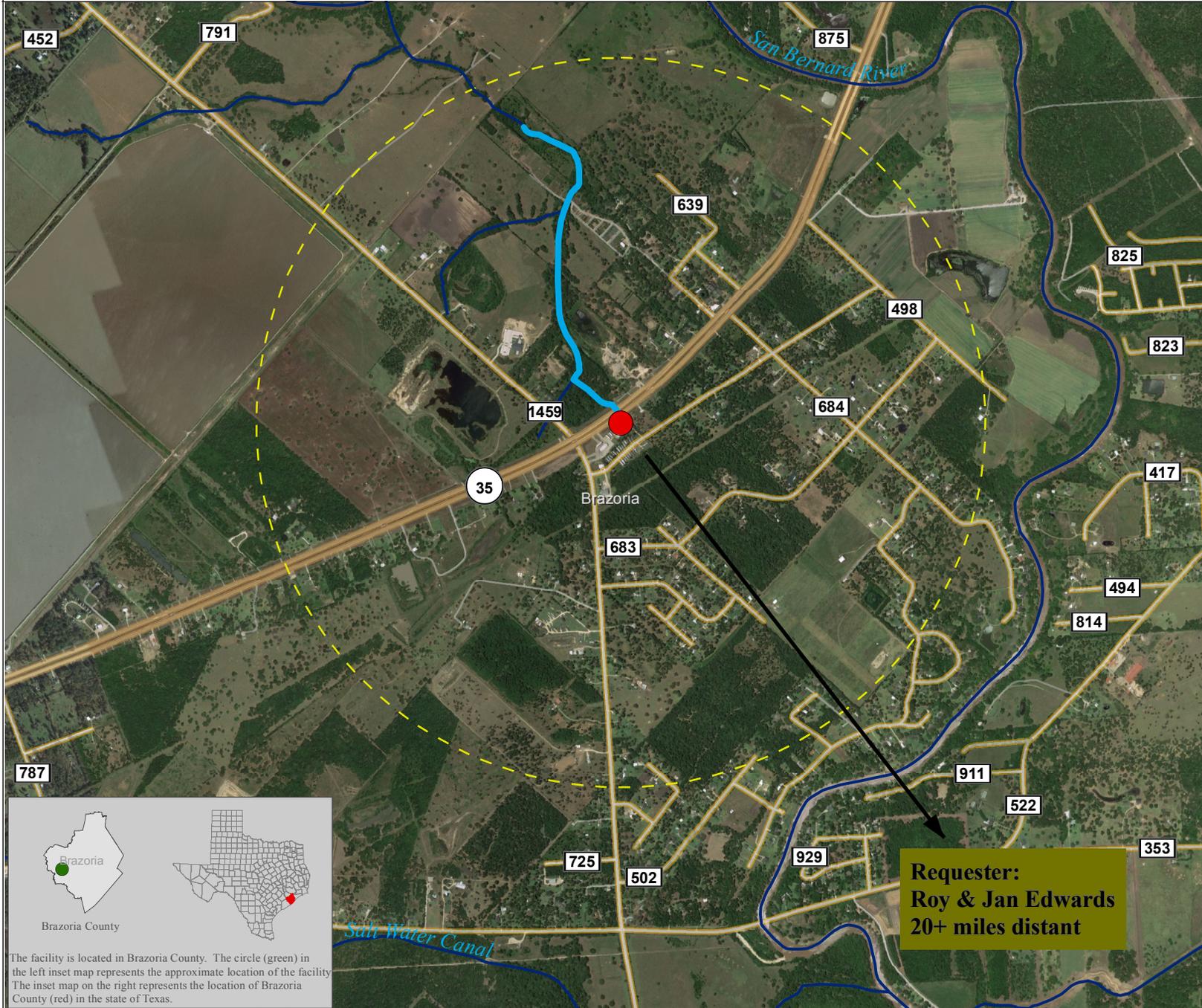
8 Mile Park, L.P. TPDES Permit No. WQ0013796001

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: 12/3/2015



- Facility & Outfall Location
- 1 mi downstream discharge from outfall
- Watercourse
- 1 mi radial distance from facility
- Major Highways
- Intermediate Roads
- Ramp
- Minor Roads

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.

**Requester:
Roy & Jan Edwards
20+ miles distant**



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

ATTACHMENT B

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

DESCRIPTION OF APPLICATION

Applicant: 8 Mile Park, L.P.;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0013796001, TX0091421

Regulated Activity: Domestic Wastewater Permit

Type of Application: Major Amendment

Request: Major Amendment, to requested a reduction in the frequency of monitoring *E.coli* bacteria from five per week to once per quarter.

Authority: Federal Clean Water Act (CWA) § 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 **July 1, 2019** 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 an amendment of the existing permit to authorize a reduction in the frequency of monitoring requirements for *E.coli* bacteria from five per week to once per quarter. The existing permit authorizes the discharge of treated domestic wastewater a daily average flow not to exceed 7,200 gallons per day. The existing wastewater treatment facility serves the Autumn Shadows subdivision.

PROJECT DESCRIPTION AND LOCATION

The Autumn Shadows Wastewater Treatment Facility is an activated sludge process plant operated in the contact stabilization mode. Treatment units include a lift station, an aeration basin, a contact aeration basin, a reaction aeration basin, a final clarifier, a sludge digester, and a chlorine contact chamber. The facility is in operation.

Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ authorized land application site, El Celoso Ranch, Permit No. WQ0004518000, in Waller County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

8 Mile Park, L.P.
TPDES Permit No. WQ0013796001
Statement of Basis Summary Executive Directors Preliminary Decision

The plant site is located in the Autumn Shadows Subdivision on the south side of State Highway 35 approximately 570 feet east of the intersection of State Highway 35 and Farm-to-Market Road 1459, in Brazoria County, Texas 77480.

The treated effluent is discharged to a drainage ditch; thence to an unnamed tributary; thence to a pond; thence to an unnamed tributary; thence to the San Bernard River Tidal in Segment No. 1301 of the Brazos-Colorado Coastal Basin. The unclassified receiving water uses are minimal aquatic life use for drainage ditch, unnamed tributaries and limited aquatic life use for the pond. The designated uses for Segment No. 1301 are high aquatic life use and primary contact recreation.

The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 Texas Administrative Code § 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. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in San Bernard River Tidal which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received

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 to 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 waterbodies. 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 Water Quality Management Plan (WQMP). The recommended limits are consistent with the approved WQMP. A Waste Load Evaluation has not been prepared for Segment No. 1301.

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

Segment No. 1301 is currently listed on the State's inventory of impaired and threatened waters, the 2012 Clean Water Act Section 303(d) list. The listing is for bacteria in the entire segment (AU 1301_01).

This facility is designed to provide adequate disinfection and when operated properly should not add to the bacterial impairment of the segment.

In addition, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limitation of 126 colony forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml has been added to the draft permit.

SUMMARY OF EFFLUENT DATA

The following is a summary of the applicant's Monthly Effluent Report data for the period May 2009 through July 2014. The average of Daily Avg value is computed by the averaging of all 30-day average values for the reporting period for each parameter.

<u>Parameter</u>	<u>Average of Daily Avg</u>
Flow, MGD	0.005
BOD ₅ , mg/l	8.7
TSS, mg/l	11
<i>E. coli</i> , CFU or MPN/100 ml	5.4

DRAFT PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at a volume not to exceed a daily average flow of 0.0072 MGD.

The effluent limitations in the draft permit, based on a 30-day average, are 20 mg/l five-day biochemical oxygen demand (BOD₅), 20 mg/l total suspended solids (TSS), 126 colony forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml and 2.0 mg/l minimum dissolved oxygen (DO).

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.

Reduced monitoring frequency requirements for *E. coli* from five per week to once per quarter are in the draft permit based on appropriate frequency for this size facility.

The permittee shall maintain the nuisance odor prevention for the Autumn Shadows Wastewater Treatment Facility in accordance with 30 TAC Section 309.13(e)(2). The permit issued October 27, 1995 stated that the existing wastewater treatment facilities are enclosed in a structure and incorporate acceptable means of noise and odor abatement.

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 is hauled by a registered transporter and disposed of at a TCEQ authorized land application site, El Celoso Ranch, Permit No. WQ0004518000, in Waller County. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

SUMMARY OF CHANGES FROM APPLICATION

The application requested that licensed operator requirement be reduced from a Category C certified operator to a Category D operator. However, after discussion with staff the permittee agreed that this facility must be operated by a chief operator or an operator holding a Category C license or higher.

SUMMARY OF CHANGES FROM EXISTING PERMIT

The monitoring frequency requirements are reduced in the draft permit from the existing permit requirements. Reduced the monitoring frequency for *E. coli* from five per week to once per quarter based on appropriate frequency for this size facility.

The single grab or daily maximum bacteria limits have been changed from 394 *E. coli* CFU or MPN per 100 ml to 399 *E. coli*, CFU or MPN per 100 ml, based on the EPA approved portions of the 2010 Texas Surface Water Quality Standards (TSWQS).

The Standard Permit Conditions, Sludge Provisions, and Other Requirements sections of the draft permit have been updated.

BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received on May 13, 2014, and additional information received on July 7, 2014 and January 28, 2015.
2. TPDES Permit No. WQ0013796001 issued on December 23, 2009.
3. 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.
4. 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.
5. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division.
6. Consistency with the Coastal Management Plan: The facility is not located in the Coastal Management Program boundary.
7. *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.
8. 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.
9. 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 comments or prepare its own response.

For additional information about this application, contact Phillip Urbany at (512) 239-4542.

Phillip Urbany
Municipal Permits Team
Wastewater Permitting Section (MC 148)

Date

ATTACHMENT C



TPDES PERMIT NO. WQ0013796001
[For TCEQ office use only - EPA I.D.
No. TX0091421]

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

This major amendment supersedes and
replaces TPDES Permit No.
WQ0013796001 issued on December 23,
2009.

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

8 Mile Park, L.P.

whose mailing address is

6300 West loop South, Suite 100
Bellaire, Texas 77401

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

located in the Autumn Shadows Subdivision on the south side of State Highway 35 approximately 570
feet east of the intersection of State Highway 35 and Farm-to-Market Road 1459, in Brazoria County,
Texas 77480

to a drainage ditch; thence to an unnamed tributary; thence to a pond; thence to an unnamed tributary;
thence to the San Bernard River Tidal in Segment No. 1301 of the Brazos-Colorado Coastal 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, **July 1, 2019**.

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance 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 0.0072 million gallons per day (MGD), nor shall the average discharge during any two-hour period (2-hour peak) exceed 10 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Five/week	Instantaneous
Biochemical Oxygen Demand (5-day)	20 (1.2)	30	45	65	One/week	Grab
Total Suspended Solids	20 (1.2)	30	45	65	One/week	Grab
<i>E. coli</i> , CFU or MPN/100 ml	126	N/A	N/A	399	One/quarter	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 2.0 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.

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.
 - c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment, and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
10. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.
11. Facilities that generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
 - a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
 - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
 - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Environmental Cleanup Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.

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

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

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

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SLUDGE PROVISIONS

The permittee is authorized to dispose of sludge only at a Texas Commission on Environmental Quality (TCEQ) authorized land application site or co-disposal landfill. **The disposal of sludge by land application on property owned, leased or under the direct control of the permittee is a violation of the permit unless the site is authorized with the TCEQ. This provision does not authorize Distribution and Marketing of sludge. This provision does not authorize land application of Class A 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 12) 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 12) 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> <u>(Milligrams per kilogram)*</u>
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 12) 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 12) 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 12) 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 12) 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.

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 12) 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.

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 D 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.C33
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. 1301 of the Brazos-Colorado Coastal Basin and any subsequent updating of the water quality model for Segment No. 1301 to determine if the limitations and conditions contained herein are consistent with any such revised model. The permit may be amended, pursuant to 30 TAC § 305.62, as a result of such review. The permittee is also hereby placed on notice that effluent limits may be made more stringent at renewal based on, for example, any change to modeling protocol approved in the TCEQ Continuing Planning Process.
4. The permittee shall maintain the nuisance odor prevention for the Autumn Shadows Wastewater Treatment Facility in accordance with 30 TAC Section 309.13(e) (2). The permit issued October 27, 1995 stated that the existing wastewater treatment facilities are enclosed in a structure and incorporate acceptable means of noise and odor abatement. The permittee shall comply with the requirements of 30 TAC Section 309.13(a) through (d). (See Attachment A)
5. The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.
6. A certified operator shall inspect the facility daily and maintain at the plant site a record of these inspections. These records shall be available at the plant site for inspection by authorized representatives of the commission for at least three years.

7. In accordance with 30 TAC § 319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee may be given a less frequent measurement schedule. For this permit, 1/quarter may be reduced to 1/6 months. **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.

ATTACHMENT D

TCEQ INTRAAGENCY TRANSMITTAL MEMO

DATE: November 3, 2015

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

FROM: Ashley McDonald
ENVIRONMENTAL LAW DIVISION
BUILDING A, MC-173

Attached: Executive Director's Response to Comment

Application Information: *Y /*
Program Area (Air, Water, or Waste): **Water**
Permit No. **WQ0013796001**
Name: **8 Mile Park, L.P.**
CID Item #:

CHIEF CLERKS OFFICE
2015 NOV -3 PM 4: 19
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

OCC Action Required (check applicable boxes)
Date stamp and return copy to above-noted ELD Staff Attorney and

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

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

FOR WASTE & WATER:

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

Or

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

FOR AIR (NSR only):

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

- Other Instructions:

TCEQ PERMIT NO. WQ0013796001

**APPLICATION BY
8 MILE PARK, L.P.,
FOR TPDES PERMIT NO.
WQ0013796001**

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§
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**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 8 Mile Park, L.P. (Applicant) application for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0013796001 and the Executive Director's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section (§) 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant public comments. The Office of the Chief Clerk received timely comments from Robert Broox, Cynthia Connell, Will Connell, Jan Edwards, Roy Edwards, Darrell Fletcher, Mike Goodson, Parker Gregg, Sandy Hurst, Thomas Ronayne, Bert Smith, Kiki Treichel, and William Wade. State Representative Dennis Bonnen requested a public meeting. This Response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at <http://www.tceq.texas.gov/>.

I. BACKGROUND

A. Description of Facility

8 Mile Park, L.P. has applied to the TCEQ for a major amendment to Permit No. WQ0013796001 to authorize a reduction in the frequency of monitoring for *E. coli* bacteria from five times per week to once per quarter. The existing permit authorizes the discharge of treated domestic wastewater a daily average flow not to exceed 7,200

gallons per day. The facility is located in the Autumn Shadows Subdivision on the south side of State Highway 35 approximately 570 feet east of the intersection of State Highway 35 and Farm-to-Market Road 1459, in Brazoria County, Texas 77480.

The effluent limitations in the draft permit, based on a 30-day average are 20 mg/l five-day biochemical oxygen demand (BOD5), 20 mg/l total suspended solids (TSS), 126 colony forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml and 2.0 mg/l minimum dissolved oxygen (DO). 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 application requests a reduction of the monitoring frequency requirements for *E. coli* from five per week to once per quarter based on the appropriate frequency for a facility of this size.

The treated effluent is discharged to a drainage ditch; then to an unnamed tributary; then to a pond; then to an unnamed tributary; then to the San Bernard River Tidal in Segment No. 1301 of the Brazos-Colorado Coastal Basin. The unclassified receiving water uses are minimal aquatic life use for drainage ditch, unnamed tributaries and limited aquatic life use for the pond. The designated uses for Segment No. 1301 are high aquatic life use and primary contact recreation. The effluent limitations in the draft permit will maintain and protect the existing instream uses.

B. Procedural Background

TCEQ received the permit application on May 13, 2014 and declared it administratively complete on July 29, 2014. The Notice of Receipt of Application and Intent to Obtain a Water Quality Permit (NORI) was published on August 7, 2014 in *The Facts*. The technical review was completed on April 14, 2014 and the combined Notice of Public Meeting and Notice of Application and Preliminary Decision (NAPD) was published on June 29, 2015 in *The Facts*. The public meeting was held on August 04, 2015 at the West Columbia Civic Center. The public comment period ended on August 4, 2015. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

C. Access to Rules, Laws and Records

The following websites may be useful:

- Secretary of State website for all administrative rules: www.sos.state.tx.us
- TCEQ rules in Title 30 of the Texas Administrative Code:
www.sos.state.tx.us/tac/ (select “TAC Viewer” on the right, then “Title 30 Environmental Quality”)
- Texas statutes: <http://www.statutes.legis.state.tx.us/>
www.capitol.state.tx.us/statutes/statutes.html
- TCEQ website: www.tceq.state.tx.us (for downloadable rules in Microsoft Word or Adobe PDF formats, select “Rules, Policy, & Legislation,” then “Rules and Rulemaking,” then “Download TCEQ Rules”)
- Federal Environmental Laws and Regulations:
<http://www2.epa.gov/laws-regulations/regulations>

Commission records for this facility are available for viewing and copying at the TCEQ’s main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk, for the current application until final action is taken). The application, Executive Director’s preliminary decision, and draft permit are available for viewing and copying at the Angleton Library, 401 East Cedar, Angleton, Texas.

II. COMMENTS AND RESPONSES

COMMENT 1:

Several commenters stated that the TCEQ should require the *E. coli* monitoring at a more stringent frequency than the frequency that would normally be required of a facility this size. Robert Broox, Will Connell, Roy and Jan Edwards, Bert Smith, and Thomas Ronayne stated the five times per week might be excessive but a frequency of once a week or once a month would be more appropriate. Jan Edwards mentioned that testing of the San Bernard River was done once a quarter several places on the river, down to the river’s end and in the judgement of one of the commenters, the data collected once per quarter was not frequent enough to characterize the river due to extreme events that happen on the San Bernard River. Parker Gregg asserted that the frequency should not be reduced because of the facilities poor compliance record and that the bacteria levels in the San Bernard River are high. Additionally, Jan Edwards

stated that a review of the self-reported sample data shows that the permittee is not collecting samples for *E. coli* at the five per week frequency in the current permit and should not be granted a frequency reduction.

RESPONSE 1:

The Commission’s rules at title 30 Texas Administrative Code (TAC) §319 contain the monitoring and reporting requirements for wastewater discharge permittees. The rule outlines the frequency as to which a permittee must periodically report the status of their compliance with the terms and conditions of their permits.¹ The report reasonably prescribes a system for monitoring the quantity and quality of treated waste discharged into water in the state. The table at § 319.9(b) provides a bacteria self-monitoring schedule applicable to treated effluent that is discharged to water in the state.

Bacteria Minimum Required Frequency

<u>Flow (MGD)</u>	<u>Chlorine Systems</u>	<u>Ultraviolet Systems</u>	<u>Natural Systems</u>
>10.0	5/week	Daily	Daily
>5.0 - 10.0	3/week	Daily	5/week
>1.0 – 5.0	1/week	Daily	3/week
>0.5—1.0	2/month	Daily	1/week
>0.1—0.5	1/month	5/week	2/month
<0.1	1/quarter	5/week	1/month

The table sets forth a bacteria monitoring frequency of once per quarter for a facility which uses chlorination disinfection and has a permitted flow of 0.0072 million gallons per day (MGD). The frequency of five times per week is required for facilities with a permit flow of greater than 10.0 MGD, which is over a thousand times the permitted flow of the 8 Mile Park, L.P.—Autumn Shadows facility. The primary method for this facility to monitor disinfection to protect both public health and aquatic life is achieved through sampling the chlorination process. The facility’s effluent is required to 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. The applicant’s proposed monitoring

¹ 30 TAC §319.1 (Monitoring and Reporting Requirements).

frequency complies with the TCEQ's rules and is protective of human health and the environment.

COMMENT 2:

Jan Edwards stated that this facility has had sixty investigations and effective enforcement orders; with one that was marked major. She noted that the permittee “failed to collect and analyze effluent samples for *E. coli*”. The concern is that the permit issued December 23, 2009 requires that *E. coli* samples to be collected and analyzed five times a week and if a business is required to test five times per week they should test five times a week until they go through the process to get it changed. The amount of violations and not maintaining the correct paperwork raises a flag concerning compliance with the permit limitations.

RESPONSE 2:

The compliance history report prepared for the draft permit shows several violations for not submitting sample data for *E. coli*. The compliance concerns originate from issuance of the permit in 2009, when all TPDES permits began to include *E. coli* limitations. However, the current permit was drafted prior to the effective date (November 26, 2009) of the § 319.9 rule which established the frequency of bacteria testing.² Other Requirement No. 9 on Page 24 of the existing permit states:

“The permittee is hereby placed on notice that the Executive Director of the TCEQ will be initiating rulemaking and/or changes to procedural documents that may result in bacteria effluent limits and monitoring requirements for this facility.”

However, the Applicant has indicated that it interpreted this provision to mean that the monitoring requirements of 30 TAC § 319.9 would automatically replace the 5 times per week sampling frequency required under the permit. Because the monitoring frequency was not automatically changed by the new rule, TCEQ's monitoring system recorded violations for each month that the results for *E.coli* were not submitted. The EPA's Integrated Compliance Information System (ICIS) database shows that since 2012 the Applicant has submitted 28 Discharge Monitoring Reports (DMRs), with

² 30 TAC §319.9 (amended to be effective November 26, 2009).

reported *E. coli* sample results. There were no violations of the limitation. The review of the last two years of *E. coli* data in the DMR's, in combination with responses from the Applicant regarding corrective actions to address pass noncompliance, was the basis for revising the monitoring frequency to reflect what is required in the current 30 TAC § 319.9 rule.

COMMENT 3:

Jan and Roy Edwards stated that bacteria levels in the San Bernard River changed from a non-impaired status when the river mouth was open to impaired when the river mouth was closed during periods of drought. The commenters noted that the watershed is on the Clean Water Act's Section 303(d) list of impaired water bodies.

RESPONSE 3:

Under the 2012 Clean Water Act Section 303(d) list, Segment No. 1301 of the San Bernard River is currently listed on the State's inventory of impaired and threatened waters. The listing is for bacteria throughout the entire segment. Portions of the San Bernard River do not meet standards for contact recreation due to elevated levels of bacteria. In the San Bernard watershed, average bacteria level results taken from the river contained over 126 colony forming units (CFU) or most probable number (MPN). These numbers are greater than the water quality criteria levels; however they are not excessive and can be managed to reach satisfactory levels. Probable sources contributing to impairment are unspecified nonpoint sources of bacteria. This facility is designed to provide adequate disinfection and, when operated properly, should not add to the bacterial impairment of the segment. In addition, in order to ensure that the proposed discharge meets the stream bacterial standard an effluent limitation of 126 colony forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml is included in the draft permit.

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. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in San Bernard River Tidal, which has been identified as having high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses.

COMMENT 4:

Jan Edwards noted that there are 19 wastewater treatment plants on the San Bernard River, which she asserted are all sources of increased levels in bacteria polluting the San Bernard River. Additionally, she expressed concern regarding whether or not the other wastewater treatment plants have the same issues as this facility and the aggregate amount of effluent going into the river is producing the noted bacteria levels that are higher than recommended contact.

RESPONSE 4:

There are a total of 14 TPDES permitted facilities in this Segment of the San Bernard River Watershed that discharge treated wastewater to the river or one of its tributaries. The difference in the number may be due the inclusion of nearby facilities like the City of West Columbia that discharge to the Brazos River below the Navasota River, which is within another watershed. However, the following permits are located within the San Bernard watershed: New ULM WSC, City of Wallis, Wharton County WCID No. 2, City of Kendleton, Hungerford Mud No. 1, Straightway Inc., City of Needville, Needville ISD, 8 Mile Park, L.P.—Autumn Shadows (Applicant), City of Sweeny, Bernard Timbers WSC, City of Brazoria, Wild Peach Elementary and Clemens Unit . These domestic wastewater treatment facilities have limitations in their permits to control the potential impact on bacteria concentrations. All the wastewater treatment facilities in the San Bernard River watershed area are required to monitor for bacteria. However, the non-point sources related to runoff and other non-directly measurable sources of contamination (on-site facilities and from wildlife) are not able to be monitored and are attributed to most of the bacteria impairment. Stormwater best management practices (BMP's) are implemented to reduce the bacteria concentrations in untreated runoff, which varies substantially. However, no single Stormwater BMP

type has proven to be able to consistently reduce bacteria in surface water to levels below instream primary contact recreation standards.

COMMENT 5:

Sandy Hurst and Parker Gregg commented that the San Bernard River flows back and forth as the tides come in and the tides go out; therefore, whatever is in the river does not just flow downstream it also flows back. Mike Goodson stated that the impaired mouth of the San Bernard River has a restricted outflow; therefore, there are areas of the river that are green and pristine, and other areas that look like sewage has been dumped into them when there has been no significant rain event to flush the river. The concern is that wastewater discharged into the San Bernard River contains *E. coli* which does not flow to the gulf. Thomas Ronayne stated that he lives on the San Bernard River approximately 2 miles downstream from the point where discharge would enter the river, and that during periods of minimal runoff, the water quality is dependent on very inefficient tidal flushing from the Gulf which is 20 miles downstream. He also stated that TCEQ and HGAC data indicate that the tidal portion of the San Bernard River occasionally exceeds bacteria limits; therefore, the river conditions would make any waste treatment facility near this part of the river a very poor candidate for relaxing *E-Coli* monitoring.

RESPONSE 5:

The *San Bernard River Watershed Protection Plan* prepared by the Houston-Galveston Area Council (12/19/2012) indicates that over 20 years ago there was a more significant flow going downstream. A number of factors contribute to the lack of flow, including recent drought, creation of retention ponds, more impervious surfaces which reduce inflow, and increased vegetation and tree cover along the river banks. The recent drought has caused a number of issues for the watershed, including limited flow in the non-tidal part of the watershed, increased salinity, changes in biological composition, and lower dissolved oxygen. The drought has also resulted in several problems such as fish kills and an occurrence of red tide along the coast. However, the past few years have not been representative of usual watershed conditions. With more normal weather patterns there should be an increase in water volume in the river which would more

freely move the water that is in the river out to the gulf. When the San Bernard River is flowing more freely the occurrence of the Segment not meeting the bacteria criteria is reduced. As mentioned in Comment 3, this facility is designed to provide adequate disinfection and when operated properly should not add to the bacterial impairment of the segment. In addition, in order to ensure that the proposed discharge meets the stream bacterial standard, an effluent limitation of 126 colony forming units (CFU) or most probable number (MPN) of E. coli per 100 ml is included in the draft permit. The effluent limitations in the draft permit will maintain and protect the existing instream uses.

COMMENT 6:

Cynthia Connell, Darell Fletcher, Thomas Roynane, and Sandy Hurst expressed concerns that the discharge from the facility will adversely impact the human health of those who recreate in the San Bernard River. More specifically, Sandy Hurst stated that she has grandchildren that play in the river and she wants them to be safe. Thomas Roynane stated that the San Bernard River is heavily used for swimming, skiing, and other contact recreation that makes it an extremely poor candidate for permit relaxation.

RESPONSE 6:

The Executive Director has determined that the draft permit for the facility meets the requirements of the Texas Surface Water Quality Standards (TSWQS), which are established to protect human health, terrestrial, and aquatic life. As part of the permit application process, TCEQ must determine the uses of the receiving water and set effluent limits that are protective of those uses. In this case, the treated effluent will be discharged to a drainage ditch, then to an unnamed tributary, then to a pond, then to an unnamed tributary, then to the San Bernard River Tidal in Segment No. 1301 of the Brazos-Colorado River Basin. The unclassified receiving water uses are minimal aquatic life use for the drainage ditch, unnamed tributaries and limited aquatic use for the pond. The designated uses for Segment No. 1301 are high aquatic life use and primary contact recreation. The Executive Director determined that these uses should be protected if the facility is operated and maintained as required by the draft permit and regulations.

Moreover, the draft permit includes effluent limits and monitoring requirements for CBOD₅, TSS, and *E.Coli*, chlorine residual, and pH to ensure that discharges from the facility meet water quality standards for protection of surface water and human health in accordance with TCEQ rules and policies. Also, the draft permit requires that there shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil. The Executive Director expects that human health and the environment will be protected if the Applicant 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 8 Mile Park, L.P.

COMMENT 7:

Several commenters asserted that the Applicant's facility was not being maintained. Thomas Roynane stated that the facility was not being regularly maintained by the operator. He noted that there was only one posting sign that was not legible. Also, he noted that the sump receiving the raw sewage had the lid off and there was a pungent odor downwind. Electrical cables were seen dangling between the treatment building and the sump and wastewater hoses were seen strewn about the ground. Additionally, Thomas Ronayne observed that the door to the facility was missing a doorknob and it was tied shut with a rag. Also, he observed that the exhaust fan louvers were badly bent and not functioning properly. He also noted that the chemical storage cabinet was not fully enclosed which exposed the chemicals to the elements.

RESPONSE 7:

The Applicant has taken steps to address the items from the Administrative Order (2009-1829-MWD-E) and comply with the requirements of its current permit. The Applicant submitted all sludge reports, and added signs to the 8 foot fencing for better visibility. The backup blower was made fully operational in case of breakdown of the primary blower. A new operator was hired to replace the previous wastewater operator. The new operator was able to correctly submit the necessary forms and analysis reports. Additional improvements to the facility include fixing the weirs on the clarifier, removal of accumulated solids in the chlorine contact chamber and replacing

the bar screen with a new stainless steel screen at the plant's headworks. Moreover, the TCEQ Houston regional office has completed follow-up inspections of the facility and found the Applicant to be in compliance.

The Applicant is required to report any unauthorized discharge to TCEQ within 24 hours. If the Applicant fails to report the unauthorized discharge to TCEQ within the prescribed time period, the Applicant may be subject to enforcement by TCEQ. At the time of any accidental discharge, TCEQ and other local governmental entities will determine whether nearby residents need to be notified of any leak or runoff based on the severity and potential health impact of the discharge. Failure to comply with TCEQ rules or the permit may subject the Applicant to TCEQ enforcement action. The Operational requirements of the draft permit require the Applicant to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained at all times.³ This includes, but is not limited to, the regular, periodic examination of the treatment plant by the operators.

The TCEQ conducts periodic inspections of wastewater facilities and also conducts investigations based on complaints received from the public. Complaints to the toll-free Environmental Complaints Hotline from Brazoria County are automatically routed to the Houston Region (12) Office. To report complaints about the facility, please contact the Houston Region (12) Office at 713-767-3500, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. Citizen complaints may also be filed on-line at: <http://www.tceq.texas.gov/compliance/complaints/>. 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. For more information regarding enforcement, please see TCEQ's web site at <http://www.tceq.texas.gov/> and click on "Compliance, Enforcement and Cleanups.

COMMENT 8:

Thomas Ronayne stated that this facility discharges into ditches and tributaries that enter the tidal portion of the San Bernard River. The concern is that the entire tidal

³ 8 Mile Park, L.P., Draft Permit, Operational Requirements, Provision No. 1, page 13.

portion of the San Bernard (river or segment?) has significant residential development and is heavily used for contact recreation. Parker Gregg and Thomas Roynane stated that the discharge point for this facility is roughly 25 miles upstream from the Gulf Coast Intracoastal Waterway and in times of minimal to no runoff it is very poorly flushed by tidal exchanges. Additionally, Thomas Ronyane stated that this body of water is a poor candidate for receiving improperly treated sewage, and state monitoring of the river has shown it to intermittently be impaired by bacteria for contact recreation.

RESPONSE 8:

On-site sewage facilities (OSSFs) are a potential source of bacterial contamination. On-site sanitary facilities are the predominant form of wastewater treatment for many areas of the watershed. These systems are built to treat domestic wastewater where no central wastewater treatment systems exist. Bacteria loading from OSSF systems can reach streams by overland flow from surface ponding during wet periods. When the OSSF systems are properly designed and installed, they do not constitute a source of bacteria, but if they do not receive proper maintenance, eventually they will fail. Loadings from on-site sewage facilities will continue to increase as the population increases in the watershed, however with proper installation and maintenance, these OSSFs would not contribute a significant portion of bacteria loading to the watershed.

Furthermore, urban runoff, pets, livestock and wildlife are also sources of bacteria that contribute to the contamination. Waste generated by range animals can be directly deposited into the stream or carried by runoff from fields to the stream. As mentioned in previous comments, the Executive Director has made a preliminary determination that the effluent limitations in the draft permit will maintain and protect the existing instream uses.

COMMENT 9:

Thomas Roynane noted that Applicant requested to reduce the operator license requirement in its application, requesting to reduce the operator license requirement from Operator C to Operator D, requiring the lowest level of training and knowledge.

RESPONSE 9:

Initially the Applicant did request that the licensed operator requirement be reduced from a Category C certified operator to a Category D operator in its application. However, after discussion with staff, the Applicant agreed that this facility must be operated by a chief operator or an operator holding a Category C license or higher. The draft permit requires that domestic wastewater treatment plants are operated and maintained by operators holding a valid certificate of competency at the required level, as defined in 30 TAC Chapter 30. In accordance with the draft permit, this facility must be operated by a chief operator or an operator holding a Category C license or higher. The Commission rules do not regulate any specific times as to which the operator must be at the facility. However, the facility must be operated a minimum of five days per week by the operator and the operator must be available by telephone or pager seven days per week.

COMMENT 10:

Roy and Jan Edwards stated that due to the proximity of the Autumns Shadows WWTF to the Phillips gas station (and planned new construction) there is pressure on this waste water plant to increase in the near future due to new occupants coming to the area.

RESPONSE 10:

The Commission rules at 30 TAC §305.126(a) and the operational requirements of the existing permit specify that whenever flow measurements for any domestic sewage treatment facility reach 75 percent of the permitted daily average flow for three consecutive months, the permittee must initiate engineering and financial planning for expansion and/or upgrading the domestic wastewater treatment and/or collection facilities, and that whenever flows reach 90 percent of the permitted daily 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.

COMMENT 11:

Darrell Fletcher stated that the operation of the 8 Mile Park L.P. wastewater treatment facility would impact surrounding property values.

RESPONSE 11:

The TCEQ does not have jurisdiction to review the effect, if any, the discharge from the wastewater treatment facility might have on property values of surrounding landowners in reviewing a permit for a domestic wastewater treatment plant. The draft permit does not authorize any invasion of personal rights or any violation of federal, state or local laws. It also does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or use and enjoyment of property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT 12:

Thomas Roynane asserted that the operator of the facility did not inspect and collect samples during the week based on observation that the lock combination did not change. The belief is that the sample results are falsified since no independent sample was collected.

RESPONSE 12:

The Applicant is required to analyze the treated effluent prior to discharge and to provide monthly reports to the TCEQ that include the results of the analyses. The Applicant may collect and analyze the effluent samples itself, or it may contract with a third party for either or both the sampling and analysis. However, all samples must be collected and analyzed according to 30 TAC Chapter 319, Subchapter A, Monitoring and Reporting System. Effective July 1, 2008, all laboratory tests performed must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification. The Applicant is required to notify the agency if the effluent does not

meet the permit limits according to the requirements in the permit. Copies of the effluent sample results from the certified laboratory must be maintained on site and available for inspection by the Region inspector. In addition, the TCEQ regional staff may sample the effluent during routine inspections or in response to a complaint.

In accordance with 30 TAC §319.7 (e), knowingly making any false statement on any report may result in the imposition of criminal and/or civil penalties as provided by state law. The Applicant's compliance history shows that the previous operator was not submitting reports and not performing routine inspections, however, the Applicant has not been cited for falsifying records.

COMMENT 13:

William Wade stated that he is in support of the application. William Wade indicated he had had experience with wastewater operations and had observed that the facility plant was discharging a quality of effluent that was clear. Also, he stated that the receiving stream distance and small flow would demonstrate that 90% of the time the effluent would not reach the San Bernard River. He supposed that the bacterial impact on the river was from nonpoint discharge during heavy rains, which results in sheet flow across property with cow manure, and from septic tanks that are not operating properly. He stated that the frequency of once a quarter is adequate for monitoring *E-Coli*. He asserted that most people in the area next to the river are not on a public sewer system and use septic systems and that a dye test on their septic systems would find the source of a lot of the bacteria going in the river. Moreover, he indicated that the people that are on-site aerobic units are not required to sample and have testing done by a qualified technician.

RESPONSE 13:

The San Bernard Watershed Protection Plan noted that as the population in the watershed grows, it is expected that bacteria concentrations associated with urban and residential uses, such as on-site sewage facilities will continue to increase. Effluent limitations for bacteria are included in all municipal wastewater discharge permits, and *E. coli* and Enterococci are used as indicator organisms to test the effectiveness of effluent disinfection in a wastewater treatment plant. In accordance with 30 TAC

§309.3(h) (Effluent limitations for bacteria), new domestic Texas Pollutant Discharge Elimination System (TPDES) permits and renewals have replaced the fecal coliform limit with limits for *E. coli* to demonstrate disinfection for freshwater discharges and Enterococci for saltwater discharges. One component of reducing bacteria in the San Bernard River is to implement urban Stormwater management measures that provide greater control of bacteria in runoff.

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

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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on November 3, 2015, the Executive Director's Response to Public Comment for 8 Mile Park, L.P. Permit No. WQ0013796001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Ashley McDonald, Staff Attorney
Environmental Law Division