

Email ebirch@birchbecker.com

June 27, 2016

VIA TCEQ's e-FILING SYSTEM

Ms. Bridget C. Bohac
Office of Chief Clerk (MC-105)
Texas Commission on Environmental Quality
12100 Park 35 Circle, Building F
Austin, Texas 78753

Re: Applicant Beneficial Land Management, LLC's Reply to Responses Filed by the Executive Director and the Office of Public Interest Counsel, Both of the Texas Commission on Environmental Quality, to Its Request for Reconsideration and Requests for Contested Case Hearing, *Application by Beneficial Land Management, L.L.C. for Renewal of Beneficial Land Application Permit No. WQ0004666000*, TCEQ Docket No. 2016-0665-IWD.

Dear Ms. Bohac:

Enclosed for filing in the above-referenced matter is *Applicant Beneficial Land Management, LLC's Reply to Responses Filed by the Executive Director and the Office of Public Interest Counsel, Both of the Texas Commission on Environmental Quality, to Its Request for Reconsideration and Requests for Contested Case Hearing*. Please file this document on behalf of Applicant Beneficial Land Management, L.L.C. Pursuant to TCEQ's e-Filing system policy, because the attached document (including all attachments and this letter) is more than twenty pages long, seven hard copies are also being hand delivered to the Office of the Chief Clerk. If you have any questions, please telephone me at the above number.

Sincerely,



Erich M. Birch
Attorney for Beneficial Land Management, L.L.C.

ENCLOSURE

cc: Service List

TCEQ DOCKET NO. 2016-0665-IWD

APPLICATION BY BENEFICIAL LAND MANAGEMENT, L.L.C. FOR RENEWAL OF BENEFICIAL LAND APPLICATION PERMIT NO. WQ0004666000	§ § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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**APPLICANT BENEFICIAL LAND MANAGEMENT, L.L.C.'S
REPLY TO RESPONSES FILED BY THE EXECUTIVE DIRECTOR
AND THE OFFICE OF PUBLIC INTEREST COUNSEL,
BOTH OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY,
TO ITS REQUEST FOR RECONSIDERATION
AND REQUESTS FOR CONTESTED CASE HEARING**

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW Beneficial Land Management, L.L.C. ("BLM"), applicant in this proceeding, and hereby submits this, its *Reply to Responses Filed by the Executive Director and the Office of Public Interest Counsel, Both of the Texas Commission on Environmental Quality, to Its Request for Reconsideration and Requests for Contested Case Hearing* ("BLM Reply"), arguing that its *Request for Reconsideration* should be granted, and in the alternative, if its *Request for Reconsideration* is denied, then its *Request for Contested Case Hearing* must be granted and the three issues previously identified by BLM should be referred to SOAH for hearing, and would respectfully show the Honorable Commissioners as follows:

I. BACKGROUND

BLM has applied to the Texas Commission on Environmental Quality ("TCEQ") for the renewal without amendment or modification of Beneficial Land Application Permit

No. WQ0004666000 (the “Permit”).¹ The current Permit was issued on May 31, 2007.² It authorizes BLM to land apply sewage sludge generated by a wastewater treatment plant (“WWTP”) on a site (the “Permitted Site”) within an approximately 2,881-acre tract known as the Arenosa Creek Ranch site.³ BLM accepted its first load of sewage sludge for land application at the Permitted Site on July 26, 2007. The Permitted Site has operated since July 2007, maintaining a compliance history rating of “0” and a compliance history classification of “High” throughout that entire operational timeframe.⁴ No enforcement action for violations associated with the operation of the Permitted Site has ever been brought by TCEQ against BLM.

¹ See Texas Comm’n on Env’tl. Quality, Permit to Land Apply Sewage Sludge Issued to Beneficial Land Management, L.L.C., Permit No. WQ0004666000 at 1 (May 31, 2007) [hereinafter “Current Permit”].

² *Id.* at 1.

³ The Current Permit authorizes BLM to land apply sewage sludge from a WWTP at an annual rate not to exceed eight dry tons per acre per year on 793.4 acres located within an approximately 2,881-acre ranch. *See id.* at 1. Through the technical review process, it was agreed that pursuant to the renewed permit, BLM would be authorized to land apply sewage sludge from a WWTP at an annual rate not to exceed eight dry tons per acre per year on 726.1 acres located within an approximately 2,881-acre ranch. *See* Texas Comm’n on Env’tl. Quality, Revised DRAFT Permit to Land Apply Sewage Sludge, Beneficial Land Management, L.L.C., Permit No. WQ0004666000 at 1 (Draft Issued on or about Mar. 21, 2016) [hereinafter “March Revised Draft Permit”] (provided via Letter from David W. Galindo, Water Quality Div., TCEQ, to Carter Mayfield, BLM (Mar. 21, 2016)).

⁴ Texas Comm’n on Env’tl. Quality, Compliance History Rating for Customer Beneficial Land Management, LLC, Arenosa Creek Ranch, RN103911889, *available at* <http://www2.tceq.texas.gov/oce/ch/index.cfm?fuseaction=main.Search&formid=ern&ern=103911889&doit=Submit>.

In this proceeding, the Executive Director of TCEQ, the Office of Public Interest Counsel (“OPIC”) of TCEQ, and BLM filed responses to hearing requests on June 13, 2016.⁵ Pursuant to the schedule established in this proceeding by TCEQ’s Office of General Counsel, replies to responses to hearing requests are due on June 27, 2016.

II. ARGUMENT AND AUTHORITIES

A. BLM’s Request for Reconsideration Should Be Granted.

BLM has requested that the Commissioners of TCEQ grant its *Request for Reconsideration* of the Executive Director’s preliminary decision and remand BLM’s application to the Executive Director with instructions to process the application in accordance with applicable TCEQ rules and precedent. Specifically, the March Revised Draft Permit, prepared by the Executive Director after the deadline to file public comments, includes a Special Provision prohibiting the “land application of grit trap or grease trap waste, or sewage sludge mixed with grit

⁵ On June 13 and June 14, 2016, the Executive Director of TCEQ filed multiple responses to hearing requests. On June 13, the Executive Director filed *Executive Director’s Responses to Hearing Requests and Requests for Reconsideration* (“*ED Response*”). Late on June 13, the Executive Director filed a new document, also titled *Executive Director’s Response to Hearing Requests and Requests for Reconsideration* (“*ED Corrected Response*”). While the titles of the pleadings were the same, the cover letter accompanying the second pleading indicated that page 19 of the pleading had been corrected. See Letter from Ashley McDonald, Environmental Law Div., TCEQ, to Bridget C. Bohac, Chief Clerk, TCEQ (June 13, 2016). A comparison of the *ED Response* and the *ED Corrected Response* identified differences on pages 10, 18, and 19. On June 14, the Executive Director filed *Executive Director’s Revised Response to Hearing Requests and Requests for Reconsideration* (“*ED Revised Response*”). Pursuant to the June 14 cover letter, the Executive Director requested an extension of the filing deadline “in order to correct an error contained in the Executive Director’s original filing.” Letter from Ashley McDonald, Environmental Law Div., TCEQ, to Bridget C. Bohac, Chief Clerk, TCEQ (June 14, 2016). Pursuant to a letter dated June 15, 2016, TCEQ’s Office of General Counsel denied the Executive Director’s request for an extension to file the *ED Revised Response* and identified that the two pleadings filed by the Executive Director on June 13—the *ED Response* and the *ED Corrected Response*—remained in the record. See Letter from Tucker Royall, General Counsel, TCEQ, to Persons on the Attached Mailing List (June 15, 2016).

trap or grease trap waste.”⁶ In effect, upon issuance, the March Revised Draft Permit would immediately halt BLM’s beneficial land application of domestic sludge from the City of La Coste’s WWTP (“La Coste WWTP”), even though the land application of this sludge has been authorized by TCEQ since 2007 pursuant to rules that are unchanged over the intervening nine years. Further, BLM’s beneficial land application of the domestic sludge would be halted even though TCEQ has never demonstrated, or even alleged, that the land application of the sludge is a danger in any way to the health, welfare, or physical property of the people who own property in the vicinity of the Permitted Site or is a detriment to the environment. The following will address the arguments made by the Executive Director and OPIC in their responses to BLM’s *Request for Reconsideration*.

1. TCEQ Has Historically Interpreted BLM’s Current Permit as Allowing the Land Application of Sewage Sludge that Has Been Co-processed with Grit Trap and Grease Trap Waste at the La Coste WWTP.

The Executive Director argues that BLM’s current permit “does not authorize the land application of sewage sludge mixed with grit trap and grease trap waste (GG waste).”⁷ Such an argument ignores the nine years of operational history at BLM’s Permitted Site, as well as TCEQ’s consistent interpretation of its own Chapter 312 rules over that time frame. Pursuant to the Current Permit, BLM began land applying WWTP sewage sludge from the La Coste WWTP in 2007.⁸ At the La Coste WWTP sewage sludge is co-processed with grease and grit trap waste processed by Partners Dewatering International, Inc. (“PDI”), operating pursuant to TCEQ

⁶ March Revised Draft Permit, *supra* note 3, § XIV.F. at 17.

⁷ *ED Corrected Response*, *supra* note 5, at 13.

⁸ The La Coste WWTP is authorized by TCEQ to dispose of its WWTP sewage sludge at a TCEQ-authorized land application site such as that authorized by WQ0004666000, the Permitted Site. *See* Texas Comm’n on Env’tl. Quality, TPDES Permit No. WQ0010889001 Issued to the City of La Coste at 12 (May 17, 2010).

Municipal Solid Waste (“MSW”) Type V Processing Registration No. 43011, resulting in “domestic sludge” as contemplated by TCEQ’s rules.

TCEQ staff has inspected BLM’s operations at the Permitted Site, the La Coste WWTP, and the PDI Type V processing facility at various times over the past nine years and has never found a violation of TCEQ’s Chapter 312 rules related to the land application of the domestic sludge from the La Coste WWTP. For example, in 2009, a TCEQ inspector conducting a compliance investigation at the PDI Type V processing facility identified that the La Coste WWTP combines its activated sludge with grit and grease trap waste from PDI’s Type V processing facility for additional processing. “Combining these wastes requires that the resulting domestic sludge be processed, stored, or disposed of in accordance with the applicable requirements of 30 TAC 312.3(d).”⁹ It continues: “The final dried sludge is placed into roll-off container(s), characterized for disposal, and either transported off-site for disposal at an MSW authorized facility or taken for recycling at . . . *Beneficial Land Management, LLC* in Gonzales [*sic*] County (Permit No. WQ0004666000).”¹⁰ No violations were noted at the PDI facility as part of this investigation, and the TCEQ Investigation Report notes that a separate investigation was conducted at the BLM LLC – Arenosa Creek Ranch sludge beneficial land use site, *i.e.*, the Permitted Site, and no violations were noted.¹¹

TCEQ has repeatedly reached the conclusion that the Permitted Site and the related La Coste WWTP and PDI Type V processing facility were operating in compliance with TCEQ

⁹ Texas Comm’n on Env’tl. Quality, Investigation Report, Partners Dewatering International, LaCoste WWTP, Investigation No. 740167, Incident No. 121836 at 2 (May 20, 2009) (emphasis added).

¹⁰ *Id.* (emphasis added).

¹¹ *See id.* at 4.

rules. The TCEQ investigator's reference to 30 TEX. ADMIN. CODE Section 312.3(d) is of particular importance because, as recognized by the investigator, it is this provision that authorizes the land application of the domestic sludge at the Permitted Site. Section 312.3(d) states:

(d) This chapter does not establish requirements for the use and disposal of sewage sludge generated at an industrial facility, unless the sewage sludge is of a domestic origin and the sewage sludge is generated from the treatment of domestic sewage. If a process at an industrial facility that primarily treats industrial wastewater combines domestic sewage with any type of industrial solid waste, any resulting sludge, process waste or wastewater generated at the industrial facility will be considered to be industrial solid waste and must be processed, stored, or disposed of in accordance with the applicable requirements of Chapter 335 of this title (relating to Industrial solid Waste and Municipal Hazardous Waste). *If a facility that primarily treats domestic wastewater combines domestic sewage with any type of industrial solid waste, any resulting sludge, process waste or wastewater generated at the facility will be considered to be domestic sludge and must be processed, stored, or disposed of in accordance with the applicable requirements of this chapter.*¹²

The italicized portion is applicable to the land application of domestic sludge at the Permitted Site. Looking at the italicized language: If a facility – *the La Coste WWTP* – that primarily treats domestic wastewater combines domestic sewage with any type of industrial solid waste – *the grit trap and grease trap waste from the PDI Type V processing facility* – any resulting sludge, process waste, or wastewater generated at the facility will be considered to be domestic sewage and must be processed, stored, or disposed of in accordance with the applicable requirements of Chapter 312. In other words, the domestic sewage sludge from the La Coste WWTP is still sewage sludge for the purposes of Chapter 312, and can be beneficially land

¹² 30 TEX. ADMIN. CODE § 312.3(d) (emphasis added).

applied at the Permitted Site, as acknowledged by the TCEQ investigator. TCEQ has historically recognized this fact, acknowledging that BLM's Permitted Site has operated in accordance with TCEQ rules through TCEQ's own "no violations found" investigations.

The Section 312.3(d) rule has not been revised or amended by TCEQ during the last nine years. The beneficial land application of domestic sludge that was authorized in 2007 and that has been occurring since then is still authorized pursuant to TCEQ's rules today. It is only through the Executive Director's new and forced interpretation of the 30 TEX. ADMIN. CODE Chapter 312 rules that the land application of the domestic sludge would be considered problematic.

The Executive Director argues that the "real" purpose of this language in Section 312.3(d) is to "reference the mixture of domestic sewage and industrial solid waste being combined *prior* to treatment at a wastewater treatment facility."¹³ The *ED Corrected Response* states, in part: "This language is intended to clarify that when industrial waste is routed via the collection system, the resulting sludge following treatment within the domestic wastewater treatment plant, is subject to the requirements of 30 TAC Chapter 312. This distinction is necessary since sludge resulting from the treatment of industrial waste is subject to separate regulatory requirements under 30 TAC §335 [*sic*] for industrial solid waste."¹⁴ The Executive Director does not cite to any authority for this claim that disregards the plain language of Section 312.3(d). The Executive Director's claim is not accurate based on both the language of

¹³ *ED Corrected Response*, *supra* note 5, at 15 (emphasis added).

¹⁴ *Id.*

Section 312.3(d) itself, and based on the U.S. Environmental Protection Agency's ("EPA") interpretation of a similar issue, as discussed below.

First, Section 312.3(d) states, in relevant part: *"If a facility that primarily treats domestic wastewater combines domestic sewage with any type of industrial solid waste"*¹⁵ The Executive Director claims that this means "the mixture of domestic sewage and industrial solid waste being combined *prior* to treatment at a wastewater treatment facility."¹⁶ Clearly, this is not an accurate claim because the language of the rule itself contemplates that the act of combining the domestic sewage with any type of industrial solid waste will occur at the WWTP itself. If the mixture of sludge is routed to the WWTP through the collection system, then the domestic sewage would have been combined with the industrial solid waste prior to the mixture's arrival at the WWTP, and there would be no need for the language in Section 312.3(d).¹⁷ Contrary to the Executive Director's claim, the rule specifically contemplates the WWTP combining the waste.

Second, an EPA guidance document interpreting its Part 503 rules supports TCEQ's historical interpretation of 30 TEX. ADMIN. CODE Section 312.3(d) and contradicts the Executive Director's current argument.¹⁸ EPA's Part 503 rules related to biosolids are the federal

¹⁵ 30 TEX. ADMIN. CODE § 312.3(d) (emphasis added).

¹⁶ *ED Corrected Response, supra* note 5, at 15 (emphasis added).

¹⁷ The term "Wastewater treatment facility" is defined as "[a]ll contiguous land and fixtures, structures, and appurtenances used for storing, processing, and treating wastewater. A wastewater treatment facility does not include the collection system located outside of the fenced area around a wastewater treatment facility." 30 TEX. ADMIN. CODE § 217.2(80). The Executive Director's argument that Section 312.3(d) refers to combination prior to treatment at a WWTP cannot be accurate because the rule refers to the WWTP itself combining the domestic sewage and the industrial solid waste. Pursuant to TCEQ's rules, the collection system, where the Executive Director argues the "combining" must occur is not part of the WWTP, and thus would not be contemplated by the terms of 30 TEX. ADMIN. CODE Section 312.3(d).

¹⁸ *See* Office of Wastewater Mgmt., U.S. Env'tl. Protection Agency, A PLAIN ENGLISH GUIDE TO THE EPA PART 503 BIOSOLIDS RULE, EPA/832/R-93/003 (Sept. 1994), *available at*

counterpart to TCEQ’s Chapter 312 rules for sludge. EPA’s Part 503 refers to sewage sludge as “biosolids.”¹⁹ The EPA guidance document includes a series of “Common Questions and Answers” that can help address the correct interpretation of Section 312.3(d) based on the overall intent of the sewage sludge rules.

Q: If an industrial facility has separate treatment works for its domestic sewage and its process wastewater, are the biosolids generated from both treatment processes covered under Part 503?

A: No. Only the biosolids from the domestic sewage treatment process would be covered by Part 503 if used or disposed through land application, surface disposal, or solid incineration. The sludge from the industrial wastewater treatment process would not be covered. In fact, even if domestic sewage is mixed and treated in an industrial treatment works, the sludge from that system is not covered by Part 503.

Q: If a publicly owned treatment works (POTW) has only industrial wastewater influent, is the sludge generated at this treatment works considered sewage sludge [biosolids] and covered under the Part 503 rule?

A: No. By definition, the sludge is not sewage sludge [biosolids] because it is not a residual from the treatment of domestic sewage, but industrial wastewater. See Section 503.6(d).

Q. *If the influent from a POTW or any treatment works other than an industrial facility is 99 percent industrial wastewater and only 1 percent domestic wastewater, are the biosolids generated at the treatment works sewage sludge covered under Part 503?*

A: *Yes. Because any domestic content in the wastewater being treated in a facility other than an industrial facility brings the biosolids generated within the scope of Part 503 if used or disposed through land application, surface disposal, or biosolids incineration.*²⁰

https://www.epa.gov/sites/production/files/2015-05/documents/a_plain_english_guide_to_the_epa_part_503_biosolids_rule.pdf.

¹⁹ EPA explains that it purposely used the term “biosolids” throughout its guidance document to emphasize the beneficial nature of sewage sludge as a recyclable biological resource. *See id.* at 1 & 5.

²⁰ *Id.* at 19 (emphasis added).

The La Coste WWTP, the source of the sewage sludge that is land applied, is a publicly-owned treatment works (“POTW”) that is a domestic WWTP; it is not an industrial facility. The addition of the industrial waste—the grit and grease trap waste—does not change the domestic nature of the sewage sludge generated by the La Coste WWTP pursuant to both the language of 30 TEX. ADMIN. CODE Section 312.3(d) and EPA’s interpretation of its own rules, and thus, the land application of the domestic sewage sludge from the La Coste WWTP has always been and continues to be authorized pursuant to TCEQ’s rules.

It should also be noted that EPA’s guidance document states: “The Part 503 rule creates incentives for beneficial use of biosolids. EPA believes that biosolids are an important resource that can and should be safely used (e.g., to condition soils and provide nutrients for agricultural, horticultural, and forest crops and vegetation . . .).”²¹ This beneficial use purpose has been carried out by BLM at the Permitted Site for the past nine years. It is only TCEQ’s new interpretation of Section 312.3(d) that would undermine the beneficial land application of the domestic sewage sludge at the Permitted Site.

The Executive Director also claims that “[t]here is no additional treatment after the activated sewage sludge from the WWTP plant [*sic*] is mixed with the GG waste.” The Executive Director is incorrect in claiming that there is no additional treatment of the sewage sludge and grit and grease trap waste once it is combined at the La Coste WWTP. First, the combination of the sewage sludge and grit trap and grease trap waste along with aeration is a treatment process in and of itself. Second, 30 TEX. ADMIN. CODE Section 312.8(88) defines “Treat or treatment of sewage sludge” as “[t]he preparation of sewage sludge for final

²¹ *Id.* at Foreward.

use or disposal. This includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge. This does not include storage of sewage sludge.”²² Therefore, when the domestic sewage sludge is dewatered after the commingling of the sewage sludge and the grit trap and grease trap waste and aeration occurs, the activated sludge goes through a further treatment process prior to land application. The Executive Director is simply incorrect with his claim that no “treatment” occurs at the time of or after commingling.

The Executive Director also points to the provisions of Section 312.3(l) that specifically identifies Chapter 312 does not establish requirements for the land application of chemical toilet waste, grease and grit trap waste, milk solids, or similar non-hazardous municipal or industrial solid wastes.²³ As previously argued by BLM, this provision addresses the land application of each of these items individually or in combination only with each other. For example, pursuant to Section 312.3(l), it is clear that Chapter 312 establish prohibitions on the land application of certain industrial solid wastes by themselves, but based on the language of Section 312.3(d), it is clear that Chapter 312 specifically contemplates and authorizes the land application of domestic sewage mixed with industrial waste at a domestic WWTP. Similarly, while an entity cannot simply land apply grease trap waste pursuant to Chapter 312, because of the language of Section 312.3(d), it can land apply domestic sewage combined with any type of industrial solid waste, including grease trap waste, if it is combined at a facility that primarily treats domestic wastewater, such as the La Coste WWTP.

²² 30 TEX. ADMIN CODE § 312.8(88).

²³ *See id.* § 312.3(l).

2. *TCEQ Previously Determined that Inclusion of the Experimental Use Authorization in the Permit Would Meet All Applicable Regulatory Requirements.*

The Executive Director states that BLM requested that an experimental use provision be included in the renewal permit, apparently attempting to infer that in making this request, BLM had admitted that the land application of the domestic sludge was prohibited by Chapter 312. Nothing could be further from the truth. The Executive Director's administrative and technical review of BLM's renewal application took more than a combined three and one-half years. During this extended review of the renewal application, it came to BLM's attention that the Executive Director's technical staff appeared to be adopting this new interpretation of the Chapter 312 rules that would no longer allow the beneficial land application of the domestic sewage sludge from the La Coste WWTP. Multiple meetings were held between BLM representatives and TCEQ staff, during which BLM attempted to understand the purpose and reasoning for the TCEQ permitting staff's new interpretation of the Chapter 312 rules. Like any other applicant faced with such a situation, BLM attempted to work with TCEQ staff to find ways to move forward with its current operations. One of the methods discussed, apparently after being suggested by TCEQ staff, was the experimental use authorization.²⁴ As a means of continuing its current operations, BLM did request that an experimental use authorization be included in the renewal permit. BLM made this request based on the understanding that it would be able to continue its current beneficial land application operations at the Permitted Site. In doing so, BLM did not acknowledge or agree that its current operations were not in

²⁴ See E-mail from David Galindo, Water Quality Div., TCEQ, to Carter Mayfield, BLM (Feb. 11, 2013, 6:03 p.m.) [hereinafter "Galindo E-mail"].

compliance with the Chapter 312 rules. It was simply attempting to work with TCEQ staff to guide its permit renewal application through what became a multi-year review process.

In the March Revised Draft Permit the Executive Director removed the experimental use authorization provision and instead included a specific provision prohibiting the land application of grit trap or grease trap waste mixed with sewage sludge. According to the Executive Director, the experimental use authorization provision was removed based on the multiple comments received from the public and BLM's own comment that an experimental use authorization was not necessary because of the provisions of Section 312.3(d). Apparently, the Executive Director included the specific prohibition regarding the land application of the grit trap or grease trap waste mixed with sewage sludge also based on the comments received from the public. Neither action is justified by TCEQ rules.

Yes, the Executive Director can determine not to include an experimental use authorization in any particular permit, but to do so based on unsubstantiated public comments after the provision has been included in the draft permit is not justified.²⁵ The Executive Director determined that the July Draft Permit, if issued, would meet "all statutory and

²⁵ The first draft renewal permit would have been provided to BLM at approximately the same time that the Executive Director determined that the renewal application was technically complete, which occurred on or about July 15, 2015. See "Notice of Application and Preliminary Decision for Land Application Permit of Sewage Sludge Renewal, Permit No. WQ0004666000" (July 15, 2015) [hereinafter "Technically Complete Notice"], available at http://www14.tceq.texas.gov/epic/eNotice/index.cfm?fuseaction=main.PublicNoticeDescResults&requesttimeout=5000&CHK_ITEM_ID=450341802015196; see also Texas Comm'n on Env'tl. Quality, DRAFT Permit to Land Apply Sewage Sludge, Beneficial Land Management, L.L.C., Permit No. WQ0004666000 at 1 (Draft Issued on or about July 15, 2015) [hereinafter "July Draft Permit"], attached hereto and incorporated herein as Attachment 1.

regulatory requirements.”²⁶ The general comments received during the public comment period did not provide any information that would alter that decision. The comments did not identify any actual harm associated with the land application of the sewage sludge combined with the grease trap and grit trap waste. Similarly, the Executive Director has not identified any actual harm associated with the land application of the domestic sewage sludge from the La Coste WWTP at the Permitted Site, and thus, has not identified any harm that would be associated with the inclusion of the experimental use authorization. In fact, the Executive Director has affirmatively found that there is no harm. From October 1, 2015, through January 7, 2016, the Corpus Christi Region Office of TCEQ along with several members of the Executive Director’s Water Section conducted an extensive investigation of the Permitted Site “to evaluate compliance with applicable requirements for land application of wastewater treatment plant biosolids.”²⁷ During the investigation, TCEQ “conducted several sampling events at Arenosa Creek, accessible groundwater wells located on or adjacent to the land application site, the land application site, a recreational lake, and a wetland. The samples were analyzed to determine if contaminants [*sic*] were present at detectable levels.”²⁸ As noted in the cover letter:

²⁶ Technically Complete Notice, *supra* note 25, at 1. The Technically Complete Notice prepared by TCEQ regarding the July Draft Permit states:

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. *The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.*

Id. (emphasis added).

²⁷ See Letter from Melanie Edwards, Waste Section Manager, Corpus Christi Region Office, TCEQ, to Jess Mayfield, BLM (May 2, 2016), and accompanying Investigation Report.

²⁸ Texas Comm’n on Env’tl. Quality, Investigation Report, Beneficial Land Management, LLC, Arenosa Creek Ranch, Investigation No. 1329480, Incident No. 232060 at 2 (May 2, 2016).

“No violations are being alleged as a result of the investigation.”²⁹ The TCEQ Investigation Report states: “Based on the sample results, a general compliance letter was sent to the regulated entity. No Violations Associated to this Investigation.”³⁰

In other words, there was no environmental basis for removing the experimental use authorization from the July Draft Permit. Because this type of provision was included in the July Draft Permit, such a change to the draft permit should not be made by the Executive Director without some legitimate basis. Instead, such a change should be determined by the Commissioners after a hearing where evidence can be taken on the issue.

3. *The Executive Director’s Imposition of the “More Stringent” Prohibition on the Land Application of Sewage Sludge Mixed with Grit Trap and Grease Trap Waste Undermines His Own Argument Regarding the Requirements of Chapter 312.*

In his argument that there was a basis for removing the experimental use authorization from the July Draft Permit and for adding the grit and grease trap waste prohibition to the March Revised Draft Permit, the Executive Director argues: “Moreover, Chapter 312 of the Texas Administrative Code vests in the Executive Director or the Commission the authority to impose requirements for the use and disposal of sewage sludge that *are more stringent than the requirements under Chapter 312*, when necessary to protect public health and the environment from any adverse effect of a pollutant in the sewage sludge.”³¹ This is an interesting argument. Removal of the experimental use authorization that had been included in the July Draft Permit is

²⁹ *Id.*

³⁰ *Id.*

³¹ *ED Corrected Response, supra* note 5, at 14 (citing 30 TEX. ADMIN. CODE § 312.6).

not the imposition of a requirement for the use of the sewage sludge that is more stringent than the requirements of Chapter 312. Instead, it is simply a choice by the Executive Director not to exercise an option that he has under the rules. Thus, with this argument about his ability to include a provision more stringent than the Chapter 312 rules to protect human health and the environment, the Executive Director must be referring to his imposition of the specific provision prohibiting the land application of grit trap or grease trap waste mixed with sewage sludge. As pointed out by the Executive Director, 30 TEX. ADMIN. CODE Section 312.6 allows the Executive Director to impose a requirement “*in addition to or more stringent than the requirements in*” Chapter 312.³² By specifically imposing a prohibition on the land application of grit trap or grease trap waste mixed with sewage sludge and by justifying the provision’s inclusion based on the language of Section 312.6, the Executive Director has admitted that such a provision is *in addition to or more stringent than* the requirements of Chapter 312. In other words, contrary to the Executive Director’s own arguments, Chapter 312 on its own does not prohibit the land application of domestic sludge that is made up of sewage sludge co-processed with grit trap and grease trap waste, otherwise no special prohibition pursuant to 30 TEX. ADMIN. CODE Section 312.6 would be required. The Executive Director by issuing the March Revised Draft Permit determined that a specific prohibition *in addition to and more stringent than* the requirements of Chapter 312 was necessary to prohibit the practice. The Executive Director must choose his argument. He cannot argue both that such land application is contrary to the provisions of Chapter 312 and at the same time argue that a more stringent prohibition is required to prohibit the land application.

³² 30 TEX. ADMIN. CODE §312.6 (emphasis added).

4. *The Executive Director's Reliance on the Treatment Standards for Sewage Sludge Does Not Support His Argument that Sewage Sludge Mixed with Grit Trap or Grease Trap Waste Cannot Be Land Applied.*

The Executive Director correctly identifies that for sewage sludge to be classified as “Class B,” the sewage sludge must meet specific standards set by both EPA and the State of Texas, arguing that those standards did not contemplate the mixture of sewage sludge with grit and grease trap waste. The Executive Director concludes: “[T]he allowable pollutant concentrations, treatment options, and site management practices specified by the existing regulations for typical domestic sewage sludge have not been determined to be protective of human health and the environment when mixed with GG wastes.”³³ The Executive Director fails to recognize that the domestic sludge from the La Coste WWTP, *i.e.*, the sewage sludge co-processed with grit trap and grease trap waste, that has been land applied at the Permitted Site, has always and consistently met all sampling and monitoring requirements imposed by the Current Permit and TCEQ rules. BLM ensures that every load of domestic sludge received for land application at the Permitted Site meets TCEQ regulatory requirements, and if it does not, it is not accepted for land application. Similarly, as previously described, TCEQ’s own expansive sampling investigation at the Permitted Site over the past several months did not identify any violations associated with the land application of the domestic sludge.

The specific standards set by EPA and TCEQ are intended to protect human health and the environment. The domestic sewage land applied by BLM has always met these standards. If the addition of the grit trap or grease trap waste resulted in the domestic sludge not meeting the applicable standards, BLM would not accept it for land application. BLM has maintained all

³³ *ED Corrected Response, supra* note 5, at 15.

appropriate records to demonstrate that the domestic sewage it has land applied has met these standards, and TCEQ's investigations have not identified otherwise.

B. If BLM's Request for Reconsideration Is Denied, then BLM's Request for Contested Case Hearing Must Be Granted and the Issues Identified by BLM Should Be Referred to SOAH.

Pursuant to Commission rules, a "request for contested case hearing *shall* be granted if the request is: (1) made by the applicant or the executive director" ³⁴ Both the Executive Director and OPIC agreed that the hearing request filed by BLM must be granted pursuant to Commission rules because BLM is the applicant in this proceeding.

In its *Request for Contested Case Hearing*, BLM identified that the following issues should be referred to the State Office of Administrative Hearings ("SOAH"):

- Has the Executive Director demonstrated that the Special Provision included in the Draft Permit, which would prohibit BLM from land applying WWTP sewage sludge from the La Coste WWTP co-processed with grease and grit trap waste, *i.e.*, domestic sludge, is technically justified and supported by state law and applicable TCEQ rules?
- Is an experimental use authorization pursuant to 30 TEX. ADMIN. CODE Section 312.3(k) necessary to authorize BLM to land apply domestic sludge?
- If an experimental use authorization pursuant to 30 TEX. ADMIN. CODE Section 312.3(k) is necessary to authorize BLM to land apply domestic sludge, is there any legal, health, or environmental reason why such an experimental use authorization should not be included in the reissuance of TCEQ Permit No. WQ0004666000? ³⁵

³⁴ 30 TEX. ADMIN. CODE § 55.211(c)(1).

³⁵ Letter from Erich M. Birch, Birch, Becker & Moorman, LLP, to Bridget C. Bohac, Chief Clerk, TCEQ at 10 (Apr. 27, 2016) [hereinafter "Birch Letter"].

Based on the *ED Corrected Response*, it appears that the Executive Director agrees that these issues should be referred to SOAH for hearing. The *ED Corrected Response* includes the following recommendations regarding issues to be referred to SOAH for hearing:

Issue 2: Whether the Executive Director's decision to include the Special Provision prohibiting the land application of sewage sludge co-processed with grease trap and grip trap waste is technically justified, supported by state law and applicable Commission rules.

Issue 3: Whether an experimental use authorization pursuant to 30 TAC § 312.3(k) [is] necessary to land apply domestic sewage sludge, and if so, is there any legal, health, or environmental reasons why such an experimental authorization should be included in the draft permit?³⁶

The Executive Director has re-written the issues raised by BLM to condense the three issues to two issues, but he does recommend referring issues similar to those raised by BLM to SOAH.

While the *ED Corrected Response* includes the recommendations set out above, an earlier discussion in the same Executive Director pleading identifies that neither issue should be referred to SOAH because the Executive Director claims that neither issue was raised during the public comment period.³⁷ This claim is made at page 10 of the *ED Corrected Response* (which was not the page identified as corrected by the attorney for the Executive Director in her cover letter); however, the comparable part of the earlier pleading identified as the *ED Response* identifies that these issues were timely raised and should be referred to SOAH. In other words, while it is unclear what the Executive Director is arguing, it appears that his final recommendation was that both of these issues be referred to SOAH.

³⁶ *ED Corrected Response*, *supra* note 5, at 20.

³⁷ *See id.* at 10.

In his response to requests for hearing, OPIC recommends that BLM's first issue, as set out above, be referred to SOAH, but claims that the other two issues cannot be referred to SOAH for hearing because they were not raised until after the expiration of the public comment period.³⁸ In addition, OPIC claims that the second two issues, referred to as Issues 8 and 9 in OPIC's pleading, are "more issues of law or policy than issues of fact."³⁹

With regard to whether BLM timely raised the three issues identified in its April 27 *Request for Contested Case Hearing*, there are two important considerations. As background, the Executive Director has identified that the public comment period in this proceeding ended on January 21, 2016.⁴⁰

First, BLM filed its original request for hearing on August 20, 2015, five months prior to the end of the public comment period.⁴¹ It is made clear in the August 20 hearing request that BLM was raising issues related to its authority to land apply sewage sludge that is co-processed with grit trap and grease trap waste, which results in the land application of domestic sludge, pursuant to the renewal permit and applicable state law and rules at 30 TEX. ADMIN. CODE Chapter 312. This issue was again addressed in the first issue for hearing raised in BLM's April 27 *Request for Contested Case Hearing*:

Has the Executive Director demonstrated that the Special Provision included in the Draft Permit, which would prohibit BLM from land applying WWTP sewage sludge from the La Coste WWTP co-processed with grease and grit trap waste,

³⁸ See *The Office of Public Interest Counsel's Response to Requests for Hearing and Request for Reconsideration* at 9 & 12 (June 13, 2016) [hereinafter "OPIC Response"].

³⁹ *Id.* at 9.

⁴⁰ See *Executive Director's Response to Comment* at 2 [hereinafter "ED RTC"].

⁴¹ See Letter from John A. Riley, Jackson Gilmour & Dobbs, PC, to TCEQ (Aug. 20, 2015) [hereinafter "Riley Letter"].

i.e., domestic sludge, is technically justified and supported by state law and applicable TCEQ rules?⁴²

Second, as identified above, the public comment period ended on January 21, 2016. Prior to that date, the Executive Director had provided a copy of the July Draft Permit to BLM in July 2015.⁴³ The July Draft Permit specifically allowed BLM to land apply domestic sewage sludge that had been co-processed with grit trap and grease trap waste: “Additionally the permittee is authorized to land apply sewage sludge mixed with grease and grit trap waste under an experimental use authorization. The experimental use authorization will expire on October 31, 2016 or one year from the date of permit issuance, whichever occurs first.”⁴⁴ Both prior to and subsequent to the issuance of the July Draft Permit in 2015, there were communications between BLM and the Executive Director’s technical staff regarding this experimental use authorization. For example, during the Executive Director’s technical staff’s review of BLM’s renewal application, there was correspondence between David Galindo, Director of TCEQ’s Water Quality Division, and Carter Mayfield, BLM, about including an experimental use authorization provision in the renewal permit.⁴⁵ Also, BLM’s August 20, 2015 hearing request raised issues about the experimental use authorization provision included in the

⁴² In the August 20, 2015 hearing request letter, the “Special Provision” is referred to as:

By setting a deadline of no later than October 31, 2016 after which BLM may no longer land apply this domestic sludge, the preliminary decision and draft permit prepared by the Executive Director would stop BLM’s long-standing beneficial land application practice, which is authorized and even encouraged under the regulations and which BLM has proven to be a beneficial use.

Id. at 1.

⁴³ See July Draft Permit, *supra* note 25.; see also Technically Complete Notice, *supra* note 25, at 2.

⁴⁴ July Draft Permit, *supra* note 25, at 1

⁴⁵ See, e.g., Galindo E-mail, *supra* note 24.

July Draft Permit because it specifically referenced the October 31, 2016 deadline that was part of the July Draft Permit's experimental use authorization provision.⁴⁶ Clearly all of these communications occurred prior to the end of the public comment period on January 21, 2016.

But even if these communications raising issues about the experimental use authorization had not occurred prior to January 21, 2016, the issue would still be ripe for the Commissioners to refer these issues to SOAH. After the public comment period ended on January 21, 2016, the Executive Director issued a revised draft permit, *i.e.*, the March Revised Draft Permit.

As identified in the *Executive Director's Response to Comment*:

The original draft permit proposed to authorized [sic] the permittee to land apply sewage sludge mixed with grit trap and grease trap waste (GG waste) under an experimental use authorization. The experimental use authorization was to expire on October 31, 2016 or one year from the date of permit issuance, whichever occurred first. However, at the close of the public comment period, the Executive Director made changes to the draft permit by removing the experimental use authorization and all applicable provisions.⁴⁷

Thus, the provision to which BLM was referring in its April 27 *Request for Contested Case Hearing* had been revised, *i.e.*, deleted, by the Executive Director *after* the end of the public comment period. As the applicant, who will be directly and negatively affected by this revision made by the Executive Director, BLM had the right to raise this issue for hearing at any point, including after the end of the public comment period because the Executive Director did not even make the change until after the public comment period ended. Thus, all three issues raised by BLM were timely raised.

⁴⁶ See Riley Letter, *supra* note 41, at 1.

⁴⁷ ED RTC, *supra* note 40, at 2.

OPIC also argues that the issues raised by BLM regarding the experimental use authorization are “more issues of law or policy than issues of fact.”⁴⁸ These issues, as raised by BLM, are mixed issues of fact and law. During its review of BLM’s permit renewal application, the Executive Director’s technical staff repeatedly altered their interpretation and thus their application of the 30 TEX. ADMIN. CODE Chapter 312 rules to BLM’s application. For example, the Executive Director’s technical staff suggested adding the experimental use authorization to the draft permit, and then, without providing any explanation, removed the provision that they had added. How the experimental use authorization’s inclusion or exclusion from BLM’s renewal permit affects BLM’s ability to continue to conduct operations at the Permitted Site is a mixed question of fact and law appropriate to be considered by a SOAH Administrative Law Judge. Similarly, whether an experimental use provision is even necessary for BLM to continue to conduct its operations at the Permitted Site is also a mixed issue of fact and law that requires a detailed examination of past practices at the Permitted Site in terms of the interpretation and application of Chapter 312 to the Permitted Site and BLM’s renewal application. As with any other permit application filed at the Commission, the issue of whether the permit application and the proposed operation of the site will comply with applicable TCEQ requirements—and here whether the experimental use authorization that was and could be included in the final renewal permit in some form is necessary and/or would comply with applicable TCEQ requirements—is an appropriate question for contested case hearing.

As such, BLM respectfully requests that if its *Request for Reconsideration* is denied, then the following issues that it previously identified be referred to SOAH for hearing:

⁴⁸ OPIC Response, *supra* note 38, at 9.

- Has the Executive Director demonstrated that the Special Provision included in the Draft Permit, which would prohibit BLM from land applying WWTP sewage sludge from the La Coste WWTP co-processed with grease and grit trap waste, *i.e.*, domestic sludge, is technically justified and supported by state law and applicable TCEQ rules?
- Is an experimental use authorization pursuant to 30 TEX. ADMIN. CODE Section 312.3(k) necessary to authorize BLM to land apply domestic sludge?
- If an experimental use authorization pursuant to 30 TEX. ADMIN. CODE Section 312.3(k) is necessary to authorize BLM to land apply domestic sludge, is there any legal, health, or environmental reason why such an experimental use authorization should *not* be included in the reissuance of TCEQ Permit No. WQ0004666000?⁴⁹

Specifically, BLM requests that its third issue be referred as it has been presented here. While the Executive Director recommends that a similar issue be referred to SOAH in *ED Corrected Response*, the wording recommended by the Executive Director does not contemplate that the Executive Director's technical staff actually removed the experimental use authorization provision from the March Revised Draft Permit. Because that provision was deleted from the March Revised Draft Permit, the inclusion of the word "not" as set out above in bold italics is important to the Administrative Law Judge's consideration of the issue as it currently stands.

C. The Hearing Requests Filed by Cynthia Doyle, Steve Holzheuser, Dorothy B. Simons, and Victoria County Should Be Denied. BLM Provisionally Is Not Opposed to the Hearing Request Filed by the City of La Coste.

BLM again reiterates and adopts the arguments that it made in its *Response to Requests for Contested Case Hearing* regarding why the hearing requests filed by Cynthia Doyle, Steve

⁴⁹ Birch Letter, *supra* note 35, at 10.

Holzheuser, Dorothy B. Simons, and Victoria County should be denied. To address the hearing requests filed by Ms. Doyle, Mr. Holzheuser, and Ms. Simons, the Executive Director included a very helpful map with both the *ED Response* and the *ED Corrected Response*, which identifies the location of the properties owned by the various hearing requesters in relation to the Permitted Site. As shown on that map, attached hereto and incorporated herein as Attachment 2, the Permitted Site is shown at No. 1 as the orange/black striped area. The significantly larger Arenosa Creek Ranch site within which the Permitted Site is located is shown inside the property boundary line. The yellow dashed line identifies the one-quarter mile “radial distance from [the] land application area,”⁵⁰ or the area within one-quarter mile of the Permitted Site. This “one-quarter mile” distance is important because of a provision in state law addressed by BLM in its *Response to Requests for Contested Case Hearing*, but ignored by both the Executive Director and OPIC in their pleadings.

Pursuant to Commission rules, a request for contested case hearing is only to be granted if the request is: “(2) made by an *affected person*”⁵¹ With regard to the term “affected person,” commission rules provide the following:

(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.

* * *

(c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:

* * *

(2) *distance restrictions or other limitations imposed by law on the affected interest;*

⁵⁰ See the map included herein and attached hereto as Attachment 2.

⁵¹ 30 TEX. ADMIN. CODE § 55.211(c) (emphasis added).

* * *

(4) likely impact of the regulated activity on the health and safety of the person and on the use of property of the person⁵²

Thus, in making the affected person determination, distance restrictions or other limitations imposed by law must be followed.⁵³ For applications for the beneficial land application of sewage sludge, such as the application that is the subject matter of this proceeding, the Texas Legislature has specifically defined those persons that qualify as an affected person by identifying a distance restriction. It was this distance restriction that was not addressed by either the Executive Director or OPIC, even though the Executive Director specifically acknowledges that the procedural requirements of Section 361.121 are applicable to this application.⁵⁴

Texas Health and Safety Code Section 361.121(c), the statute that governs TCEQ's permitting program for the land application of sewage sludge, provides, in relevant part: "*An owner of land located within one-quarter mile of the proposed land application unit who lives on that land is an affected person*"⁵⁵ By imposing such a distance restriction, the Legislature affirmatively defined that an affected person in this type of proceeding is a person

⁵² *Id.* § 55.203(a), (c)(2)&(4) (emphasis added).

⁵³ *See id.* § 55.203(c)(2).

⁵⁴ The *ED Response* and *ED Corrected Response* repeatedly state that Texas Health & Safety Code 361.121 is applicable to this application for a land application permit. *See, e.g., ED Corrected Response, supra* note 5, at 2 ("[T]his application for renewal is subject to the procedural requirements of the Texas Health and Safety Code §361.121 for an application to land apply certain sludge."); *see also ED Response, supra* note 5, at 2.

⁵⁵ TEX. HEALTH & SAFETY CODE § 361.121(c) (emphasis added).

that lives on land located within one-quarter mile of a proposed land application site.⁵⁶ Based on the information provided to TCEQ by Ms. Doyle, Mr. Holzheuser, and Ms. Simons, none of these three individuals own land that they live on that is located within one-quarter mile of the Permitted Site.

As shown on Attachment 2, Ms. Doyle's physical address is approximately two and one-half miles from the Permitted Site. OPIC correctly identifies that Ms. Doyle is not an affected person because of her distance from the Permitted Site. The Executive Director does not address the actual distance, simply stating that Ms. Doyle's property is "just south" of the Permitted Site. Ms. Doyle's hearing request should be denied because the fact that her property is approximately two and one-half miles from the Permitted Site places her property too far away from the Permitted Site to qualify as an affected person.

The property that Mr. Holzheuser identifies is owned by a family limited partnership of which he is the general partner. The property is approximately four and one-half miles from the Permitted Site. Additionally, Mr. Holzheuser does not live on the property in question. In his correspondence with TCEQ, Mr. Holzheuser identifies his personal address as 3200 Grandview Street, Apartment 16, Austin, Texas. Again, OPIC correctly identifies that the property identified by Mr. Holzheuser is located too far from the Permitted Site for him to qualify as an affected person. The Executive Director ignores the distance between the property identified by Mr. Holzheuser and the Permitted Site, referring to "Mr. Holzheuser's proximity" to the

⁵⁶ The one-quarter mile distance restriction was added to then-existing Section 361.121 in 2003. *See* H.B. 2546, 78th R.S. (2003). At that time, the Bill Analysis of the engrossed version of H.B. 2546 prepared by the Senate Research Center identified that the language was added to subsection (c) to provide "that an owner of land located within one-quarter mile of the proposed land application unit who lives on that land is an affected person for purposes of Section 5.115, Water Code." Bill Analysis of H.B. 2546, Engrossed, Senate Research Center (May 9, 2003).

Permitted Site. The Executive Director does not acknowledge that the property itself is actually at least four and one-half miles from the Permitted Site and that Mr. Holzheuser does not live on the property. Mr. Holzheuser does not qualify as an affected person for these reasons.

Also as shown on Attachment 2, Ms. Simons' property is located approximately one mile from the Permitted Site, and she also does not live on the property in question. In her correspondence with TCEQ, Ms. Simons identifies her personal address as 2021 McDuffie Street, Houston, Texas. Both OPIC and the Executive Director identify that Ms. Simons should be identified as an affected person because she is located approximately one mile from the Permitted Site, but neither OPIC nor the Executive Director address where Ms. Simons actually lives. Ms. Simons does not live on the property in question, and thus, she does not qualify as an affected person pursuant to Texas Health & Safety Code Section 361.121(c).

Because there was a detailed discussion regarding Victoria County's hearing request in its *Response to Requests for Contested Case Hearing*, BLM will not repeat that argument here. Instead, BLM reiterates and incorporates those arguments by reference.⁵⁷

Similarly, BLM continues to provisionally argue that if its *Request for Reconsideration* is denied, then the hearing request filed by the City of La Coste should be granted.

⁵⁷ See *Applicant Beneficial Land Management, L.L.C.'s Response to Requests for Contested Case Hearing* at 7-10 (June 13, 2016).

CERTIFICATE OF SERVICE

I certify that the foregoing document has been filed with the Office of the Chief Clerk of the Texas Commission on Environmental Quality using TCEQ’s eFiling system and via hand delivery. I also certify that a true and correct copy of the foregoing document has been served upon all required individuals for this docket via facsimile, certified mail return receipt requested, hand delivery, overnight delivery, or electronic mail addressed to:

<p>Ms. Bridget C. Bohac Office of the Chief Clerk (MC-105) Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 (512) 239-3311 (Fax) http://www14.tceq.texas.gov/epic/eFiling/</p>	<p><i>For the Office of the Chief Clerk of the Texas Commission on Environmental Quality</i></p>
<p>Ms. Ashley McDonald Staff Attorney Environmental Law Division (MC-173) Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 Fax: (512) 239-0600</p> <p>Ms. Kellie Crouch-Elliot Technical Staff Water Quality Division (MC-148) Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 Fax: (512) 239-4430</p>	<p><i>For the Executive Director of the Texas Commission on Environmental Quality</i></p>
<p>Mr. Rudy Calderon Assistant Public Interest Counsel (MC-103) Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 Fax: (512) 239-6377</p>	<p><i>For the Office of Public Interest Counsel of the Texas Commission on Environmental Quality</i></p>
<p>Ms. Cynthia Doyle 3012 Benbow Road Inez, Texas 77968-3328</p>	<p><i>Hearing Requester</i></p>

APPLICANT BENEFICIAL LAND MANAGEMENT, L.L.C.’S REPLY TO RESPONSES FILED BY THE EXECUTIVE DIRECTOR AND THE OFFICE OF PUBLIC INTEREST COUNSEL, BOTH OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, TO ITS REQUEST FOR RECONSIDERATION AND REQUESTS FOR CONTESTED CASE HEARING

Mr. Steve Holzheuser 3200 Grandview Street, Apt. 16 Austin, Texas 78705	<i>Hearing Requester</i>
Mr. J. Eric Magee Allison Bass & Magee LLP 402 West 12th Street Austin, Texas 78701-1817	<i>Representing Victoria County, Texas, Hearing Requester</i>
Mr. C. George Salzman City of La Coste P.O. Box 112 La Coste, Texas 78039-0112	<i>For the City of La Coste, Texas, Hearing Requester</i>
Ms. Dorothy B. Simons 2021 McDuffie Street Houston, Texas 77019-6133	<i>Hearing Requester</i>

On this the 27th day of June, 2016,

/s/ Erich Birch
ERICH M. BIRCH

Attachment 1

TECHNICAL SUMMARY AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant: Beneficial Land Management, L.L.C.

TCEQ Permit No.: WQ0004666000

Regulated Activity: Beneficial Land Application of Wastewater Treatment Plant (WWTP) Sewage Sludge and Experimental Use Study

Type of Application: Renewal

Request: Renewal with changes

Authority: Texas Water Code §26.027; 30 Texas Administrative Code (TAC) Chapters 281, 305, 312, and Texas Health and Safety Code (THSC) §361.121; and Commission policies.

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The proposed permit will expire at midnight five years from the date of issuance in accordance with 30 TAC Chapter 312, and THSC section 361.121.

REASON FOR PROJECT PROPOSED

Beneficial Land Management, L.L.C. has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of Permit No. WQ0004666000 to authorize the beneficial land application of WWTP sewage sludge at an overall rate not to exceed 8 dry tons per acre per year. The applicant has also requested an experimental use authorization under 30 TAC §312.3(k) to authorize land application of sewage sludge mixed with grease and grit trap waste.

PROJECT DESCRIPTION AND LOCATION

The land application site is located ten miles northwest of the City of Inez, on Farm-to-Market Road 444 and 2.5 miles northeast of the intersection of Karnes Road and Farm-to-Market Road 444 in Victoria County, Texas 77968.

No discharge of pollutants into water in the state is authorized by this permit.

PROPOSED PERMIT CONDITIONS

Sludge Provisions are included in the draft permit according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. The draft permit authorizes the land application of WWTP sewage sludge for beneficial use on 726.1 acres.

For the first year of this permit, the maximum sludge application rate shall not exceed 8 dry tons per acre per year. On an annual basis, the sludge application rate shall be calculated and adjusted based on current sludge and soil monitoring results. This application rate, that is submitted in each annual sludge report, shall not exceed the overall maximum application rate of 8 dry tons per acre per year. A major amendment to this permit shall be required to increase the overall maximum sludge application rate.

Beneficial Land Management, L.L.C.
Permit No. WQ0004666000
Technical Summary and Executive Director's Preliminary Decision

The material to be land applied at the site authorized by this permit originates from the following WWTP:
City of La Coste, TPDES Permit No. WQ0010889001

SUMMARY OF CHANGES FROM APPLICATION

Although the sludge application rate in the application has been calculated to be 10.3 dry tons per acre per year, this application is to renew the current permit, therefore the currently permitted sludge application rate of 8 dry tons per acre per year is continued in the draft permit.

SUMMARY OF CHANGES FROM EXISTING PERMIT

More stringent limitations are required in the proposed draft permit than exist in the current permit. The Sludge Provisions, Special Provisions, and Standard Provisions have been revised in the draft permit.

The SIC Code has changed from 0139 to 4952 to be consistent with the correct SIC Code for Class B sludge land application.

Item 1 of the Special Provisions section has been updated. This provision now states that for the first year of this permit the maximum sludge application rate shall not exceed 8 dry tons per acre per year, and that on an annual basis the sludge application rate shall be calculated and adjusted based on current sludge and soil monitoring results. This application rate, which is submitted in each annual sludge report, shall not exceed the overall maximum application rate of 8 dry tons per acre per year.

The acreage for the sludge land application area has been reduced from 793.4 acres in the current permit to 726.1 acres in the draft permit.

Water Quality Assessment Team changes:

A provision has been added requiring all sludge staging areas be located outside of buffers required by 30 TAC Chapter 312.44(c). (See Special Provision D.)

A provision has been added restricting land application of sludge when groundwater is found to be present within three feet below ground level. (See Special Provision E.)

The Special Provisions section now includes guidelines for test plots for land application of sludge/grease and grit mixture. This provision provides details for sizes of test plots, sludge/grease and grit mixture application rates, description for incorporation of this material, soil sample collection and analysis requirements, and reporting requirements. (See Special Provision F.)

The Special Provisions section now includes a requirement that the Oil and Grease (H.E.M., EPA 1662) in the sludge and grease/grit mixture shall not exceed 49% for the entire land application area of 726.1 acres. (See Special Provision G.)

The Special Provisions section includes a requirement for the experimental use study to expire on October 31, 2016 or one year from the date of permit issuance, whichever occurs first. This provision also prohibits land application of the sludge/grease and grit mixture at any location on this beneficial land use site after October 31, 2016 or one year from the date of permit issuance, whichever occurs first. (See Special Provision H.)

BASIS FOR PROPOSED DRAFT PERMIT

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

1. Application submitted with letter dated December 5, 2011 and additional information submitted with letter dated January 13, 2012, October 9, 2012, November 19, 2012, January 22, 2013, January 21, 2014, February 21, 2014, May 16, 2014, September 19, 2014, September 22, 2014, and September 29, 2014.
2. Existing TCEQ permit no.: Permit No. WQ0004666000 issued on May 31, 2007.
3. Interoffice Memorandum from the TCEQ Regional Office (MC Region 14), Water Quality Assessment Team, Water Quality Division.

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.

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.

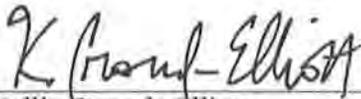
The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's response to comments and final decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will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

Beneficial Land Management, L.L.C.
Permit No. WQ0004666000
Technical Summary and Executive Director's Preliminary Decision

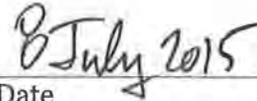
proceeding similar to a civil trial in state district court.

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 Kellie Crouch-Elliott at (512) 239-2435.



Kellie Crouch-Elliott
Municipal Permits Team
Wastewater Permitting Section (MC
148)



Date



PERMIT NO. WQ0004666000

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

This is a renewal of Permit No.
WQ0004666000 issued on
May 31, 2007.

PERMIT TO LAND APPLY SEWAGE SLUDGE

under provisions of Chapter 26 of the Texas Water Code,
Chapter 361 of Health and Safety Code, Chapter 312 of Texas Administrative Code.

I. PERMITTEE:

Beneficial Land Management, L.L.C.
P.O. Box 6870
San Antonio, Texas 78209

II. AUTHORIZATION:

Beneficial Land Application of Wastewater Treatment Plant (WWTP) sludge and Experimental Use of Grit and Grease Mixture.

III. GENERAL DESCRIPTION AND LOCATION OF SITE:

Description: The permittee is authorized to land apply WWTP sewage sludge at an overall rate not to exceed 8 dry tons per acre per year on 726.1 acres located within approximately 2,881 acres at this site. Additionally the permittee is authorized to land apply sewage sludge mixed with grease and grit trap waste under an experimental use authorization. The experimental use authorization will expire on October 31, 2016 or one year from the date of permit issuance, whichever occurs first.

Location: The sewage sludge land application site is located ten miles northwest of the City of Inez, on Farm-to-Market Road 444 and 2.5 miles northeast of the intersection of Karnes Road and Farm-to-Market Road 444, in Victoria County, Texas 77968 (see Attachment A).

SIC Code: 4952

Drainage Basin: The land application site is located in the drainage basin of Lavaca Bay and Chocolate Bay in Segment No. 2453 of the Lavaca-Guadalupe Coastal Basin. No discharge of pollutants into water in the state is authorized by this permit.

This permit and the authorization contained herein shall expire at midnight **five years from the date issued** listed below.

ISSUED DATE:

For the Commission

IV. GENERAL REQUIREMENTS:

- A. 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 which protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants which may be present in the sludge.
- B. Application for renewing this permit shall be submitted by the permittee at least 180 days prior to expiration date of this permit.
- C. WWTP sludge
1. In all cases, the generator or processor of sewage sludge shall provide necessary analytical information to the parties who receive the sludge, including those receiving the sewage sludge for land application, to assure compliance with these regulations.
 2. Permittee shall not accept sludge that fails the Toxicity Characteristic Leaching Procedure (TCLP) test per the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I or other method, which receives the prior approval of the TCEQ for the contaminants listed in Table 1 of 40 CFR Section 261.24.
 3. Sewage sludge shall not be applied to the land if the concentration of any metal exceeds the ceiling concentration listed in Table 1 below. Additional information on the frequency of testing for metals is found in Section IX.

Table 1

Pollutant	Ceiling Concentration (milligrams per kilogram)*
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7500

* Dry weight basis

4. When the total aggregate amount of any metal in Table 2 (in all sludge applied at the site during the entire use of this site) reaches the cumulative level listed in Table 2 below, only sludge with metal levels at or below those shown Table 3 below can be applied at the site. To compute this criteria, the total amount of each metal in all sludge applied must be summed on a continuing basis as sludge is applied.

Table 2

Pollutant	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

Pollutant	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

5. Sludge also cannot be applied in excess of the most restrictive of the following criteria:
 - a. The maximum sludge application rate (MSAR) based on crop nitrogen needs (also referred to as the agronomic rate), which is calculated based on the total amount of nitrogen in the sludge, septage and in the soils at the application site and on the nitrogen requirements of the vegetation in the application area.
 - b. The MSAR for each metal pollutant in Table 1 above, which is calculated individually for each metal based on its concentration in the sludge and in the soils in the application area.
6. All of the MSARs above must be calculated using Appendix A of the "Application for Permit for Beneficial Land Use of Sewage Sludge." These calculations must cover both sludge and septage for areas where both are applied. If sludge is received from multiple sources, the average concentration of each of the elements above must be determined using "Table 2 - Volume Weighted Average (Mean) of Nutrient and Pollutant Concentration" from the application form.
7. Anytime the permittee plans to accept WWTP sludge from any source(s) other than those listed in the application and approved for this permit, the permittee must notify and receive authorization from the Water Quality Division, Municipal Permits Team(MC 148) of the TCEQ prior to receiving the new sludge. The notification must include information to demonstrate the sludge from the proposed new source(s) meets the requirements of this permit. The permittee must provide certifications from each source that the sludge meets the requirement for a Process to Significantly Reduce Pathogens (PSRP) or other alternatives. The permittee must provide documentation that the sludge meets the limits for polychlorinated biphenyls (PCBs), vector attraction and the metal pollutants in Table 1 above. No sludge from sources other than the ones listed in the application can be land applied prior to receiving written authorization from the TCEQ.

- D. The permittee shall maintain a commercial liability insurance policy for the duration of the permit that:
1. is issued by an insurance company authorized to do business in this state that has a rating by the A.M. Best Company of A- or better;
 2. designates the commission as an additional insured; and
 3. is in an amount of not less than \$3 million.
- E. The permittee shall maintain an environmental impairment insurance policy for the duration of the permit that:
1. is issued by an insurance company authorized to do business in this state that has a rating by the A.M. Best Company of A- or better;
 2. designates the commission as an additional insured; and
 3. is in an amount of not less than \$3 million.

V. OPERATIONAL REQUIREMENTS:

The operation and maintenance of this land application site must be in accordance with 30 TAC Chapter 312 and Title 40 of the Code of Federal Regulations (40 CFR) Part 503 as they relate to land application for beneficial use. All applicable local and county ordinances must also be followed.

VI. REQUIRED MANAGEMENT PRACTICES:

- A. Sludge applications must not cause or contribute to the harm of a threatened or endangered species of plant, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of a threatened or endangered species.
- B. Sludge must not be applied to land that is flooded, frozen or snow-covered to prevent entry of bulk sewage sludge into wetlands or other waters in the State.
- C. Sludge shall be land applied in a manner which complies with Management Requirements in accordance with 30 TAC Section 312.44, including maintaining the following buffer zones for each application area.
- | | |
|---|----------|
| 1. Established school, institution, business or residence | 750 feet |
| 2. Public water supply well, intake, public water supply spring or similar source, public water treatment plant, or public water supply elevated or ground storage tank | 500 feet |
| 3. Solution channels, sinkholes, or other conduits to groundwater | 200 feet |
| 4. Waters in the State of Texas - when sludge is not incorporated | 200 feet |
| 5. Waters in the State of Texas - when sludge is incorporated within 48 hours of application and a vegetated cover is established | 33 feet |
| 6. Private water supply well | 150 feet |
| 7. Public right of way | 50 feet |
| 8. Property boundary | 50 feet |
| 9. Irrigation conveyance canals | 10 feet |

- D. Sludge must be applied to the land at an annual application rate that is equal to or less than the agronomic rate for the vegetation in the area on which the sludge is applied.
- E. The seasonally high water table, groundwater table, or depth to water-saturated soils must be at least three (3) feet below the treatment zone for soils with moderate to slow permeability (less than two inches per hour) or four (4) feet below the treatment zone for soils with rapid to moderately rapid permeability (between two and twenty inches per hour). Sludge cannot be applied to soils with permeation rates greater than twenty inches per hour.
- F. Sludge must be applied by a method and under conditions that prevent runoff beyond the active application area and that protect the quality of the surface water and the soils in the unsaturated zone. In addition, the following conditions must be met:
1. sludge must be applied uniformly over the surface of the land;
 2. sludge must not be applied to areas where permeable surface soils are less than 2 feet thick;
 3. sludge must not be applied during rainstorms or during periods in which surface soils are water-saturated;
 4. sludge must not be applied to any areas having a slope in excess of 8%;
 5. where runoff from the active application area is evident, the operator must cease further sludge application until the condition is corrected;
 6. the site operator must prevent public health nuisances. Sludge debris must be prevented from leaving the site. Where nuisance conditions exist, the operator must eliminate the nuisance as soon as possible;
 7. sludge application practices must not allow uncontrolled public access, so as to protect the public from potential health and safety hazards at the site; and
 8. sludge can be applied only to the land application area shown on Attachment B. The buffer zones as listed on that map as well as the buffer zone distances listed in section VI.C. must not have any sludge applied on them.
- G. The permittee shall post a sign that is visible from a road or sidewalk that is adjacent to the premises on which the land application unit is located stating that a beneficial land use application site is located on the premises.

VII.PATHOGEN CONTROL:

- A. 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 or Class B pathogen requirements.
1. Six alternatives are available to demonstrate compliance with Class A sewage sludge.

The first 4 options require either 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.

Below are the additional requirements necessary to meet the definition of a Class A sludge.

Alternative 1 The temperature of the sewage sludge that is used or disposed must 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 2 The pH of the sewage sludge that is used or disposed must be raised to above 12 std. units and shall remain above 12 std. units for 72 hours.

The temperature of the sewage sludge must be above 52 degrees 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 percent.

Alternative 3 The sewage sludge must 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 must 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 must 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 must be less than one per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed.

Alternative 5 Processes to Further Reduce Pathogens (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.

2. 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 must 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 must 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 must 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 provide a certification to the generator of 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 must 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 must 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 must meet one of the PSRP, and must meet the certification, operation, and record keeping requirements of this paragraph.

- Alternative 3 Sewage sludge must 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 must 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 must 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 must meet one of the Processes to Significantly Reduce Pathogens, and must meet the certification, operation, and record keeping requirements of this paragraph.

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

1. food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface must not be harvested for 14 months after application of sewage sludge;
2. 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;
3. 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;
4. food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of sewage sludge;
5. animals shall not be allowed to graze on the land for 30 days after application of sewage sludge;
6. 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.
7. public access to land with a high potential for public exposure shall be restricted for 1 year after application of sewage sludge.
8. public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge; and
9. land application of sludge shall be in accordance with the buffer zone requirements found in 30 TAC §312.44.

VIII. VECTOR ATTRACTION REDUCTION REQUIREMENTS:

- A. 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 for Vector Attraction Reduction.

Alternative 1 The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38 percent [30 TAC §312.83(b)(1)].

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 degrees Celsius. Volatile solids must be reduced by less than 17 percent to demonstrate compliance [30 TAC §312.83(b)(2)].

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 a percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. Volatile solids must be reduced by less than 15 percent to demonstrate compliance [30 TAC §312.83(b)(3)].

Alternative 4 The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process must 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 degrees Celsius. This test may only be run on sludge with a total percent solids of 2.0% or less [30 TAC §312.83(b)(4)].

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 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius [30 TAC §312.83(b)(5)].

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 [30 TAC §312.83(b)(6)].

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 percent 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 [30 TAC §312.83(b)(7)].

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 percent 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 [30 TAC

§312.83(b)(8)].

Alternative 9 Sewage sludge shall be injected below the surface of the land. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected. When sewage sludge that is injected below the surface of the land is Class A 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 [30 TAC §312.83(b)(9)].

Alternative 10 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. When sewage sludge that is incorporated into the soil is Class A 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 [30 TAC §312.83(b)(10)].

IX. MONITORING REQUIREMENTS:

The sewage sludge must be monitored according to 30 TAC §312.46(a)(1) for the ten metals in Table 1 of Section IV.C.3, pathogen reduction, and vector attraction reduction.

- A. If the concentration of nitrogen or any of the metals in Table 1 in Section IV.C.3 exceeds the concentration used to calculate any of the MSARs in Sections IV.C.5 and IV.C.6, the MSAR for that element must be recalculated. If the sludge comes from multiple sources, the calculations must use Table 2 in Section IV.C.4 to provide a volume weighted average of all sludge that will be applied during the current monitoring period.
- B. After the sludge has been monitored according to 30 TAC §312.46(a)(1) for a period of two years, an application may be submitted to amend this permit to reduce the frequency of monitoring.
- C. The frequency of monitoring will be increased if recalculation of the agronomic rate increases the amount of sludge that can be applied to a higher threshold, as shown in 30 TAC §312.46(a)(1). The frequency of monitoring may also be increased if the TCEQ determines that the level of pollutants or pathogens in the sludge warrants such action.
- D. If WWTP sludge is received at this site for land application then the permittee must ensure that the test data for TCLP and PCBs is provided from the generators.
- E. All metal constituents and Fecal coliform or Salmonella sp. bacteria shall be monitored at the appropriate frequency pursuant to 30 TAC §312.46(a)(1).
- F. Representative samples of sewage sludge shall be collected and analyzed in accordance with the methods referenced in 30 TAC §312.7.
- G. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

X. RECORD KEEPING REQUIREMENTS:

The permittee shall fulfill record keeping requirements per 30 TAC §312.47. The documents shall be retained at the site and shall be readily available for review by a TCEQ representative.

- A. Records of the following general information must be kept for all types of sludge land application permits:
1. 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), whichever is applicable;
 2. the location, by street address, and specific latitude and longitude, of each site on which sewage sludge is applied;
 3. the number of acres in each site on which bulk sludge is applied;
 4. the dates, times and quantities of sludge is applied to each site;
 5. the cumulative amount of each pollutant in pounds per acre listed in Table 2 of Section IV.C.4 applied to each site;
 6. the total amount of sludge applied to each site in dry tons; and
 7. a description of how the management practices listed above in Section IV.C., and 30 TAC §312.44 are being met. If these requirements are being met, prepare and keep a certification statement per 30 TAC §312.47(5)(B)(viii).
- B. For Sewage Sludge with metal concentrations at or below levels in Table 3 of Section IV.C.4; which also meets Class A pathogen requirements in 30 TAC §312.82(a), and the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10):
1. a description of how the vector attraction reduction requirements are met. If these requirements are being met prepare and keep a certification statement per 30 TAC §312.47(5)(B)(xii).
- C. For Sewage Sludge with metal concentrations at or below levels in Table 3 of Section IV.C.4; and which also meets Class B pathogen requirements in 30 TAC §312.82(b), and the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10):
1. a description of how site restrictions for Class B sludge in 30 TAC §312.82(b)(3) are being met. If these requirements are being met prepare and keep a certification statement per 30 TAC §312.47(5)(B)(x); and
 2. a description of how the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10) are met. If these requirements are being met, prepare and keep a certification statement per 30 TAC §312.47(5)(B)(xii).
- D. For Sewage Sludge with metal concentrations at or below levels in Table 1 of Section IV.C.3; and which also meets Class B pathogen requirements in 30 TAC §312.82(b), and the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10):
1. a description of how the requirements to obtain information from the generators of sludge in 30 TAC §312.42(e) are being met. If these requirements are being met, prepare and keep a certification statement per 30 TAC §312.47(5)(B)(vi);
 2. a description of how site restrictions for Class B sludge in 30 TAC §312.82(b)(3) are being met.

If these requirements are being met prepare and keep a certification statement per 30 TAC §312.47(5)(B)(x); and

3. a description of how the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10) are met. If these requirements are being met prepare and keep a certification statement per 30 TAC §312.47(5)(B)(xii).

XI.REPORTING REQUIREMENTS:

- A. Permittee shall submit a separate annual report by September 30th of each year per 30 TAC §312.48 for each site. The annual report must include all the information required under 30 TAC §312.48 (including the items listed below) for a period covering September 1st of previous year through August 31st of current year. Additionally an "Annual Sludge Summary Report Form" (Attachment C) should be filled out and submitted with the annual report. Submit your report to the Water Quality Division, Municipal Permits Team (MC 148) and the TCEQ Regional Office (MC Region 14). Record retention requirements must be followed in accordance with 30 TAC §312.47.
 1. Annual Sludge Summary Sheet (a blank form is provided in Attachment C of this permit) with following information. This information must be submitted by all permittees:
 - i. permit number;
 - ii. the site location (address or latitude and longitude);
 - iii. operator address, contact person name, telephone number, and fax number;
 - iv. amount of sludge disposal dry weight (lbs/acre) at each disposal site;
 - v. number of acres on which sludge and septage is land applied;
 - vi. vegetation grown and number of cuttings; and
 - vii. other items listed in the summary sheet.
 2. If the sludge concentration for any metal listed in Table 3 of Section IV.C.4 is exceeded, the report must include the following information:
 - i. date and time of each sludge application;
 - ii. all four certification statements required under 30 TAC §312.47(a)(5)(B);
 - iii. a description of how the information from the sludge generator was obtained, as per 30 TAC §312.42(e);
 - iv. a description of how each of the management practices in 30 TAC §312.44 were met for this site;
 - v. a description of how the site restrictions in 30 TAC §312.82(b)(3) were met for the site;
 - vi. if the vector attraction reduction requirements in 30 TAC §312.83(b)(9) or (10) are met, a description of how this was done;
 - vii. soil and sludge test reports, as required in Section XII of this permit; and

- viii. calculations of the current agronomic sludge application rate and the life of the site based on metal loadings (Appendix A of application, as identified in Section IV.C.4, or similar form).
 3. If none of the concentrations for the metals exceed the values listed in Table 3 in Section IV.C.4 of this permit:
 - i. information per 30 TAC §312.47(a)(3)(B) for Class A sludge; and
 - ii. information per 30 TAC §312.47(a)(4)(B) for Class B Sludge.
 4. 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 in Section IV.C.4 of this permit the permittee shall provide the following additional information:
 - i. date and time of each sludge application;
 - ii. the information in 30 TAC §312.47(a)(5)(A) must be obtained from the sludge generator and included in the report; and
 - iii. the cumulative amount in pounds per acre of each pollutant listed in Table 2 in Section IV.C.4 applied to each application field of this site through bulk sewage sludge.
 5. Permittee shall submit evidence that the permit holder is complying with the nutrient management plan developed by a certified nutrient management specialist in accordance with the practice standards of the Natural Resources Conservation Service of the United States Department of Agriculture.
- B. Permittee shall submit a quarterly report by the 15th day of the month following each quarter during the reporting period (ie. quarterly reports will be due December 15th, March 15th, June 15th, and September 15th). Additionally, a "Quarterly Sludge Summary Report Form" (Attachment D) should be filled out and submitted with the quarterly report. The quarterly report must include all the information listed below. Submit your report to the Water Quality Division, Municipal Permits Team (MC 148) and the TCEQ Regional Office (MC Region 14). Record retention requirements must be followed in accordance with 30 TAC §312.47. The Quarterly Sludge Summary Report Form must include:
1. the source, quality, and quantity of sludge applied to the land application unit;
 2. the location of the land application unit, either in terms of longitude and latitude or by physical address, including the county;
 3. the dates of delivery of Class B sludge;
 4. the dates of application of Class B sludge;
 5. the cumulative amount of metals applied to the land application unit through the application of Class B sludge;

6. crops grown at the land application unit site; and
7. the suggested agronomic application rate for the Class B sludge.

XII. SOIL SAMPLING AND ANALYSIS:

The permittee is required to notify the local TCEQ Regional Office 48 hours prior to taking annual soil samples at the permitted site. Samples must be taken within the same 45-day period each year, or in accordance with an approved sampling plan and analyzed within 30 days of procurement.

The permittee shall obtain representative soil samples from the root zones of the land application area. Composite sampling techniques shall be used. Each composite sample shall represent no more than 80 acres of the same soil type with no less than 10 to 15 subsamples representing each composite samples as described in 30 TAC §312.12(b)(1)(I) and (J). Subsamples shall be composited by like sampling depth, type of crop and soil type for analysis and reporting. Soil types are soils that have like topsoil or plow layer textures. Analytical results must be provided on a dry weight basis. The Soil Sampling and Analysis plan shall be provided to the analytical laboratory prior to sample analysis.

No.	PARAMETER	NOTE	FREQUENCY	SAMPLE DEPTH	
				0" - 6"	6" - 24"
1.	Nitrate Nitrogen (NO ₃ -N, mg/kg)	1	1 per year	X	X
2.	Ammonium Nitrogen (NH ₄ -N, mg/kg)	1	1 per year	X	X
3.	Total Nitrogen (TKN, mg/kg)	2	1 per year	X	X
4.	Phosphorus (plant available, mg/kg)	3	1 per year	X	X
5.	Potassium (plant available, mg/kg)	3	1 per year	X	X
6.	Sodium (plant available, mg/kg)	3	1 per year	X	X
7.	Magnesium (plant available, mg/kg)	3	1 per year	X	X
8.	Calcium (plant available, mg/kg)	3	1 per year	X	X
9.	Electrical Conductivity	4	1 per year	X	X
10.	Soil Water pH (S.U.)	5	1 per year	X	X
11.	Total Arsenic (mg/kg)	6	1 per 5 years	X	N/A
12.	Total Cadmium (mg/kg)	6	1 per 5 years	X	N/A
13.	Total Chromium (mg/kg)	6	1 per 5 years	X	N/A
14.	Total Copper (mg/kg)	6	1 per 5 years	X	N/A
15.	Total Lead (mg/kg)	6	1 per 5 years	X	N/A
16.	Total Mercury (mg/kg)	6	1 per 5 years	X	N/A
17.	Total Molybdenum (mg/kg)	6	1 per 5 years	X	N/A
18.	Total Nickel (mg/kg)	6	1 per 5 years	X	N/A
19.	Total Selenium (mg/kg)	6	1 per 5 years	X	N/A
20.	Total Zinc (mg/kg)	6	1 per 5 years	X	N/A

1. Determined in a 1 N KCl soil extract (<http://soiltesting.tamu.edu/webpages/swftlmethods1209.html>).
2. Determined by Kjeldahl digestion or an equivalent accepted procedure. Methods that rely on Mercury as a catalyst are not acceptable.
3. Mehlich III extraction (yields plant-available concentrations) with inductively coupled plasma.
4. Electrical Conductivity (EC) - determined from extract of 2:1 (volume/volume) water/soil mixture and expressed in dS/m (same as mmho/cm).
5. Soil pH must be analyzed by the electrometric method in "Test Methods for Evaluating Solid Waste," EPA SW-846, 40 CFR 260.11; method 9045C - determined from extract of 2:1 (volume/volume) water/soil mixture.
6. Analysis for metals in soil must be performed according to methods outlined in "Test Methods for Evaluating Solid Waste," EPA SW-846; method 3050.

XIII. STANDARD PROVISIONS:

- A. This permit is granted in accordance with the Texas Water Code, Health and Safety Code, and the rules and other Orders of the Commission and the laws of the State of Texas.
- B. Unless specified otherwise, any noncompliance which may endanger human health or safety, or the environment shall be reported to the TCEQ. Report of such information must 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 must also be provided to the TCEQ Regional Office (MC Region 14) and to the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission must 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 anticipated 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.
- C. Any noncompliance other than that specified in the Standard Provision B, or any required information not submitted or submitted incorrectly, must be reported to the TCEQ Enforcement Division (MC 224) as promptly as possible.
- D. Acceptance of this permit constitutes an acknowledgment and agreement that the permittee shall comply with all the terms, provisions, conditions, limitations and restrictions embodied in this permit and with the rules and other Orders of the Commission and the laws of the State of Texas. Agreement is a condition precedent to the granting of this permit.
- E. Prior to any transfer of this permit, Commission approval must be obtained. The Commission must 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.
- F. 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 will control.
- G. The permittee is subject to the provisions of 30 TAC §305.125.
- H. The permittee shall remit to the Commission annual fees per 30 TAC §312.9. Failure to pay the fees on time may result in revocation of this permit.
- I. This permit holder does not have a vested right in the permit.
- J. The permittee may not accept Class B sludge unless the sludge has been transported to the land application unit in a covered container with the covering firmly secured at the front and back.

XIV. SPECIAL PROVISIONS:

- A. For the first year of this permit, the maximum sludge application rate shall not exceed 8 dry tons per acre per year. On an annual basis, the sludge application rate shall be calculated and adjusted based on current sludge and soil monitoring results. This application rate, that is submitted in each annual sludge report, shall not exceed the overall maximum application rate of 8 dry tons per acre per year. A major amendment to this permit shall be required to increase the overall maximum sludge application rate.
- B. During times of land application of sludge, all buffer zones must be distinguished from each other by the use of flags, posting or fencing to ensure that both buffer areas and land application areas are separated. **Cieno soil depressions and drainage canal buffer areas will also be identified by the use of flags, posting, or fencing to ensure that these areas are excluded from sludge application. The areas buffered from sludge application are identified on Attachment B.**
- C. The permittee shall consider nutrient management practices appropriate for the land application of sewage sludge and assess the potential risk for nitrogen and phosphorus to contribute to water quality impairment. Information and assistance on a certification program for Nutrient Management Specialists is available online at <http://nmp.tamu.edu>.

Nutrient management shall be practiced within the context of the Natural Resources Conservation Service Code 590 Practice Standard which addresses the kind, source, placement, form, amount, timing and application method of nutrients and soil amendments. This is available online at:

http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1046896.pdf

The 590 Standard should be conducted using the Phosphorus Index, a simple screening tool to rank vulnerability of fields as sources of phosphorus loss to surface runoff. Information on Phosphorus Index is available online at:

http://efotg.sc.egov.usda.gov/references/public/TX/TXTechNote15_December_2012_Texas_P_Index.pdf

The annual analysis of extractable phosphorus in soil samples shall be conducted using the Mehlich III extraction with inductively coupled plasma.

- D. All sludge staging areas shall be located outside of buffers required by 30 TAC Chapter 312.44(c).
- E. Application of sludge is restricted when groundwater develops within three feet below ground level as indicated by monitor wells in the application area. Sludge will not be land applied during seasonal high groundwater table development less than three feet below the surface of soils with moderate or slower permeability (less than two inches per hour) according to 30 TAC Chapter 312.44(h)(1). Records of groundwater observation shall be kept on file and recorded before each application of sludge.
- F. Experimental Use Study Requirements

The permittee shall setup test plots on land that had not previously received sludge/grease and grit mixture. Each test plot boundary will be clearly identified in the field with visual markers

and signs. Each plot will have an area of no less than 30,000 square feet and a buffer zone of 10 feet on all sides around each test plot. One control plot will not receive sludge/grease and grit mixture; a second test plot will receive 8.3 dry tons of sludge/grease and grit mixture per acre per year; and a third test plot will receive 12 dry tons of sludge/grease and grit mixture per acre per year. Sludge application will begin in the spring (mid-April). Sludge will be spread and incorporated within 6 hours of application. Ten random soil samples will be collected from each plot from the 0 to 6-inch and 6 to 12-inch depths 30 days and 90 days after incorporation. Samples will be composited by like depth. Composite samples shall be analyzed within 24 hours of procurement. The permittee shall notify the TCEQ Region 14 Office within 48 hours prior to sludge/grease and grit mixture land application and soil sampling activities conducted on the test plots.

Soil samples shall be analyzed according to the following table.

	Soil Samples from Treated and Control Plots		Units	Method
	0 to 6" & 6 to 12"	0 to 6" & 6 to 12"		
TPH extraction				TX1005
TPH Total	30 days and 90 days	30 days and 90 days	mg/kg	TX1005
TPH, C6-C12	30 days and 90 days	30 days and 90 days	mg/kg	TX1005
TPH, >C12-C28	30 days and 90 days	30 days and 90 days	mg/kg	TX1005
TPH, >C28-C36	30 days and 90 days	30 days and 90 days	mg/kg	TX1005
MTBE	30 days and 90 days	30 days and 90 days	mg/kg	EPA 8260C
Benzene	30 days and 90 days	30 days and 90 days	mg/kg	EPA 8260C
Toluene	30 days and 90 days	30 days and 90 days	mg/kg	EPA 8260C
Ethylbenzene	30 days and 90 days	30 days and 90 days	mg/kg	EPA 8260C
Xylenes, Total	30 days and 90 days	30 days and 90 days	mg/kg	EPA 8260C
Toluene-d8 (surrogate)	30 days and 90 days	30 days and 90 days	%	EPA 8260C
Bromofluorobenzene (surrogate)	30 days and 90 days	30 days and 90 days	%	EPA 8260C

A representative sludge/grease and grit mixture sample shall be collected at the time of application and analyzed for pH; electrical conductivity; oil and grease (also called fats, oil, and grease); total Kjeldahl nitrogen; ammonia-nitrogen ("NH₃-N"); nitrate-nitrogen ("NO₃-N"); and total phosphorus, potassium, arsenic, cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc. The oil and grease analysis shall be conducted in accordance with EPA Method 1664 (H.E.M., EPA 1664), within 24 hours of sample procurement. All results reported in mg/kg shall be reported on a dry weight basis. The Oil and Grease (H.E.M., EPA 1662) in the sludge/grease and grit mixture shall not exceed 49%. Should the percentage of Oil and Grease exceed 49% in a given sample, then that mixture shall

not be land applied.

The reports, including copies of laboratory analytical data, a map depicting the test plot areas, measurements of ground cover and forage plant analysis, shall be provided to the Enforcement Division (MC 169), the Water Quality Assessment Team (MC 150), and the TCEQ Regional Office (MC Region 14). Complete reports shall be provided by:

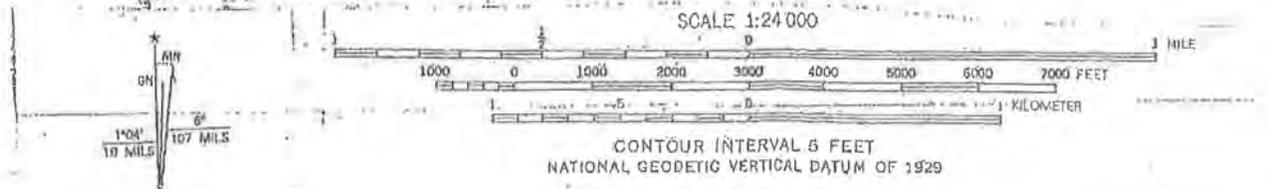
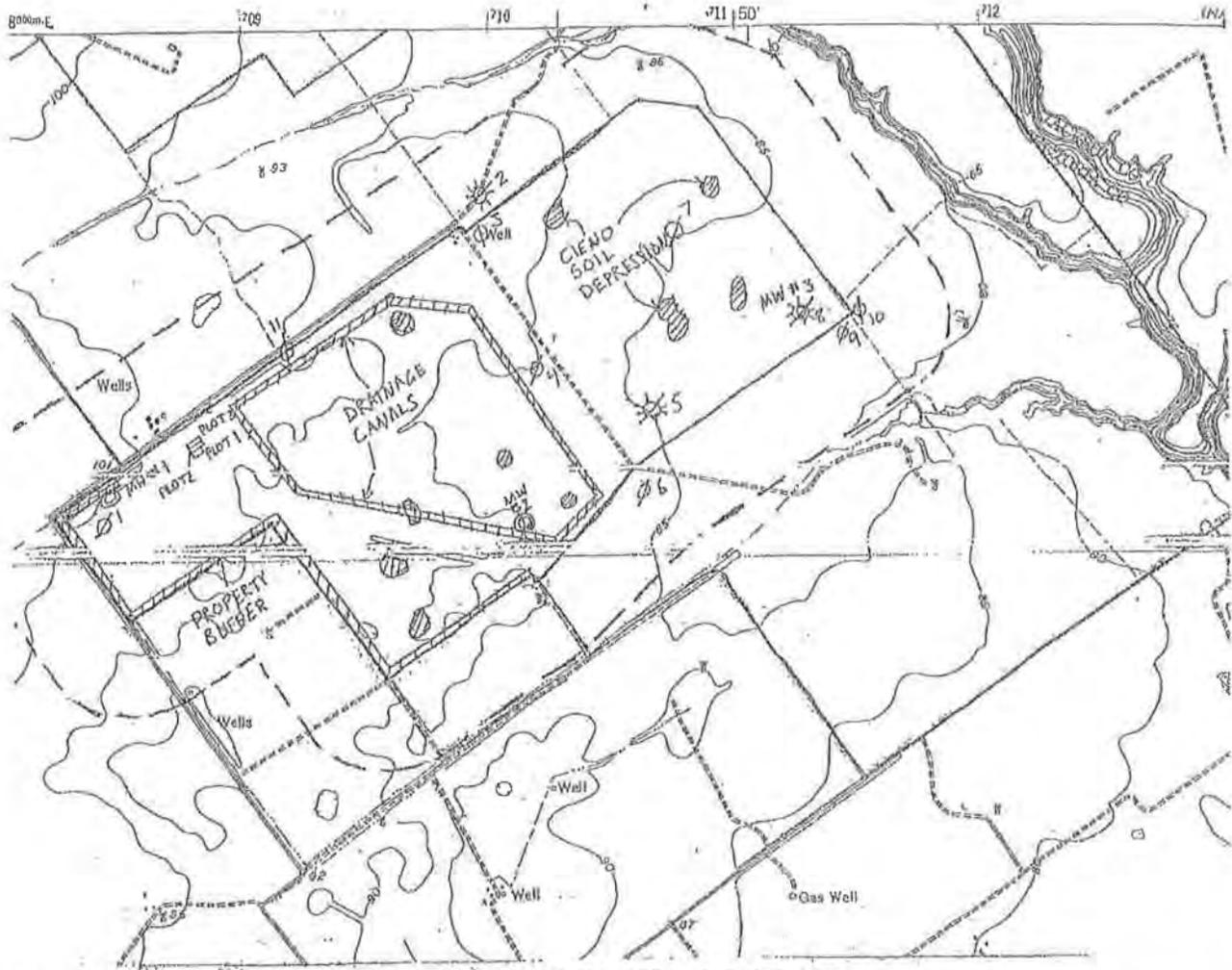
September 1, 2015

September 1, 2016

The final report to be submitted by September 1, 2016 shall include an assessment of all data gathered to date, including the data collected under the Agreement (in effect July 6, 2011 to July 6, 2014), and the conclusion on the suitability of the sludge/grease and grit mixture for beneficial reuse.

- G. The Oil and Grease (H.E.M., EPA 1662) in the sludge/grease and grit mixture shall not exceed 49% for the entire land application area of 726.1 acres. Should the percentage of Oil and Grease exceed 49% in a given sample, then that mixture shall not be land applied.
- H. The experimental use study shall expire on October 31, 2016 or one year from the date of permit issuance, whichever occurs first. Land application of the sludge/grease and grit mixture is not authorized at any location on the permitted 726.1 acres following expiration of the experimental use study and is a violation of the permit.

Attachment B



UTM GRID AND 1995 MAGNETIC NORTH DECLINATION AT CENTER OF SHEET

- PROPERTY BOUNDARY
- - - APPLICATION SITE
- - - 1/4 MILE FROM APPLICATION SITE

- ⊕ WATER WELL
- ⊗ OIL WELL
- ⊙ GAS WELL
- ▨ BUFFER ZONE

Attachment C

Annual Sludge Summary Report Form

Note 1: If your site has more than one land application field, please submit a separate form for each field.

Note 2: Please note, in addition to the summary form, you need to submit all information as required by 30 TAC 312.48.

Note 3: If you operate other registered/permited sludge land application sites, a form should be submitted for each site.

Note 4: Also send one complete copy of your report and this form to the TCEQ regional office in your area.

For TCEQ Fiscal Year:	Reporting period:	From September 1,	to August 31,
Registration No:	_____	Date	_____
Name of Registrant:	_____		
Mailing Address:	_____		
Contact Person	Name	Telephone No:	

Field No. (if any): _____ **(Please submit a separate form for each field).**

1. Sewage Sludge:
 - a. Land Applied: _____ dry tons/year
 - b. Disposed Via Monofill: _____ dry tons/year
 - c. Disposed Via MSW Landfill: _____ dry tons/year
 2. Treated Domestic Septage - Land Applied: _____ gallons/year
 - a. Method used to treat Domestic Septage: _____
 3. Water Treatment Plant Sludge:
 - a. Land Applied: _____ dry tons/year
 - b. Dedicated Land Disposal: _____ dry tons/year
 - c. Disposed Via monofill: _____ dry tons/year
- Class A sludge land applied: _____ dry tons / year
- Acreage used for Sludge Application/disposal at this site: _____ acres

Site Vegetation (such as grass type etc) and number of cuttings: _____

Sewage Sludge only – Please provide information regarding the following 3 items:

1. Does any of the sludge you have generated or received NOT MEET the concentration limits for the metals listed in Table 3 of "30 TAC §312.43 (b)"? Yes No
2. Has your field/site reached or exceeded 90% of the cumulative metal loading rates for any metals as listed in Table 2 of "30 TAC §312.43 (b)"? Yes No
3. Has sewage sludge been applied to the field/site after 90% of cumulative metal loading rates for any of the metals per Table 2 of "30 TAC §312.43 (b)" been reached? Yes No

PLEASE MAIL THE COMPLETED ANNUAL REPORT TO:

Texas Commission on Environmental Quality
 Municipal Permits Team (MC 148)
 Wastewater Permitting Section
 P.O. Box 13087
 Austin, TX 78711-3087

Attachment D

Quarterly Sludge Summary Report Form

Note 1: If your site has more than one land application field, please submit a separate form for each field.

Note 2: Please place this sheet at the top of your Quarterly Sludge Report.

Note 3: If you have more than one permitted site, then fill-out this form for each one of those sites.

Note 4: Please send a copy of this sheet and all attachments to the local TCEQ regional office.

For TCEQ Quarter:	Reporting period:	From September 1,	to August 31,
Registration No:	_____	Date	_____
Name of Registrant:	_____		
Mailing Address:	_____		
Contact Person	Name	Telephone No:	_____

Field No. (if any): _____ **(Submit separate form for each field, if site has two or more fields).**

Class B Sewage Sludge Land Applied: _____ dry tons /quarter

Treated Domestic Septage - Land Applied: _____ gallons / quarter

Method used to treat Domestic Septage: _____

Water Treatment Plant Sludge - Land Applied: _____ dry tons /quarter

Class A sludge land applied: _____ dry tons /quarter

a. Acreage used for Sludge Application/disposal at this site _____

b. Site Vegetation (such as grass type etc) and # of cuttings _____

c. Does any of the sludge you have generated or received DOES NOT MEET concentration limits for any of the metals listed in Table 3 of "30 TAC §312.43 (b)"? Yes No

d. Site location Latitude: _____ Longitude: _____

e. Site physical address: _____

Please attach the information regarding the following items (Sewage Sludge only):

* Please note the following information shall be provided in computer generated report format:

* Please place check mark before each item below to indicate you have attached that item with this report.

- 1. Metal concentration, pathogen analysis data and vector attraction certifications of sludge for each source.
- 2. Provide a list containing the name and permit number of each source of sludge.
- 3. Date of delivery of each load of sludge land applied.
- 4. Date of land application of each load of sludge.
- 5. The cumulative metal loading rates for any metals as listed in Table 2 of "30 TAC §312.43 (b)"?
- 6. The suggested agronomic rate for the class B sludge.

PLEASE MAIL THE COMPLETED ANNUAL REPORT TO:

Texas Commission on Environmental Quality
Municipal Permits Team (MC 148)
Wastewater Permitting Section
P.O. Box 13087
Austin, TX 78711-3087

Attachment 2



Beneficial Land Management, L.L.C.

TPDES Permit No. WQ0004666000

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

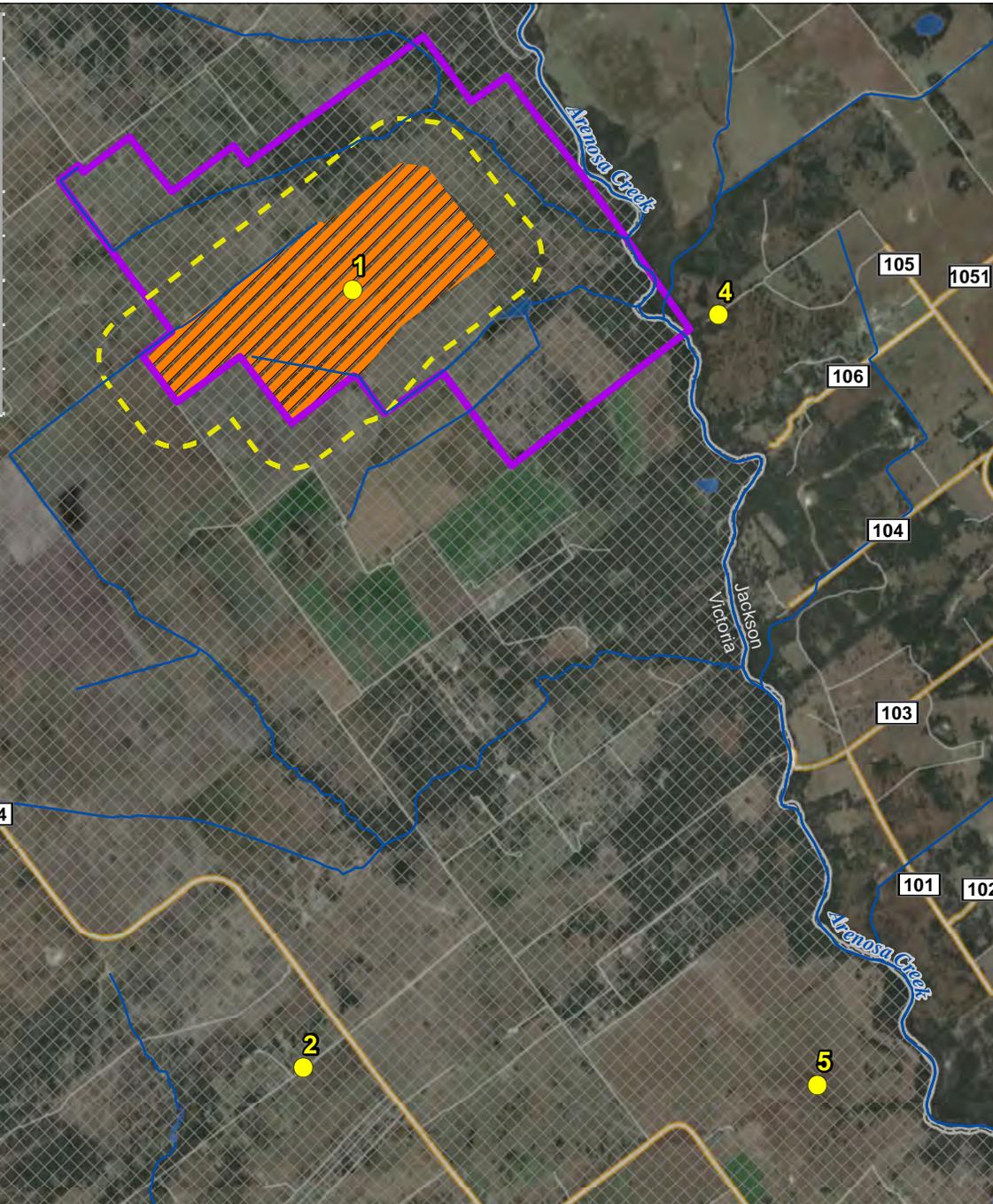


Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087

Date: 5/3/2016



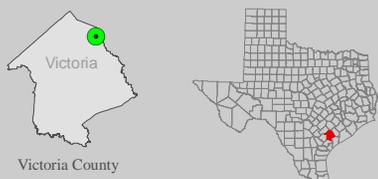
ID	Name
	Beneficial Land Management, Arenosa Creek Ranch
1	Cynthia Doyle
2	City of Lacoste
3	Dorothy Simons
4	Steve Holzheuser
5	Victoria County



- Applicant Property Boundary
- Land Application Area
- 0.25 mi radial distance from land application area
- Watercourse
- Waterbody
- Intermediate Roads
- Minor Roads
- County Boundary
- Requesters
- Victoria County

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

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



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