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86086

April 27, 2016

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
APR 27 PM 1:43
CHIEF CLERK'S OFFICE

VIA HAND DELIVERY

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

REVIEWED
APR 27 2016
By AR
RFR
H

Re: Request for Reconsideration of the Executive Director's Preliminary Decision and Request for Contested Case Hearing, Application by Beneficial Land Management, L.L.C. for TCEQ Permit No. WQ0004666000.

Dear Ms. Bohac:

This firm represents Beneficial Land Management, L.L.C. ("BLM"), the applicant in the above-referenced proceeding. This letter is BLM's notice of its request for reconsideration of the Executive Director's preliminary decision and request for a contested case hearing in this proceeding. Specifically, BLM objects to the Draft Permit prepared by the Executive Director of the Texas Commission on Environmental Quality ("TCEQ") and provided to BLM via letter dated March 21, 2016, from David Galindo, Director, TCEQ's Water Quality Division, and referenced in the Decision of the Executive Director dated March 28, 2016. The Draft Permit, as currently written, ignores TCEQ rules and precedent, provisions in other TCEQ authorizations, the long-term TCEQ-authorized operations of BLM's beneficial land application facility, and the fact that BLM has been found to not only be in compliance with its TCEQ-issued permit over the past nine years, but also that all required and voluntary sampling, testing, and reporting has demonstrated that BLM's land application operations are not detrimental to human health or the environment.

BLM requests 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, BLM requests that the Commissioners remand the application and Draft Permit to the Executive Director for reconsideration with specific instructions to delete any language from the Draft Permit that would prohibit BLM from land applying the La Coste WWTP domestic sewage sludge and to issue TCEQ Permit No. WQ0004666000 without any such prohibition.

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Ms. Bridget C. Bohac,
Chief Clerk, TCEQ
April 27, 2016
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In the alternative, BLM requests a contested case hearing on its application. BLM previously requested a contested case hearing in this proceeding via letter dated August 20, 2015, and submits this letter today to reaffirm its request for a contested case hearing.

Request for Reconsideration of the Executive Director's Preliminary Decision

BLM, the applicant in this proceeding, requests 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. BLM's mailing address is P.O. Box 6870, San Antonio, Texas, 78209. BLM is represented by the following counsel and may be notified of any developments in this case by providing notice to:

Erich Birch
Angela Moorman
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BLM was issued TCEQ Permit No. WQ0004666000 on May 31, 2007, authorizing BLM's beneficial land application of wastewater treatment plant ("WWTP") sewage sludge at a location known as the Arenosa Creek Ranch in Victoria County, Texas. Pursuant to that TCEQ-issued permit, BLM began land applying WWTP sludge from the City of La Coste's WWTP ("La Coste WWTP") later that same year.¹ 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 Municipal Solid Waste ("MSW") Processing Registration No. 43011, which authorizes PDI to beneficially re-use such material, resulting in "domestic sludge" as contemplated by TCEQ's rules. BLM applied for a renewal of TCEQ Permit No. WQ0004666000 on December 5, 2011, simply seeking to continue its authorized practice of beneficially land applying the domestic sludge from the La Coste WWTP.

The Draft Permit proposed by the Executive Director includes a Special Provision prohibiting the "land application of grit trap or grease trap waste, or sewage sludge mixed with grit trap or grease

¹ 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 at Arenosa Creek Ranch. *See* TPDES Permit No. WQ0010889001, issued to the City of La Coste, at 12 (May 17, 2010).

trap waste.”² In effect, upon issuance, the permit would immediately halt BLM’s beneficial land application of the domestic sludge from the 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 or is a detriment to the environment.

There is no health or environmental protection justification for the Executive Director’s decision to prohibit BLM from land applying the domestic sludge. Over the approximately nine years that BLM has beneficially land applied the domestic sludge, it has complied with all of the sampling, monitoring, and reporting requirements in its TCEQ permit. During all of those years of reporting the results of the required sludge, soil, and water sampling, BLM has never been out of compliance with the parameters set out in its permit. Specifically, BLM has maintained records and provided any and all required reports to TCEQ demonstrating that the domestic sludge received from the La Coste WWTP has met all requirements of TCEQ Permit No. WQ0004666000, including the metals concentrations limits set out in that permit. Similarly, BLM has maintained records and provided any and all required reports to TCEQ regarding required soil samples to demonstrate that the land application of the domestic sludge is not detrimental to the environment.

There is no legal justification for the Executive Director’s decision to prohibit BLM from land applying the domestic sludge. Since the permit was first issued in 2007, TCEQ has inspected the Arenosa Creek Ranch facility multiple times and has not alleged any statutory, regulatory, or permit violations at the site. The facility has an outstanding compliance history rating pursuant to TCEQ’s own rules.

While BLM has never had a violation or enforcement issue with TCEQ regarding its operations, in response to BLM’s application to simply renew its existing land application permit, the Executive Director has sought to re-interpret TCEQ’s existing rules in such a way as to cause substantial harm to BLM’s business and operations and in a way that would not provide any additional environmental protection or benefit. In fact, the Executive Director’s current interpretation would ensure that the domestic sludge that is currently beneficially land applied (as encouraged by state law and TCEQ’s rules) would instead be otherwise disposed, potentially taking up valuable landfill space and no longer providing the environmental benefit associated with land application.

TCEQ’s rules have not changed over the timeframe involved in this case. The beneficial land application of the domestic sludge that was authorized in and that has been occurring since 2007 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

² Draft TCEQ Permit No. WQ0004666000 at § XIV.F. at 17 (provided via Letter from David W. Galindo, TCEQ, to Carter Mayfield, BLM (Mar. 21, 2016)).

application of the domestic sludge would be considered problematic. Section 312.3 provides, in relevant part:

(d) 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.*

* * *

(I) This chapter 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.³

Thus, pursuant to Section 312.3(d), the sewage sludge at the La Coste WWTP to which the grease and grit trap waste is added through the co-processing procedure is classified as “domestic sludge.” The addition of any type of industrial solid waste, including grease and grit trap waste, continues to be domestic sludge if it is from a facility that primarily treats domestic wastewater, as does the La Coste WWTP. As addressed in BLM’s previous request for contested case hearing, TCEQ itself has interpreted its rules consistent with BLM’s position:

[U]pon request by another regulated entity, the TCEQ’s Waste Permits Division provided the following interpretation of the classification of restaurant grease trap waste: “It is my interpretation that after processing, the restaurant grease trap waste is no longer classified as grease trap waste and would be considered digester byproduct material.” In that case, anaerobic digesters processed manure, cooking oils and greases, and restaurant grease trap waste.⁴

BLM’s land application of the domestic sludge is not the land application of grease and grit trap waste as contemplated by 30 TEX. ADMIN. CODE Section 312.3(I) because grease and grit trap waste alone is not being land applied. Instead, the co-processing of the WWTP sewage sludge with PDI’s grit and grease trap waste simply results in a processed domestic sludge. The grit and grease trap waste is co-processed with the WWTP sewage sludge as contemplated by 30 TEX. ADMIN. CODE Section 312.3(d), and thus the resulting combined domestic sludge must “*be considered to be domestic sludge and must be processed, stored, or disposed of in accordance with the applicable requirements*” of Chapter 312.

³ 30 TEX. ADMIN. CODE § 312.3(d) & (I).

⁴ Letter from John A. Riley, Jackson Gilmour & Dobbs, PC, to Office of the Chief Clerk, TCEQ at 2 (Aug. 20, 2015) (quoting Letter from Richard C. Carmichael, TCEQ, to J.D. Head, Fritz, Byrne, Head & Harrison, LLP (Sept. 7, 2006).

Through its issuance of other permits and through its favorable inspections of the BLM and PDI facilities, TCEQ repeatedly has determined that the land application of domestic sludge made up of WWTP sewage sludge co-processed with grease and grit trap waste is in compliance with TCEQ rules. The following examples support TCEQ's long-term interpretation of its rules authorizing the land application of domestic sludge, *i.e.*, the land application of co-processed WWTP sewage sludge and grease and grit trap waste:

- The TCEQ-approved Site Operating Plan (“SOP”) for the PDI facility at the La Coste WWTP includes the following provisions⁵:
 - The SOP clearly identifies that PDI will be accepting WWTP sludge, grease trap waste, grit trap waste, and septage that will be processed to result in sewage sludge that can be disposed in a MSW landfill, that can be eligible for composting pursuant to 30 TEX. ADMIN. CODE Chapters 332 and 312, or that can be eligible for “land application (beneficial use)” pursuant to 30 TEX. ADMIN. CODE Chapter 312.⁶
 - “Recovered solids (sewage sludge, as defined in 30 TAC § 312.3(d)) generated by the facility will be transported offsite to a Municipal Type I or Type IAE Landfill, a beneficial use site, or a compost facility.”⁷ Through approval of this language, TCEQ specifically acknowledged and approved that the product from the PDI facility would be sewage sludge as contemplated by 30 TEX. ADMIN. CODE § 312.3(d).
 - The TCEQ-approved SOP states that PDI will send at least ten percent of fats, oils, and greases, and/or solids, *i.e.*, the domestic sludge resulting from the co-processing of the WWTP sewage sludge and grease and grit trap waste, for beneficial use, *i.e.*, land application, or to be composted.⁸
- In a compliance investigation of the PDI facility in 2009, the TCEQ investigator specifically noted that activated sludge from the La Coste WWTP was combined with grit and grease trap waste for processing.⁹ The investigator determined that PDI was in substantial compliance with applicable TCEQ rules.¹⁰

⁵ MSW Registration No. 43011, issued to PDI for the LaCoste Waste Water Treatment Plant (Apr. 2, 2008), at pt. IV, SOP (Oct. 5, 2007).

⁶ *See id.* at pt. IV, SOP at §§ 330.203 & 330.205 at 6, 7, & 10.

⁷ *Id.* at pt. IV, SOP § 330.205 at 10.

⁸ *See id.* at pt. IV, SOP § 330.61(b)(2) at 8.

⁹ *See* TCEQ Investigation Report of James Bard, Investigation No. 740167, PDI, CN601097850, LaCoste WWTP, RN101999290, MSW Registration No. 43011 (May 20, 2009).

¹⁰ *See id.* at 3.

- The investigator wrote: “*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).*”¹¹
 - In addition, the Investigation Report states: “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 Micro Dirt dba Texas Organic Recovery in Creedmoor (Registration 4216), Whole Earth Organic Composting in Bexar County (Permit No. 2317) or, *Beneficial Land Management, LLC in Gonzalez County (Permit No. WQ0004666000).*”¹² In other words, TCEQ specifically acknowledged and accepted that PDI’s domestic sludge was being recycled legally through beneficial land application at BLM’s Arenosa Creek Ranch facility.
 - Finally, and specifically with regard to BLM’s Arenosa Creek Ranch facility, the Investigation Report notes: “In addition to the CEI conducted at Partners processing facility . . . , investigations/inquiries were conducted at the following recycle/reuse materials receiving facilities which included: Beneficial Land Management LLC – Arenosa Creek Ranch (Sludge beneficial land use TCEQ ID No.: WQ0004666000), which was investigated by the Region 14 office on 01/12/2009, TCEQ Investigation No. 722744 – *No Violations(s) Noted*”¹³
 - As part of this compliance investigation, the investigator instructed PDI personnel that resulting domestic sludge should consistently be manifested as “WWTP Sludge.” PDI provided a sample manifest form to the TCEQ investigator for review and received verbal approval. *See attachment.*
- The TCEQ-approved SOP for the Houston Disposal Interests (“HDI”) MSW Type V Grit and Grease Trap Liquid Waste Processing Facility also authorizes the land application of co-processed grit and grease trap waste.¹⁴ The HDI SOP includes the following:

¹¹ *Id.* at 2 (emphasis added).

¹² *Id.* (emphasis added).

¹³ *Id.* at 4 (emphasis added).

¹⁴ *See* MSW Permit No. MSW-2241A, issued to HDI, Type V-GG Waste Processing Facility at pt. IV, SOP (Nov. 27, 2006).

The recycling and disposal plan for solids includes grease recovery and solids disposal/reuse at a TCEQ-authorized landfill, land application site or composting facility.

* * *

As a result of the processes, grease trap, grit trap and septic wastes are solidified into bio-solids that are suitable for land application or composting. These biosolids will be transported to authorized land application or composting facilities, as appropriate, or they will be disposed at an authorized landfill.¹⁵

Here, TCEQ again determined that it was within its rules to land apply sludge combined with grease and grit trap waste.

- Similarly, a TCEQ investigation of the SOJO Treatment Type V Processing Facility in Lubbock, Texas, acknowledged that the land application of processed solids from the facility that included grease and grit trap waste was in compliance with TCEQ rules.¹⁶ The investigation report notes that SOJO shipped its final process solids to approved land application sites.¹⁷

While these are just a handful of examples of TCEQ's actions with regard to the beneficial land application of domestic sludge, *i.e.*, WWTP sewage sludge co-processed with grease and grit trap waste, the message could not be more clear: TCEQ has repeatedly and uniformly determined that sewage sludge co-processed with grease and grit trap waste can be beneficially land applied in accordance with its rules at 30 TEX. ADMIN. CODE Chapter 312. Both TCEQ permitting staff and field operations personnel have repeatedly acknowledged this fact, and the Executive Director's staff in this case has not provided any explanation based on applicable state law or TCEQ rules regarding why this renewal application should be treated differently.

BLM's renewal application has been stalled in the Executive Director's review process for over four years. During that time, BLM has attempted to work with the Executive Director to provide additional documentation that the domestic sludge fully complies with all applicable regulatory requirements and that there has been no environmental harm at the Arenosa Creek Ranch facility.

As early as July 2011, BLM began testing the domestic sludge and the soils at the Arenosa Creek Ranch facility pursuant to a sampling plan designed by the Executive Director's technical staff. During the three years that BLM followed the Executive Director's sampling plan, the results of

¹⁵ *Id.* at pt. IV, SOP at 2.

¹⁶ See TCEQ Investigation Report, Investigation No. 260681, SOJO Treatment, RN101289171, MSW Permit No. 2231 (investigation in Jan. 2004).

¹⁷ See *id.* at 3.

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soil sampling did not raise any health or environmental concerns with the Executive Director. In fact, as previously pointed out by BLM, the laboratory analyses conducted during that timeframe clearly demonstrated that just thirty days after land application of the domestic sludge, all constituents of concern from grit and grease trap waste were below *detectable* limits.

In 2014, BLM began conducting another three-year demonstration of the environmental benefits of the beneficial land application of the domestic sludge. BLM's current sampling and testing plan was designed by James C. Thomas, a Certified Professional Agronomist, a Certified Nutrient Management Specialist, and a former Senior Research Associate at Texas A&M University, and was verbally approved by the Executive Director's staff. In addition, the 2014 sampling and testing plan is being observed by the Executive Director's technical staff. During Year One of this demonstration project, there were no measurable concentrations of oil and grease, hydrocarbons, or volatile organic compounds (VOCs) detected in any of the soil samples collected ninety days after land application. In addition, the application of the domestic sludge to the test plots resulted in reduced amounts of unwanted grasses and increased amounts of desirable Bermuda grass. Overall, the application of the domestic sludge resulted in improved Bermuda grass pasture with more suitable cattle forage per unit land area.

During Year Two of the demonstration project, background soil samples were collected prior to the land application of the domestic sludge. The sampling results did not contain any measureable constituents of concern. These test results confirmed that all oil, grease, and hydrocarbon components that might be associated with the grease and grit trap waste prior to its co-processing with the WWTP sewage sludge had been successfully degraded and presented no environmental risk to soil or water resources. Again, the overall impact of the land application of the domestic sludge was an improvement in pasture conditions.

The Executive Director's technical staff has not contested the results of BLM's permit-required sampling and monitoring, nor has the Executive Director's technical staff contested the results of the sludge and soil sampling and testing associated with the 2011 sampling plan or the 2014 demonstration project. The Executive Director has been unable to point to any adverse environmental condition or consequence of the land application of the domestic sludge. In fact, the Executive Director has not identified any reason, based on either existing TCEQ rules or the sampling results from BLM's operations, to justify his insertion of a provision in the Draft Permit that would prohibit BLM from land applying the domestic sludge. For these reasons, BLM respectfully requests that the Commissioners of the TCEQ remand its application and the Draft Permit to the Executive Director for revision in accordance with applicable TCEQ rules. Specifically, BLM requests that the Commissioners remand the application and Draft Permit to the Executive Director for reconsideration with specific instructions to delete any language from the Draft Permit that would prohibit BLM from land applying the domestic sludge from the La Coste WWTP and to issue TCEQ Permit No. WQ0004666000 without any such prohibition.

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Request for Contested Case Hearing

In accordance with the notice provided, BLM provides the following information.

1. BLM requests a contested case hearing pursuant to 30 TEX. ADMIN. CODE Section 55.201. BLM is the applicant in this permitting proceeding, and as such, is entitled to a contested case hearing pursuant to 30 TEX. ADMIN. CODE Section 55.201(b)(3). As stated above, BLM's mailing address is P.O. Box 6870, San Antonio, Texas, 78209. BLM is represented by the following counsel and may be notified of any developments in this case by providing notice to:

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Angela Moorman
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amoorman@birchbecker.com

2. As stated above, the applicant for TCEQ Permit No. WQ0004666000 is Beneficial Land Management, L.L.C., the party hereby requesting a contested case hearing. As the applicant, BLM has an interest that is not common to members of the general public. BLM has an economic interest in the application, the provisions of any final permit issued, and the continued operations of its Arenosa Creek Ranch facility. The continued operation of the Arenosa Creek Ranch is, of course, imperative to BLM, but it is also imperative to the financial well-being of the City of La Coste. The revenues received by La Coste from the operations of BLM and PDI are almost double the amount that the City receives from annual ad valorem taxes. The continued operation of the Arenosa Creek Ranch facility is critical to the City's financial well-being. BLM has a personal, justiciable economic interest affected by the application and TCEQ's final decision regarding the application and the Draft Permit that is not common to members of the general public, and thus, is an affected person.
3. BLM requests a contested case hearing in this matter, and respectfully presents the following:

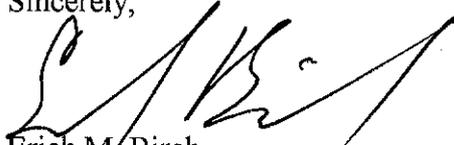
BLM's concerns with the Executive Director's evaluation of its renewal application and the Executive Director's Draft Permit are explained in full above. For all of the reasons outlined above, BLM requests a contested case hearing to address the following issues:

Ms. Bridget C. Bohac,
Chief Clerk, TCEQ
April 27, 2016
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- 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?

For these reasons, Beneficial Land Management, L.L.C. respectfully requests that the Commissioners remand the application and Draft Permit to the Executive Director for reconsideration with specific instructions to delete any language from the Draft Permit that would prohibit BLM from land applying domestic sludge, including WWTP sewage sludge co-processed with grease and grit trap waste, and to issue TCEQ Permit No. WQ0004666000 without any such prohibition. In the alternative, BLM, as the applicant and as an affected person with an economic interest not common to members of the general public, requests a contested case hearing. If you have any questions, please do not hesitate to call me at (512) 349-9300.

Sincerely,



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

Attachment

cc: Mr. Carter Mayfield

Attachment

From: Carter Mayfield
To: "James Bard" [mailto:JBARD@lccg.state.tx.us]
Subject: SOS Manifest Training
Date: Tuesday, March 31, 2009 3:09:00 PM
Attachments: Manifest Training 03 31 09.pdf

Jim,

Here is the manifest training series we will implement this week. We will tape this on the walls at the LaCoste WWTP and provide manifest examples to drivers (this is particularly an issue with new drivers).

Hopefully, this will result in a more consistent process. We will be checking the next 15 loads for consistency as soon as you give the word.

-c.l.mayfield

Carter Mayfield | SOS Companies | P.O. Box 201480 San Antonio, TX 78220-1480

phone: 210.422.4249 | fax: 359.6301 | cmayfield@sosliquids.com | www.sosliquids.com

SOS COMPANIES

How to Manifest Outgoing LaCoste Waste

SOS Training Series

Last Updated: 03/31/09



NON-HAZARDOUS WASTE MANIFEST

0238162

1. Generator's US EPA ID Number

Manifest Document Number

2. Page 1 of

3. Generator's Name and Mailing Address

La Coste WWTP
11331 Lytic-La Coste Rd.
La Coste, TX 78039

5. Generating Location (if different)

Same

4. Phone 1

850 485-3834

7. Transporter's Company Name

SOS Liquid Waste Haulers

8. US EPA ID Number

22085

10. Transporter's Emergency Name

11. US EPA ID Number

210 342-5257

13. Designated TSD Facility Name and Site Address

Tessman Rd
2000 IH DE
San Antonio, TX 78219

14. US EPA ID Number

15. Facility's Phone

210 661-7558

15. Material Shipping Name and Description

17. Allowable Waste Approval # and Expiration Date

18. Containers No. Type

19. Total Quantity

20. Unit WWTU

WWTP Sludge

L60Y53029

1 T

12

Y

WWTP Sludge

L60Y53029

2 T

15

Y

21. Additional Dispositions for Materials Listed Above

22. Special Handling Instructions and Additional Information

23. GENERATOR'S REPRESENTATIVE

Printed/Typed Name

Joe Plant Operator

Signature

Joe Plant Operator

Month Day Year
3 5 11 09

24. TRANSPORTER'S REPRESENTATIVE

Printed/Typed Name

Joe Driver

Signature

Joe Driver

Month Day Year
3 5 11 09

25. Facility's Name

Printed/Typed Name

Signature

Month Day Year

26. Disposal/Reuse Instructions

27. Facility Owner or Operator: Certification of receipt of waste materials covered by this manifest (except as noted in Item 19)

Printed/Typed Name

Joe Landfill Operator

Signature

JLO

Month Day Year
3 5 11 09

ORIGINAL - RETURN TO GENERATOR

Manifest all waste with facility name - La Coste WWTP

SOS's Registration # is 22085

The proper name is Tessman Rd Landfill, NOT BFI

Use the appropriate code to describe the load:
• Waste type is "WWTP Sludge"
• For units, use "Y" for Cubic Yards
• For No., if waste is added or if the same manifest is used for two loads, delineate each as "No." 1 and "No." 2, for example
• For "Type," use "T" for truck. If waste is hauled in drums, use "D" for drums.

The PDI plant operator should sign for the load

The driver signs here

The landfill operator will fill out this bottom section



TCEQ Public Meeting Form
January 21, 2016

Beneficial Land Management, L.L.C.
Land Application Permit of Sewage Sludge
Renewal for Permit No. WQ0004666000

PLEASE PRINT

Name: ~~Mr~~ Cynthia Doyle

Mailing Address: 3012 Benbow Rd.

Physical Address (if different): Same

City/State: Inez, TX Zip: 77968-3328

This information is subject to public disclosure under the Texas Public Information Act

Email: C2000D@Live.com ✓

Phone Number: 361.894.1086

- Are you here today representing a municipality, legislator, agency, or group? Yes No

If yes, which one? _____

Please add me to the mailing list. ✓

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting. ✓

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

MW

I am very much against this permit. The applicants have a lot to gain if their permit is approved & much to lose if it is not approved. ~~They~~ Their point of view is likely more about money than anything else. I don't trust what they are saying at all. After hearing what Rep. Stevenson had to say, I'm even more confident that it is not safe at all. In fact, it is frightening to me. I am a landowner in Inez & have a 15 year old daughter who will inherit my land, & the safety of the water and land are of utmost importance to me. I hereby request a Case Hearing.

RECEIVED

JAN 21 2016

H

AT PUBLIC MEETING

MWJ

Steve Holzheuser
3200 Grandview St. Unit 16
Austin, Texas 78705

April 27, 2016

Bridget C. Bohac
Chief Clerk, TCEQ
Re: Permit No. WQ0004666000
Beneficial Land Management, L.L.C., Permittee

REVIEWED
APR 27 2016
By SLG H

2016 APR 27 AM 11:44
CHIEF CLERKS OFFICE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Dear Ms. Bohac:

SLG
86086

My name is Steve Holzheuser. My business address is 3200 Grandview St. Unit 16, Austin TX 78705; Cell: 512-413-8118 and email is steve@holzheuser.com. I request a contested case hearing on the Beneficial Land Management, L.L.C. ("BLM LLC"), application for Permit No. WQ0004666000 (the "Application").

I am the general partner of a family limited partnership that owns and operates a 600 acre contiguous tract of land bordered by FM 444 North on the south and on the east side by US Highway 59 near the town site of Inez, TX (the "Property"). The Property has been in my family for five generations – it was acquired in the mid eighteen hundreds. There are two occupied homes on the Property and we graze livestock (over 100 head of cattle) on the Property too. Three groundwater wells on the Property provide water for both domestic and livestock use and the two homes. The Property is approximately three miles from boundary of BLM LLC's disposal site. The Property and BLM LLC's disposal site is over the Gulf Coast aquifer. Based on information published by Victoria County Groundwater Conservation District, the Property is down dip of BLM LLC's disposal site. To be sure that I have correctly characterized the situation, groundwater moves in the direction from the disposal site to the Property. That means the disposal of sludge at BLM LLC's disposal site could have direct and adverse consequences on the quality of groundwater under the Property. We use this groundwater for multiple purposes on the Property, and if it is contaminated by the BLM LLC operations, that would seriously and adversely impact the value of the Property, and could create serious health concerns. In addition to the potential for BLM LLC's operations to contaminate groundwater, I believe that the Applicant's disposal site borders the Arenosa Creek. The Property abuts the Arenosa Creek. Operations at and run off from BLM LLC's disposal site could also contaminate the Creek. Arenosa Creek has a history of frequent flooding which inundates scores of acres on the Property. We use the water in Arenosa Creek to provide drinking water for the cattle when grazing on acreage near the creek, and if BLM LLC contaminates the Creek, that too would seriously and adversely impact the value of the Property. Because of the proximity of the BLM LLC disposal site to the Property, and the fact that the two parcels are connected by both groundwater and surface water, with the BLM LLC site situated both up gradient and upstream of the Property, I believe that I have a special, unique

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interest in the Application, and a special reason, different than the public at large, for wanting to ensure that proper terms and conditions are included in any permit issued in response to the Application.

As noted, I am very concerned about the many potential adverse impacts on my Property if BLM LLC is allowed to conduct operations as requested in its Application. Those adverse impacts include ecological, environmental and economic impacts. I have read the Application and BLM LLC's comments on the draft permit, and although I am comforted that the TCEQ doesn't support disposal of grease trap waste at the BLM LLC disposal site, it is clear that Beneficial Land Management, L.L.C. wants that authorization. Disposal of grease trap waste will exacerbate the potential groundwater and surface water consequences to the Property which I already described, and will have negative consequences to the air quality. Grease trap waste STINKS. Even though the Property is a few miles away, if BLM LLC is allowed to handle and dispose of grease trap waste, I am very concerned that the odor alone would create a nuisance at the Property and completely interfere with my use and enjoyment of the Property.

Please include my name on all mailing lists associated with this matter, and forward to me a copy of all correspondence at the address shown above.

Sincerely,

A handwritten signature in cursive script that reads "Steve Holzheuser". The signature is written in black ink and is positioned above the printed name.

Steve Holzheuser

Google Maps 361 FM 444
Holzheuser Property



Imagery © 2016 Google, Map data © 2016 Google 2000 ft

Google Maps

PROPERTY

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, April 25, 2016 11:24 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0004666000
Attachments: 20160425- JEM to B. Bohac re Request for Contested Case Hearing.pdf

H

SLG
86086

From: e.magee@allison-bass.com [mailto:e.magee@allison-bass.com]
Sent: Monday, April 25, 2016 11:09 AM
To: DoNot Reply <donotreply@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0004666000

REGULATED ENTY NAME ARENOSA CREEK RANCH

RN NUMBER: RN103911889

PERMIT NUMBER: WQ0004666000

DOCKET NUMBER:

COUNTY: VICTORIA

PRINCIPAL NAME: BENEFICIAL LAND MANAGEMENT LLC

CN NUMBER: CN600919591

FROM

NAME: J. Eric Magee

E-MAIL: e.magee@allison-bass.com

COMPANY: Allison, Bass & Magee

ADDRESS: 402 W 12TH ST
AUSTIN TX 78701-1817

PHONE: 5124820701

FAX: 5124800902

COMMENTS: Victoria County's Request for Contested Case Hearing

CM

ALLISON, BASS & MAGEE, L.L.P.

Attorneys at Law

A. O. WATSON HOUSE
402 WEST 12TH STREET
AUSTIN, TEXAS 78701
(512) 482-0701
FAX (512) 480-0902

JAMES P. ALLISON
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ROBERT T. BASS
r.bass@allison-bass.com

J. ERIC MAGEE
e.magee@allison-bass.com

PHILLIP L. LEDBETTER
p.ledbetter@allison-bass.com

CARAH-BETH BASS
c.bass@allison-bass.com

April 25, 2016

VIA E-FILE

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

Re: Request for Contested Case Hearing regarding Beneficial Land Management, L.L.C.'s request for renewal of TCEQ Permit No. WQ0004666000.

Dear Chief Clerk:

On March 28, 2016, the TCEQ provided the Executive Director's Response to Comments concerning the aforementioned matter. Victoria County continues to oppose the issuance of this permit as it is a threat to the public health, safety and welfare of the citizens of the County.

As stated in the correspondence, "a request for a contested case hearing or reconsideration of the executive director's decision must be received by the Chief Clerk's office no later than 30 calendar days after the date of this letter." Therefore, Victoria County timely requests a contested case hearing for this matter.

I. AFFECTED PERSON

Pursuant to the Texas Administrative Code, "governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons." *See* 30 Tex. Admin. Code § 55.203(b) and § 55.256(b). Victoria County, a subdivision of the State of Texas, is charged with both the responsibility and the statutory authority to protect the health, safety and welfare of the citizens of Victoria County, Texas and their property interest.

Specifically, "[t]he governing body of a municipality or the commissioners court of a county may enforce any law that is reasonably necessary to protect the public health." Tex. Health & Safety Code Ann. § 121.003. Further, Subchapter E of the Texas Water Code provides the statutory authority that a County has over water quality issues. Finally, Victoria County has authority to relating to nuisances in Chapter 341 of the Texas Health and Safety Code and authority to enforce health protection Chapters 361 and 364 of the Texas Health and Safety Code.

Accordingly, Victoria County should be considered an affected person in this matter.

II. Request for Contested Case Hearing

Victoria County appreciates the TCEQ's changes to the draft permit which include that: (1) the experimental use authorization and applicable provisions of the draft permit have been removed; (2) Special Provision F has been revised to state that the land application of grit trap or grease trap waste, or sewage sludge mixed with grit trap or grease trap waste, is not authorized by this permit and is prohibited; (3) Special Provision G has been revised to authorize the land application of Class B sewage sludge only; and (4) Special Provision H was added requiring the applicant to develop and implement an Adverse Weather and Alternatives Plan within 90 days of permit issuance.

Although these changes were made to the draft permit, Victoria County believes that the permit as proposed will continue to allow the disposal of heavy metals and other contaminants and threaten public health, safety and welfare of the citizens of the County. Particularly, Victoria County requests a contested case hearing on the following issues:

- Victoria County believes that the potential for drainage and runoff, especially during heavy rains, which will contribute to the impairments of water quality in Arenosa Creek, Lavaca Bay and the Matagorda Basin. Heavy metals and other contaminants constitute an unacceptable risk and threat to the public health, safety and welfare.
- Victoria County believes that the potential for contamination of the groundwater due to heavy metals and other unknown contaminants in the sewage sludge. The potential for leaching into the groundwater constitutes an unacceptable risk and threat to the public health, safety and welfare.
- Victoria County believes that the potential for contamination of the soil and the potential buildup of heavy metals and toxic substances is an unnecessary threat to the public health, safety and welfare.
- Victoria County believes that there are inadequate buffer zones to protect these waterways and do not adequately protect property interests of the citizens. Further, these buffer zones fail to sufficiently safeguard the public, safety and welfare.
- Victoria County wants to ensure that groundwater is protected and will not be adversely affected, that sufficient groundwater monitoring will be established and maintained, that there is no possibility for surface drainage pollution, and that adequate protection from escape of contaminants and toxic substance into the air is provided.

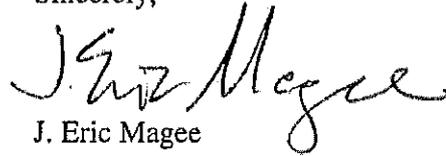
III. Conclusion

For the above stated reasons, if the permit is not denied upon reconsideration, and the Commission moves forward with processing the application, Victoria County requests a contested case hearing with regard to Beneficial Land Management, L.L.C.'s application for renewal of TCEQ Permit No. WQ0004666000.

Bridget C. Bohac
April 25, 2016
Page | 3

If you should have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "J. Eric Magee". The signature is written in a cursive style with a large, prominent "J" and "M".

J. Eric Magee

JEM/jls

TCEQ Public Meeting Form
January 21, 2016

Beneficial Land Management, L.L.C.
Land Application Permit of Sewage Sludge
Renewal for Permit No. WQ0004666000

PLEASE PRINT

Name: Eriz Magee, Attorney for Victoria County

Mailing Address: Allison Bass & Magee LLP

Physical Address (if different): 402 W. 12th ~~West~~

City/State: Austin TX Zip: 78701

****This information is subject to public disclosure under the Texas Public Information Act****

Email: e. Magee@allison-bass.com ✓

Phone Number: 512-482-0701

• Are you here today representing a municipality, legislator, agency, or group? Yes No
If yes, which one? Victoria County

Please add me to the mailing list. ✓

I wish to provide formal **ORAL COMMENTS** at tonight's public meeting. ✓

I wish to provide formal **WRITTEN COMMENTS** at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

mw

ALLISON, BASS & Magee, L.L.P.

Attorneys at Law
A. O. WATSON HOUSE
402 WEST 12TH STREET
AUSTIN, TEXAS 78701
(512) 482-0701
FAX (512) 480-0902

PHILLIP L. LEDBETTER
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CARAH-BETH BASS
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j.allison@allison-bass.com

ROBERT T. BASS
r.bass@allison-bass.com

J. ERIC MAGEE
e.magee@allison-bass.com

August 14, 2015

VIA FACSIMILE: 512-239-3311
AND CERTIFIED MAIL

*SLG
8/14/15*

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2015 AUG 17 PM 2:43
CHIEF CLERKS OFFICE

Ms. Bridget C. Bohac, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality, MC-105
P.O. Box, MC 109
Austin, TX 78711-3311

RE: Application of Beneficial Land Management, L.L.C. for Land Application of Sewage Sludge Renewal and Amendment; Permit No. WQ000466000

Dear Ms. Bohac:

Enclosed please find Victoria County's Written Comments in Opposition to the proposed Beneficial Land Management, L.L.C.'s Land Application Permit of Sewage Sludge Renewal and Amendment to Permit. The TCEQ issued its Preliminary Decision on the above referenced matter on July 15, 2015. Victoria County is timely submitting its public comments.

Please contact me if you have any questions.

Sincerely,

J. Eric Magee
J. Eric Magee

JEM/cah

REVIEWED

AUG 17 2015
By *[Signature]*

[Handwritten mark]

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2015 AUG 17 PM 2:42
CHIEF CLERK OFFICE

**VICTORIA COUNTY'S WRITTEN COMMENTS IN OPPOSITION
TO PROPOSED BLM'S LAND APPLICATION PERMIT OF
SEWAGE SLUDGE RENEWAL AND AMENDMENT TO PERMIT**

Victoria County, Texas submits its comments in opposition to Beneficial Land Management, L.L.C.'s (hereinafter "BLM") request for renewal with changes of TCEQ Permit No. WQ0004666000, which authorizes the land application of sewage sludge from a domestic wastewater treatment plant for beneficial use, and BLM's request for an experimental use authorization under 30 TAC § 312.3(k) to authorize land application of sewage sludge mixed with grease and grit trap waste and would show the following:

**I.
Comments in Opposition**

On August 10, 2015, Victoria County, Texas adopted its Resolution in Opposition to the Land Application of Sewage Sludge Renewal by Beneficial Land Management, L.L.C., Permit No. WQ0004666000. Victoria County incorporates and includes its Resolution as part of its written opposition with these submitted comments. *See* attached Resolution.

A. The proposed land use application renewal request and amendment fail to comply with TCEQ's rules and regulations.

The proposed amendment and renewal is inconsistent with the Texas Commission on Environmental Quality's (TCEQ) rules governing sludge use and sludge disposal and its rules governing municipal solid waste disposal. Specifically, the allowance of land application of sewage sludge mixed with grease and grit trap waste is not authorized by these rules and/or Texas law.

Chapter 312 of the Texas Administrative Code sets forth the rules of the TCEQ governing the disposal of sewage sludge use and disposal. The purpose of these rules "is to implement the powers and duties of the commission under the Texas Water Code, the Health and Safety Code, and other laws, to establish the general policies of the commission, and to set forth procedures to be followed in agency proceedings." 30 TAC § 1.1. Chapter 312 "establishes standards, which consist of general requirements, pollutant limits, management practices, and operational standards, for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works, and for the final use or disposal of domestic septage. Standards are included in this chapter for sewage sludge and domestic septage applied to the land for beneficial use, or place on a surface disposal site." 30 TAC § 312.1. As plainly stated in this Chapter, there are no provisions for the disposal and/or land application of grease and grit trap waste nor any provisions concerning land application of sewage sludge mixed with grease and grit trap waste. *See* Chapter 312 of TAC.

Although the rules provide for experimental use, the use requested in this application is not permitted under that provision because such experimental use "shall be excluded from the

requirements of this chapter, provided [that certain] conditions are met at the time the sewage sludge is placed on a beneficial use site or reclamation site. 30 TAC § 312.3(k). The exclusion for an experimental use in Chapter 312 clearly does not apply in the present application renewal and amendment, as Chapter 312 “does not establish requirements for the land application of grease and grit trap waste.” 30 TAC § 312(l).

Chapter 312 provides clear and undisputed definitions concerning the applicability of these rules. Specifically, sewage sludge is defined as “solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in treatment works.” 30 TAC § 312.8(73). Further, the definition for sewage sludge debris demonstrates that grit trap waste is not included in this Chapter by providing that sewage sludge debris “does not include grit or screenings remove during the preliminary treatment of domestic sewage at a treatment works, nor does it include grit trap waste.” 30 TAC § 312.8(74). The rules define domestic sewage as “waste and wastewater from humans or household operations that is discharged to a wastewater collection system or otherwise treatment works.” 30 TAC § 312.8(27). Additionally, the rules state that domestic septage “does not include grease removed from a grease trap.” 30 TAC § 321.8(26). Therefore, Chapter 312 does not provide a basis for a permit for the land use application of grit and grease trap waste nor does it provide a basis a permit for such waste to be mixed with sewage sludge for land application under this Chapter.

The only rules governing grit trap waste and grease trap waste in Chapter 312 are located in subchapter G concerning the standards applicable to persons and governmental agencies, “collecting, generating and/or transporting,” in part, grit trap waste and grease trap waste. 30 TAC § 312.141. This subchapter does not provide a basis for a permit for the land application of grit trap waste and grease trap waste.

The regulations governing the storage, collection, handling, transportation, processing, and disposal of grit trap waste and grease trap waste are located in Chapter 330, except for the aforementioned subchapter in Chapter 312. Specifically, Chapter 330 defines grease trap waste as “material collected in and from a grease interceptor in the sanitary sewer service line of a commercial, institutional, or industrial food service or processing establishment, including the solids resulting from dewatering processes.” 30 TAC § 330.3(59). Further, grit trap waste is defined as “waste from interceptors placed in the drains prior to entering the sewer system at maintenance and repair shops, automobile service stations, car washes, laundries, and other similar establishments.” 30 TAC § 330.3(60) and *see also* 30 TAC § 312.8(39). Therefore, TCEQ’s rules and regulations demonstrate that disposal of grease trap waste and grit trap waste is governed by Chapter 330, not Chapter 312.

Finally, the rules provide that beneficial use is defined as the “placement of sewage sludge onto land in a manner that complies with the requirements of [this Chapter], and does not exceed the agronomic need or rate for a cover crop, or any metal or toxic constituent limitations that the cover crop may have.” 30 TAC § 312.8(14). BLM has failed to demonstrate that sewage sludge mixed with grease and grit trap waste will meet the requirements of beneficial use. By the very definition, beneficial use is not defined to include sewage sludge mixed with other waste, especially grease and grit trap waste. Indeed, the definition of grease and grit trap waste will clearly exclude these substances from beneficial use. Not only has BLM failed to

demonstrate the beneficial use of the mixed sewage sludge but BLM has failed to demonstrate that such waste will not pose a significant threat to the public health, safety and welfare of the citizens of Victoria County, including but not limited to the water resources.

B. The proposed land use application renewal and amendment does not adequately address health, safety and welfare concerns.

As stated in the Victoria County Commissioners Court Resolution, the disposal of sewage sludge and the disposal of grease trap waste and grit trap waste in the manner proposed by Beneficial Land Management, L.L.C., in Victoria County constitutes an unacceptable risk and threat to the public health, safety and welfare of the citizens of Victoria County, Texas. Further, the disposal of such wastes has the potential to escape into the air and/or waterways, including subsurface waterways, posing significant threats to the public health, safety and welfare. Finally, the proposed waste poses a significant threat to the water resources of Victoria County, including the potential to contribute to the impairments of water quality in Arenosa Creek, Lavaca Bay and the Matagorda Basin.

The State of Texas recognizes that the waters of the Matagorda Bay basin, including Arenosa Creek, are impaired by excessive levels of bacteria. By granting the proposed renewal and amendment, the permit would allow for sewage sludge and/or grit and grease trap waste to potentially drain into the water resources of Victoria County and the Matagorda Bay basin. Including but not limited to these issues, Victoria County specifically opposes the proposed permit renewal and experimental use amendment due to its concerns with potential issues of drainage and runoff, buffer zones, unknown contaminants and groundwater protection. Therefore, the proposed permit would fail to sufficiently safeguard the public health, safety and welfare of the citizens of the County.

II. Conclusion

For the aforementioned reasons, Victoria County, Texas submits these comments in opposition to Beneficial Land Management, L.L.C.'s Land Use Application Renewal and Amendment to TCEQ Permit No. WQ0004666000. Therefore, Victoria County requests that the TCEQ deny the renewal of the permit for land application of sewage sludge from a domestic wastewater treatment plant for beneficial use and deny BLM's request for an experimental use authorization under 30 TAC § 312.3(k) to authorize land application of sewage sludge mixed with grease and grit trap waste.

IN THE COMMISSIONERS COURT
OF
VICTORIA COUNTY, TEXAS

**RESOLUTION IN OPPOSITION TO THE LAND APPLICATION
PERMIT OF SEWAGE SLUDGE RENEWAL BY
BENEFICIAL LAND MANAGEMENT, L.L.C.,
PERMIT NO. WQ0004666000**

WHEREAS, Victoria County, a subdivision of the State of Texas, is charged with both the responsibility and the statutory authority to protect the health, safety and welfare of the citizens of Victoria County, Texas and their property interest; and

WHEREAS, the disposal of sewage sludge and the disposal of grease trap waste and grit trap waste are activities that have high potential to negatively impact the health, safety and welfare of any community; and

WHEREAS, the disposal of sewage sludge and the disposal of grease trap waste and grit trap waste may negatively influence property values; and

WHEREAS, Victoria County believes that the disposal of such wastes in the manner proposed by Beneficial Land Management, L.L.C., in Victoria County constitutes an unacceptable risk and threat to the public health, safety and welfare of the citizens of Victoria County, Texas; and

WHEREAS, grease trap waste and grit trap waste contains toxic materials from commercial sources unlike sewage sludge from humans and households; and

WHEREAS, the disposal of sewage sludge containing grease trap waste and grit trap waste has the potential to escape into the air and/or waterways, including subsurface waterways, posing significant threats to the public health, safety and welfare; and

WHEREAS, the nature of the soils of Victoria County is such that it would allow the migration of waste and hazardous materials to contaminate water resources by runoff into surface water, including by not limited to Arenosa Creek, and/or leach into the groundwater; and

WHEREAS, the potential contamination of Victoria County's water resources poses a significant threat to the public health, safety and welfare of the citizens as they rely on these resources for drinking water; and

WHEREAS, the proposed waste may include heavy metals and other contaminants and such substances present a threat to the public health, safety and welfare, including the potential to contribute to the impairments of water quality in Arenosa Creek, Lavaca Bay and the Matagorda Basin.

THEREFORE, BE IT RESOLVED, that Victoria County, Texas opposes the sewage sludge land application renewal request by Beneficial Land Management, L.L.C., including the request for experimental use authorization to authorize land application of sewage sludge mixed grease and grit trap waste, and

FURTHER, BE IT RESOLVED, that Victoria County, Texas shall submit this resolution and additional written comments to the Texas Commission on Environmental Quality opposing Beneficial Land Management, L.L.C.'s, sewage sludge land application renewal request for Permit No. WQ0004666000.

Read and Adopted this 10 day of August, 2015, by a vote of _____ ayes and _____ nays.



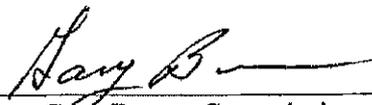
Ben Zeller, County Judge



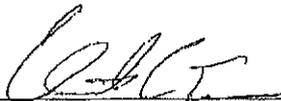
Danny Garcia, Commissioner, Precinct 1



Kevin M. Janak Commissioner, Precinct 2

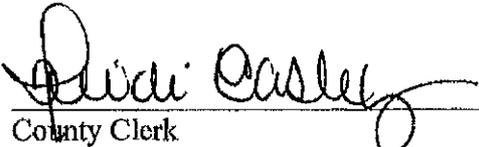


Gary Burns, Commissioner, Precinct 3



Clint Ives ommissioner, Precinct 4

ATTEST:



County Clerk



ALLISON, BASS & MAGEE, L.L.P.

Attorneys at Law
A.O. WATSON HOUSE
402 WEST 12TH STREET
AUSTIN, TEXAS 78701

CERTIFIED MAIL



7012 3460 0002 8660 6574

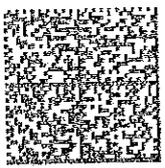
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AUG 17 2015

REG MAIL CENTER
CS

Ms. Bridget C. Bohac, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality, MC-105
P.O. Box, MC 109
Austin, TX 78711-3311

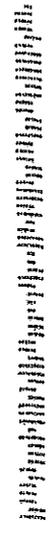
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AUG 14 2015

015 AUG 17 PM 43
CHIEF CLERKS OFFICE

TEXAS
COMMISSION



7871133111

Márisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, August 17, 2015 8:21 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0004666000
Attachments: 20150814- Victoria County- TCEQ1.pdf

From: e.magee@allison-bass.com [<mailto:e.magee@allison-bass.com>]
Sent: Friday, August 14, 2015 4:58 PM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0004666000

SLG
860814

REGULATED ENTY NAME ARENOSA CREEK RANCH

RN NUMBER: RN103911889

PERMIT NUMBER: WQ0004666000

DOCKET NUMBER:

COUNTY: VICTORIA

PRINCIPAL NAME: BENEFICIAL LAND MANAGEMENT LLC

CN NUMBER: CN600919591

FROM

NAME: J. Eric Magee

E-MAIL: e.magee@allison-bass.com

COMPANY: Allison, Bass & Magee LLP

ADDRESS: 402 W 12TH ST
AUSTIN TX 78701-1817

PHONE: 5124820701

FAX:

COMMENTS: Enclosed please find Victoria County's Written Comments in Opposition to the proposed Beneficial Land Management, L.L.C.'s Land Application Permit of Sewage Sludge Renewal and Amendment to Permit. The TCEQ issued its Preliminary Decision on the above referenced matter on July 15, 2015. Victoria

MW

County is timely submitting its public comments. Please contact me if you have any questions. Sincerely, J. Eric Magee Attorney for Victory County

**VICTORIA COUNTY'S WRITTEN COMMENTS IN OPPOSITION
TO PROPOSED BLM'S LAND APPLICATION PERMIT OF
SEWAGE SLUDGE RENEWAL AND AMENDMENT TO PERMIT**

Victoria County, Texas submits its comments in opposition to Beneficial Land Management, L.L.C.'s (hereinafter "BLM") request for renewal with changes of TCEQ Permit No. WQ0004666000, which authorizes the land application of sewage sludge from a domestic wastewater treatment plant for beneficial use, and BLM's request for an experimental use authorization under 30 TAC § 312.3(k) to authorize land application of sewage sludge mixed with grease and grit trap waste and would show the following:

**I.
Comments in Opposition**

On August 10, 2015, Victoria County, Texas adopted its Resolution in Opposition to the Land Application of Sewage Sludge Renewal by Beneficial Land Management, L.L.C., Permit No. WQ0004666000. Victoria County incorporates and includes its Resolution as part of its written opposition with these submitted comments. *See* attached Resolution.

A. The proposed land use application renewal request and amendment fail to comply with TCEQ's rules and regulations.

The proposed amendment and renewal is inconsistent with the Texas Commission on Environmental Quality's (TCEQ) rules governing sludge use and sludge disposal and its rules governing municipal solid waste disposal. Specifically, the allowance of land application of sewage sludge mixed with grease and grit trap waste is not authorized by these rules and/or Texas law.

Chapter 312 of the Texas Administrative Code sets forth the rules of the TCEQ governing the disposal of sewage sludge use and disposal. The purpose of these rules "is to implement the powers and duties of the commission under the Texas Water Code, the Health and Safety Code, and other laws, to establish the general policies of the commission, and to set forth procedures to be followed in agency proceedings." 30 TAC § 1.1. Chapter 312 "establishes standards, which consist of general requirements, pollutant limits, management practices, and operational standards, for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works, and for the final use or disposal of domestic septage. Standards are included in this chapter for sewage sludge and domestic septage applied to the land for beneficial use, or place on a surface disposal site." 30 TAC § 312.1. As plainly stated in this Chapter, there are no provisions for the disposal and/or land application of grease and grit trap waste nor any provisions concerning land application of sewage sludge mixed with grease and grit trap waste. *See* Chapter 312 of TAC.

Although the rules provide for experimental use, the use requested in this application is not permitted under that provision because such experimental use "shall be excluded from the

requirements of this chapter, provided [that certain] conditions are met at the time the sewage sludge is placed on a beneficial use site or reclamation site. 30 TAC § 312.3(k). The exclusion for an experimental use in Chapter 312 clearly does not apply in the present application renewal and amendment, as Chapter 312 “does not establish requirements for the land application of grease and grit trap waste.” 30 TAC § 312(l).

Chapter 312 provides clear and undisputed definitions concerning the applicability of these rules. Specifically, sewage sludge is defined as “solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in treatment works.” 30 TAC § 312.8(73). Further, the definition for sewage sludge debris demonstrates that grit trap waste is not included in this Chapter by providing that sewage sludge debris “does not include grit or screenings remove during the preliminary treatment of domestic sewage at a treatment works, nor does it include grit trap waste.” 30 TAC § 312.8(74). The rules define domestic sewage as “waste and wastewater from humans or household operations that is discharged to a wastewater collection system or otherwise treatment works.” 30 TAC § 312.8(27). Additionally, the rules state that domestic septage “does not include grease removed from a grease trap.” 30 TAC § 321.8(26). Therefore, Chapter 312 does not provide a basis for a permit for the land use application of grit and grease trap waste nor does it provide a basis a permit for such waste to be mixed with sewage sludge for land application under this Chapter.

The only rules governing grit trap waste and grease trap waste in Chapter 312 are located in subchapter G concerning the standards applicable to persons and governmental agencies, “collecting, generating and/or transporting,” in part, grit trap waste and grease trap waste. 30 TAC § 312.141. This subchapter does not provide a basis for a permit for the land application of grit trap waste and grease trap waste.

The regulations governing the storage, collection, handling, transportation, processing, and disposal of grit trap waste and grease trap waste are located in Chapter 330, except for the aforementioned subchapter in Chapter 312. Specifically, Chapter 330 defines grease trap waste as “material collected in and from a grease interceptor in the sanitary sewer service line of a commercial, institutional, or industrial food service or processing establishment, including the solids resulting from dewatering processes.” 30 TAC § 330.3(59). Further, grit trap waste is defined as “waste from interceptors placed in the drains prior to entering the sewer system at maintenance and repair shops, automobile service stations, car washes, laundries, and other similar establishments.” 30 TAC § 330.3(60) and *see also* 30 TAC § 312.8(39). Therefore, TCEQ’s rules and regulations demonstrate that disposal of grease trap waste and grit trap waste is governed by Chapter 330, not Chapter 312.

Finally, the rules provide that beneficial use is defined as the “placement of sewage sludge onto land in a manner that complies with the requirements of [this Chapter], and does not exceed the agronomic need or rate for a cover crop, or any metal or toxic constituent limitations that the cover crop may have.” 30 TAC § 312.8(14). BLM has failed to demonstrate that sewage sludge mixed with grease and grit trap waste will meet the requirements of beneficial use. By the very definition, beneficial use is not defined to include sewage sludge mixed with other waste, especially grease and grit trap waste. Indeed, the definition of grease and grit trap waste will clearly exclude these substances from beneficial use. Not only has BLM failed to

demonstrate the beneficial use of the mixed sewage sludge but BLM has failed to demonstrate that such waste will not pose a significant threat to the public health, safety and welfare of the citizens of Victoria County, including but not limited to the water resources.

B. The proposed land use application renewal and amendment does not adequately address health, safety and welfare concerns.

As stated in the Victoria County Commissioners Court Resolution, the disposal of sewage sludge and the disposal of grease trap waste and grit trap waste in the manner proposed by Beneficial Land Management, L.L.C., in Victoria County constitutes an unacceptable risk and threat to the public health, safety and welfare of the citizens of Victoria County, Texas. Further, the disposal of such wastes has the potential to escape into the air and/or waterways, including subsurface waterways, posing significant threats to the public health, safety and welfare. Finally, the proposed waste poses a significant threat to the water resources of Victoria County, including the potential to contribute to the impairments of water quality in Arenosa Creek, Lavaca Bay and the Matagorda Basin.

The State of Texas recognizes that the waters of the Matagorda Bay basin, including Arenosa Creek, are impaired by excessive levels of bacteria. By granting the proposed renewal and amendment, the permit would allow for sewage sludge and/or grit and grease trap waste to potentially drain into the water resources of Victoria County and the Matagorda Bay basin. Including but not limited to these issues, Victoria County specifically opposes the proposed permit renewal and experimental use amendment due to its concerns with potential issues of drainage and runoff, buffer zones, unknown contaminants and groundwater protection. Therefore, the proposed permit would fail to sufficiently safeguard the public health, safety and welfare of the citizens of the County.

**II.
Conclusion**

For the aforementioned reasons, Victoria County, Texas submits these comments in opposition to Beneficial Land Management, L.L.C.'s Land Use Application Renewal and Amendment to TCEQ Permit No. WQ0004666000. Therefore, Victoria County requests that the TCEQ deny the renewal of the permit for land application of sewage sludge from a domestic wastewater treatment plant for beneficial use and deny BLM's request for an experimental use authorization under 30 TAC § 312.3(k) to authorize land application of sewage sludge mixed with grease and grit trap waste.

IN THE COMMISSIONERS COURT
OF
VICTORIA COUNTY, TEXAS

**RESOLUTION IN OPPOSITION TO THE LAND APPLICATION
PERMIT OF SEWAGE SLUDGE RENEWAL BY
BENEFICIAL LAND MANAGEMENT, L.L.C.,
PERMIT NO. WQ0004666000**

WHEREAS, Victoria County, a subdivision of the State of Texas, is charged with both the responsibility and the statutory authority to protect the health, safety and welfare of the citizens of Victoria County, Texas and their property interest; and

WHEREAS, the disposal of sewage sludge and the disposal of grease trap waste and grit trap waste are activities that have high potential to negatively impact the health, safety and welfare of any community; and

WHEREAS, the disposal of sewage sludge and the disposal of grease trap waste and grit trap waste may negatively influence property values; and

WHEREAS, Victoria County believes that the disposal of such wastes in the manner proposed by Beneficial Land Management, L.L.C., in Victoria County constitutes an unacceptable risk and threat to the public health, safety and welfare of the citizens of Victoria County, Texas; and

WHEREAS, grease trap waste and grit trap waste contains toxic materials from commercial sources unlike sewage sludge from humans and households; and

WHEREAS, the disposal of sewage sludge containing grease trap waste and grit trap waste has the potential to escape into the air and/or waterways, including subsurface waterways, posing significant threats to the public health, safety and welfare; and

WHEREAS, the nature of the soils of Victoria County is such that it would allow the migration of waste and hazardous materials to contaminate water resources by runoff into surface water, including by not limited to Arenosa Creek, and/or leach into the groundwater; and

WHEREAS, the potential contamination of Victoria County's water resources poses a significant threat to the public health, safety and welfare of the citizens as they rely on these resources for drinking water; and

WHEREAS, the proposed waste may include heavy metals and other contaminants and such substances present a threat to the public health, safety and welfare, including the potential to contribute to the impairments of water quality in Arenosa Creek, Lavaca Bay and the Matagorda Basin.

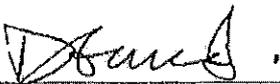
THEREFORE, BE IT RESOLVED, that Victoria County, Texas opposes the sewage sludge land application renewal request by Beneficial Land Management, L.L.C., including the request for experimental use authorization to authorize land application of sewage sludge mixed grease and grit trap waste, and

FURTHER, BE IT RESOLVED, that Victoria County, Texas shall submit this resolution and additional written comments to the Texas Commission on Environmental Quality opposing Beneficial Land Management, L.L.C.'s, sewage sludge land application renewal request for Permit No. WQ0004666000.

Read and Adopted this 10 day of August, 2015, by a vote of _____ ayes and _____ nays.



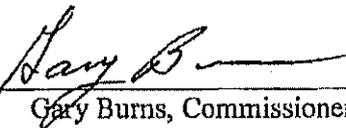
Ben Zeller, County Judge



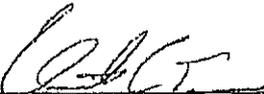
Danny Garcia, Commissioner, Precinct 1



Kevin M. Janak Commissioner, Precinct 2

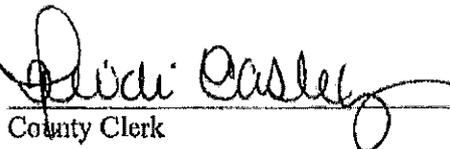


Gary Burns, Commissioner, Precinct 3



Clint Ives ommissioner, Precinct 4

ATTEST:



County Clerk



ALLISON, BASS & Magee, L.L.P.

Attorneys at Law

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J. ERIC MAGEE
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*SLG
86086*

August 14, 2015

VIA FACSIMILE: 512-239-3311
AND CERTIFIED MAIL

REVIEWED

AUG 17 2015

By *[Signature]*

CHIEF CLERKS OFFICE

2015 AUG 14 PM 4:58

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Ms. Bridget C. Bohac, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality, MC-105
P.O. Box, MC 109
Austin, TX 78711-3311

RE: Application of Beneficial Land Management, L.L.C. for Land Application of Sewage Sludge Renewal and Amendment; Permit No. WQ000466000

Dear Ms. Bohac:

Enclosed please find Victoria County's Written Comments in Opposition to the proposed Beneficial Land Management, L.L.C.'s Land Application Permit of Sewage Sludge Renewal and Amendment to Permit. The TCEQ issued its Preliminary Decision on the above referenced matter on July 15, 2015. Victoria County is timely submitting its public comments.

Please contact me if you have any questions.

Sincerely,

[Signature]
J. Eric Magee

JEM/cah

[Handwritten mark]

CHIEF CLERK'S OFFICE

2015 AUG 14 04:59 PM

COMMISSION ON ENVIRONMENTAL QUALITY

VICTORIA COUNTY'S WRITTEN COMMENTS IN OPPOSITION TO PROPOSED BLM'S LAND APPLICATION PERMIT OF SEWAGE SLUDGE RENEWAL AND AMENDMENT TO PERMIT

Victoria County, Texas submits its comments in opposition to Beneficial Land Management, L.L.C.'s (hereinafter "BLM") request for renewal with changes of TCEQ Permit No. WQ0004666000, which authorizes the land application of sewage sludge from a domestic wastewater treatment plant for beneficial use, and BLM's request for an experimental use authorization under 30 TAC § 312.3(k) to authorize land application of sewage sludge mixed with grease and grit trap waste and would show the following:

**I.
Comments in Opposition**

On August 10, 2015, Victoria County, Texas adopted its Resolution in Opposition to the Land Application of Sewage Sludge Renewal by Beneficial Land Management, L.L.C., Permit No. WQ0004666000. Victoria County incorporates and includes its Resolution as part of its written opposition with these submitted comments. See attached Resolution.

A. The proposed land use application renewal request and amendment fail to comply with TCEQ's rules and regulations.

The proposed amendment and renewal is inconsistent with the Texas Commission on Environmental Quality's (TCEQ) rules governing sludge use and sludge disposal and its rules governing municipal solid waste disposal. Specifically, the allowance of land application of sewage sludge mixed with grease and grit trap waste is not authorized by these rules and/or Texas law.

Chapter 312 of the Texas Administrative Code sets forth the rules of the TCEQ governing the disposal of sewage sludge use and disposal. The purpose of these rules "is to implement the powers and duties of the commission under the Texas Water Code, the Health and Safety Code, and other laws, to establish the general policies of the commission, and to set forth procedures to be followed in agency proceedings." 30 TAC § 1.1. Chapter 312 "establishes standards, which consist of general requirements, pollutant limits, management practices, and operational standards, for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in a treatment works, and for the final use or disposal of domestic septage. Standards are included in this chapter for sewage sludge and domestic septage applied to the land for beneficial use, or place on a surface disposal site." 30 TAC § 312.1. As plainly stated in this Chapter, there are no provisions for the disposal and/or land application of grease and grit trap waste nor any provisions concerning land application of sewage sludge mixed with grease and grit trap waste. See Chapter 312 of TAC.

Although the rules provide for experimental use, the use requested in this application is not permitted under that provision because such experimental use "shall be excluded from the

requirements of this chapter, provided [that certain] conditions are met at the time the sewage sludge is placed on a beneficial use site or reclamation site. 30 TAC § 312.3(k). The exclusion for an experimental use in Chapter 312 clearly does not apply in the present application renewal and amendment, as Chapter 312 “does not establish requirements for the land application of grease and grit trap waste.” 30 TAC § 312(l).

Chapter 312 provides clear and undisputed definitions concerning the applicability of these rules. Specifically, sewage sludge is defined as “solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in treatment works.” 30 TAC § 312.8(73). Further, the definition for sewage sludge debris demonstrates that grit trap waste is not included in this Chapter by providing that sewage sludge debris “does not include grit or screenings remove during the preliminary treatment of domestic sewage at a treatment works, nor does it include grit trap waste.” 30 TAC § 312.8(74). The rules define domestic sewage as “waste and wastewater from humans or household operations that is discharged to a wastewater collection system or otherwise treatment works.” 30 TAC § 312.8(27). Additionally, the rules state that domestic septage “does not include grease removed from a grease trap.” 30 TAC § 321.8(26). Therefore, Chapter 312 does not provide a basis for a permit for the land use application of grit and grease trap waste nor does it provide a basis a permit for such waste to be mixed with sewage sludge for land application under this Chapter.

The only rules governing grit trap waste and grease trap waste in Chapter 312 are located in subchapter G concerning the standards applicable to persons and governmental agencies, “collecting, generating and/or transporting,” in part, grit trap waste and grease trap waste. 30 TAC § 312.141. This subchapter does not provide a basis for a permit for the land application of grit trap waste and grease trap waste.

The regulations governing the storage, collection, handling, transportation, processing, and disposal of grit trap waste and grease trap waste are located in Chapter 330, except for the aforementioned subchapter in Chapter 312. Specifically, Chapter 330 defines grease trap waste as “material collected in and from a grease interceptor in the sanitary sewer service line of a commercial, institutional, or industrial food service or processing establishment, including the solids resulting from dewatering processes.” 30 TAC § 330.3(59). Further, grit trap waste is defined as “waste from interceptors placed in the drains prior to entering the sewer system at maintenance and repair shops, automobile service stations, car washes, laundries, and other similar establishments.” 30 TAC § 330.3(60) and *see also* 30 TAC § 312.8(39). Therefore, TCEQ’s rules and regulations demonstrate that disposal of grease trap waste and grit trap waste is governed by Chapter 330, not Chapter 312.

Finally, the rules provide that beneficial use is defined as the “placement of sewage sludge onto land in a manner that complies with the requirements of [this Chapter], and does not exceed the agronomic need or rate for a cover crop, or any metal or toxic constituent limitations that the cover crop may have.” 30 TAC § 312.8(14). BLM has failed to demonstrate that sewage sludge mixed with grease and grit trap waste will meet the requirements of beneficial use. By the very definition, beneficial use is not defined to include sewage sludge mixed with other waste, especially grease and grit trap waste. Indeed, the definition of grease and grit trap waste will clearly exclude these substances from beneficial use. Not only has BLM failed to

demonstrate the beneficial use of the mixed sewage sludge but BLM has failed to demonstrate that such waste will not pose a significant threat to the public health, safety and welfare of the citizens of Victoria County, including but not limited to the water resources.

B. The proposed land use application renewal and amendment does not adequately address health, safety and welfare concerns.

As stated in the Victoria County Commissioners Court Resolution, the disposal of sewage sludge and the disposal of grease trap waste and grit trap waste in the manner proposed by Beneficial Land Management, L.L.C., in Victoria County constitutes an unacceptable risk and threat to the public health, safety and welfare of the citizens of Victoria County, Texas. Further, the disposal of such wastes has the potential to escape into the air and/or waterways, including subsurface waterways, posing significant threats to the public health, safety and welfare. Finally, the proposed waste poses a significant threat to the water resources of Victoria County, including the potential to contribute to the impairments of water quality in Arenosa Creek, Lavaca Bay and the Matagorda Basin.

The State of Texas recognizes that the waters of the Matagorda Bay basin, including Arenosa Creek, are impaired by excessive levels of bacteria. By granting the proposed renewal and amendment, the permit would allow for sewage sludge and/or grit and grease trap waste to potentially drain into the water resources of Victoria County and the Matagorda Bay basin. Including but not limited to these issues, Victoria County specifically opposes the proposed permit renewal and experimental use amendment due to its concerns with potential issues of drainage and runoff, buffer zones, unknown contaminants and groundwater protection. Therefore, the proposed permit would fail to sufficiently safeguard the public health, safety and welfare of the citizens of the County.

II. Conclusion

For the aforementioned reasons, Victoria County, Texas submits these comments in opposition to Beneficial Land Management, L.L.C.'s Land Use Application Renewal and Amendment to TCEQ Permit No. WQ0004666000. Therefore, Victoria County requests that the TCEQ deny the renewal of the permit for land application of sewage sludge from a domestic wastewater treatment plant for beneficial use and deny BLM's request for an experimental use authorization under 30 TAC § 312.3(k) to authorize land application of sewage sludge mixed with grease and grit trap waste.

IN THE COMMISSIONERS COURT
OF
VICTORIA COUNTY, TEXAS

**RESOLUTION IN OPPOSITION TO THE LAND APPLICATION
PERMIT OF SEWAGE SLUDGE RENEWAL BY
BENEFICIAL LAND MANAGEMENT, L.L.C.,
PERMIT NO. WQ0004666000**

WHEREAS, Victoria County, a subdivision of the State of Texas, is charged with both the responsibility and the statutory authority to protect the health, safety and welfare of the citizens of Victoria County, Texas and their property interest; and

WHEREAS, the disposal of sewage sludge and the disposal of grease trap waste and grit trap waste are activities that have high potential to negatively impact the health, safety and welfare of any community; and

WHEREAS, the disposal of sewage sludge and the disposal of grease trap waste and grit trap waste may negatively influence property values; and

WHEREAS, Victoria County believes that the disposal of such wastes in the manner proposed by Beneficial Land Management, L.L.C., in Victoria County constitutes an unacceptable risk and threat to the public health, safety and welfare of the citizens of Victoria County, Texas; and

WHEREAS, grease trap waste and grit trap waste contains toxic materials from commercial sources unlike sewage sludge from humans and households; and

WHEREAS, the disposal of sewage sludge containing grease trap waste and grit trap waste has the potential to escape into the air and/or waterways, including subsurface waterways, posing significant threats to the public health, safety and welfare; and

WHEREAS, the nature of the soils of Victoria County is such that it would allow the migration of waste and hazardous materials to contaminate water resources by runoff into surface water, including by not limited to Arenosa Creek, and/or leach into the groundwater; and

WHEREAS, the potential contamination of Victoria County's water resources poses a significant threat to the public health, safety and welfare of the citizens as they rely on these resources for drinking water; and

WHEREAS, the proposed waste may include heavy metals and other contaminants and such substances present a threat to the public health, safety and welfare, including the potential to contribute to the impairments of water quality in Arenosa Creek, Lavaca Bay and the Matagorda Basin.

THEREFORE, BE IT RESOLVED, that Victoria County, Texas opposes the sewage sludge land application renewal request by Beneficial Land Management, L.L.C., including the request for experimental use authorization to authorize land application of sewage sludge mixed grease and grit trap waste, and

FURTHER, BE IT RESOLVED, that Victoria County, Texas shall submit this resolution and additional written comments to the Texas Commission on Environmental Quality opposing Beneficial Land Management, L.L.C.'s, sewage sludge land application renewal request for Permit No. WQ0004666000.

Read and Adopted this 10 day of August, 2015, by a vote of _____ ayes and _____ nays.

Ben Zeller
Ben Zeller, County Judge

Danny Garcia
Danny Garcia, Commissioner, Precinct 1

Kevin M. Janak
Kevin M. Janak Commissioner, Precinct 2

Gary Burns
Gary Burns, Commissioner, Precinct 3

Clint Ives
Clint Ives ommissioner, Precinct 4

ATTEST:

Judi Casler
County Clerk



A.O. Watson House
 402 West 12th Street
 Austin, Texas 78701
 512/482-0701 Telephone
 512/480-0902 Fax
 Law@Allison-Bass.com

Allison, Bass & Magee, LLP

facsimile transmittal

| | | | |
|-------|---|--------|---------------------|
| To: | Ms. Bridget C. Bohac, Chief Clerk | Fax: | <u>512-239-3311</u> |
| Cc: | | | |
| From: | J. Eric Magee | Date: | 8.14.15 |
| Re: | Application of Beneficial Land Management, L.L.C. for Land Application of Sewage Sludge Renewal and Amendment; Permit No. WQ000466000 | Pages: | 6 |

Urgent For review Please Please reply Please recycle

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CHIEF CLERKS OFFICE

2015 AUG 14 PM 4:58

COMMISSION
 ON ENVIRONMENTAL
 QUALITY

confidential

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, August 24, 2015 8:35 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0004666000
Attachments: 2015-08-20 BLM Comments and Request for Contested Case Hearing.pdf

H

From: jriley@jgdpc.com [mailto:jriley@jgdpc.com]
Sent: Thursday, August 20, 2015 4:18 PM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0004666000

*SLG
36006*

REGULATED ENTITY NAME ARENOSA CREEK RANCH

RN NUMBER: RN103911889

PERMIT NUMBER: WQ0004666000

DOCKET NUMBER:

COUNTY: VICTORIA

PRINCIPAL NAME: BENEFICIAL LAND MANAGEMENT LLC

CN NUMBER: CN600919591

FROM

NAME: MR John A. Riley

E-MAIL: jriley@jgdpc.com

COMPANY: Jackson Gilmour & Dobbs, PC

ADDRESS: 1115 SAN JACINTO BLVD Suite 275
AUSTIN TX 78701-1902

PHONE: 5125748861

FAX:

COMMENTS: On behalf of the Applicant -- Beneficial Land Management, L.L.C. -- we submit the attached comments and request for contested case hearing.

MW



JOHN A. RILEY
JRILEY@JGDPC.COM

T 512 699-6113
F 713.355.5001

August 20, 2015

Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
PO Box 13087
Austin, Texas 78711-3087

Re: Comments and Request for a Contested Case Hearing on the Land Application Permit of Sewage Sludge Renewal (with changes and experimental use authorization) of Beneficial Land Management, L.L.C., CN600919591, RN103911889, Water Quality Permit No. WQ0004666000.

To Whom It May Concern:

On behalf of the Applicant – Beneficial Land Management, L.L.C. (“BLM”) – we provide comments and request a contested case hearing in the above referenced matter.

For the last eight years, BLM has land applied for beneficial use domestic sludge pursuant to the authorization of Texas Commission on Environmental Quality Water Quality Permit No. WQ0004666000, which is the subject of the permit renewal application referenced above. BLM land applies domestic sludge from the City of La Coste’s Wastewater Treatment Plant (“WWTP”) that includes grease and grit trap waste processed by Partners Dewatering International, Inc. (“PDI”) operating under a registration to beneficially re-use such waste since 2002. 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 of 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.

As the Applicant, BLM is entitled to a contested case hearing. Moreover, as the Applicant, whose operations are threatened by the Executive Director’s preliminary decision and draft permit, BLM has an interest that is not common to members of the general public. BLM’s economic interest in the application and the continuance of its operations is obvious. Perhaps not so obvious is the economic interests of the City of La Coste. The revenue that the City of La Coste receives from the operations of BLM and PDI is nearly double the amount that the City receives from annual ad valorem taxes. The continued operations of BLM and PDI are, therefore, critical to the fiscal wellbeing of La Coste, and, of course, BLM. In other words, BLM’s ability to continue land application of this domestic sludge gives BLM a personal justiciable economic interest affected by the application that is not common to members of the general public. As an affected person, and as the Applicant, BLM requests a contested case hearing in this matter.

As noted above, BLM has land applied for beneficial use the domestic sludge for the last eight years. During this time, the TCEQ has observed, investigated and analyzed the sludge and

BLM's land application practices and not once found any violation of the TCEQ's rules or regulations. Instead, the TCEQ's own agronomist and investigators have witnessed the beneficial effect on pasture lands resulting from the land application of BLM's domestic sludge – a practice encouraged by the TCEQ regulations and Texas statutes to reduce dependence on landfill disposal of solid waste. *See generally* 30 TAC 312; Tex. Health & Safety Code § 361.022. Accordingly, BLM provides the following comments:

A. **BLM is land applying domestic sludge, not grease and grit trap waste.** The sludge that BLM land applies is classified under the TCEQ regulations as “domestic sludge.” *See generally* 30 TAC 312.

The TCEQ has itself interpreted its regulations consistent with BLM's position. For example, upon request by another regulated entity, the TCEQ's Waste Permits Division provided the following interpretation of the classification of restaurant grease trap waste: “It is my interpretation that after processing, the restaurant grease trap waste is no longer classified as grease trap waste and would be considered digester byproduct material.” In that case, anaerobic digesters processed manure, cooking oils and greases, and restaurant grease trap waste. *See* Ltr. from Mr. Richard C. Carmichael to Mr. J.D. Head, dated Sept. 7, 2006, attached as Exhibit A.

Therefore, BLM's land application of such domestic sludge for beneficial use should continue in accordance with its current and renewed permit without the Executive Director's proposed expiration date that seeks to prohibit BLM's legally indistinguishable practice.

B. **There is no prohibition of the land application of grease and grit trap waste.** In fact, the practice is allowed in other states as well. Importantly, the domestic sludge at issue here is a nonhazardous waste stream, a classification supported by data generated from BLM's own land application processes.

In July 2011, BLM began testing the domestic sludge and the soils where such sludge has been applied pursuant to a sampling plan designed by the Executive Director's staff, including agronomist Paul Askenasy. For three years until its expiration, BLM followed the Executive Director's sampling plan and not once did BLM's land application practices result in soil conditions that concerned the TCEQ. In fact, laboratory analyses showed that just 30 days after application the concentrations of the following compounds were below detectable limits: benzene, toluene, ethylbenzene, xylene, methyl tert-butyl ether (MTBE), and total petroleum hydrocarbons (TPH).

Pursuant to a new plan designed with the Executive Director's staff in April 2014, BLM began conducting another three-year demonstration of the environmental benefits of its land application process. The demonstration is being conducted by James C. Thomas at Thomas Analytical Services, Inc., a Certified Professional Agronomist, and has been observed by the Executive Director's staff. During Year One of the demonstration, no measureable concentrations of oil and grease, hydrocarbons or VOC compounds were detected in any of the

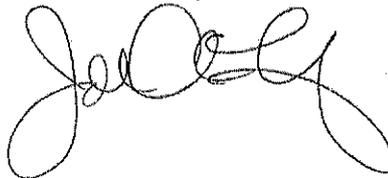
soil samples collected at 90 days after application. Moreover, sludge application to the plots resulted in reduced amounts of unwanted grasses and increased amounts of desirable bermuda grass. Crude protein content of the vegetation from the treated plots at 90 days after application was increased compared to the control plot. Overall, the sludge application process resulted in improved bermuda grass pasture with more suitable cattle forage per unit land area.

For Year Two of the demonstration, background soil samples were collected on April 2, 2015, prior to land application of the domestic sludge. The sampling results were free of all measured constituents (oil and grease, benzene, toluene, ethylbenzene, total xylenes, methyl-tert-butyl ether, C6-C12 hydrocarbons, C12-C28 hydrocarbons, C28-C35 hydrocarbons and total C6-C35 hydrocarbons). These results confirm that all the applied oil, grease, and hydrocarbon components of the waste have been successfully degraded and present no long-term environmental risk to soil or water resources. In other words, the hydrocarbon components of the waste are rapidly degraded and the overall impact of land application was an improvement in pasture condition, which has tended to extend into the next growing season. BLM expects results from Year 2 and Year 3 to be substantially the same as the results obtained consistently since July 2011.

The benefits of land applying BLM's domestic sludge, as well as the absence of any environmental impact to soil or water resources, have not been contested. There is no reason to prohibit BLM's long-standing land application for beneficial use practice.

As noted above, as the Applicant and as an affected person, with a personal justiciable economic interest affected by the application that is not common to members of the general public, BLM requests a contested case hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Riley". The signature is fluid and cursive, with a large loop at the end.

John A. Riley
Jackson Gilmour & Dobbs, PC
Attorneys for Beneficial Land Management, L.L.C.

JAR/rw

cc: Mr. Carter Mayfield
Mr. William C. Petit [Firm]

EXHIBIT A

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, August 24, 2015 8:34 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0004666000
Attachments: City of LaCoste BLM Letter1.pdf

H

SLS
8/24/15

From: cityoflacoste@satx.rr.com [mailto:cityoflacoste@satx.rr.com]
Sent: Friday, August 21, 2015 12:56 PM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0004666000

REGULATED ENTY NAME ARENOSA CREEK RANCH

RN NUMBER: RN103911889

PERMIT NUMBER: WQ0004666000

DOCKET NUMBER:

COUNTY: VICTORIA

PRINCIPAL NAME: BENEFICIAL LAND MANAGEMENT LLC

CN NUMBER: CN600919591

FROM

NAME: MR ^{C.} George Salzman

E-MAIL: cityoflacoste@satx.rr.com

COMPANY: City of La Coste

ADDRESS: PO BOX 112
LA COSTE TX 78039-0112

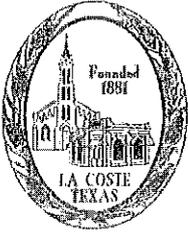
PHONE: 8309859494

FAX: 8307629431

COMMENTS: On or about August 20, 2015, the Applicant — Beneficial Land Management, L.L.C. ("BLM") — provided comments and requested a contested case hearing in the above-referenced matter. On behalf of the City of La Coste, an affected entity, I am writing to join BLM and request a contested case hearing. BLM land applies domestic sludge from the City of La Coste's Wastewater Treatment Plant ("WWTP") pursuant to the

MW

authorization of Texas Commission on Environmental Quality Water Quality Permit No. WQ0004666000. BLM's domestic sludge includes grease and grit trap waste processed by Partners Dewatering International, Inc. ("PDI") at the La Coste WWTP. By setting a deadline not later than October 31, 2016 after which BLM may no longer land apply this domestic sludge, the preliminary decision of and draft permit prepared by the Executive Director would stop BLM's long-standing application practice, which would have a devastating impact on the City of La Coste. The revenue that the City of La Coste receives from the operations of BLM and PDI is nearly double the amount that the City receives from annual ad valorem taxes. The continued operations of BLM and PDI are, therefore, critical to the fiscal wellbeing of La Coste. In other words, BLM's ability to continue land application of this domestic sludge gives the City of La Coste a personal justiciable economic interest affected by the application that is not common to members of the general public. As an affected person, the City of La Coste requests a contested case hearing in this matter. According to BLM and PDI, the benefit of applying BLM's domestic sludge and an absence of environmental impact to soil or water resources, has not been contested. Therefore, we can find no reason to prohibit BLM's long-standing land application practice of domestic sludge. Our City would be negatively affected by a consequential loss of revenue. Thus, the City of LaCoste has a specific justiciable economic interest affected by the application that is not common to members of the general public.



City of La Coste
P.O. Box 112
La Coste, Texas 78039
(830) 985-9494 • Fax (830) 762-9431
E-Mail: cityoflacoste@satx.rr.com

August 20, 2015

Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
PO Box 13087
Austin, Texas 78711-3087

Re: Comments and Request for a Contested Case Hearing on the Land Application Permit of Sewage Sludge Renewal (with changes and experimental use authorization) of Beneficial Land Management, L.L.C., CN600919591, RN103911889, Water Quality Permit No. WQ0004666000.

To Whom It May Concern:

On or about August 20, 2015, the Applicant – Beneficial Land Management, L.L.C. (“BLM”) – provided comments and requested a contested case hearing in the above-referenced matter. On behalf of the City of La Coste, an affected entity, I am writing to join BLM and request a contested case hearing.

BLM land applies domestic sludge from the City of La Coste’s Wastewater Treatment Plant (“WWTP”) pursuant to the authorization of Texas Commission on Environmental Quality Water Quality Permit No. WQ0004666000. BLM’s domestic sludge includes grease and grit trap waste processed by Partners Dewatering International, Inc. (“PDI”) at the La Coste WWTP. By setting a deadline not later than October 31, 2016 after which BLM may no longer land apply this domestic sludge, the preliminary decision of and draft permit prepared by the Executive Director would stop BLM’s long-standing application practice, which would have a devastating impact on the City of La Coste.

The revenue that the City of La Coste receives from the operations of BLM and PDI is nearly double the amount that the City receives from annual ad valorem taxes. The continued operations of BLM and PDI are, therefore, critical to the fiscal wellbeing of La Coste. In other words, BLM’s ability to continue land application of this domestic sludge gives the City of La Coste a personal justiciable economic interest affected by the application that is not common to members of the general public. As an affected person, the City of La Coste requests a contested case hearing in this matter.

According to BLM and PDI, the benefit of applying BLM’s domestic sludge and an absence of environmental impact to soil or water resources, has not been contested. Therefore, we can find no reason to prohibit BLM’s long-standing land application practice of domestic sludge. Our City would be negatively affected by a consequential loss of revenue. Thus, the City of LaCoste has a specific justiciable economic interest affected by the application that is not common to members of the general public.

Sincerely,

C. George Salzman, CPM
City Administrator/City Secretary

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Thursday, April 21, 2016 8:21 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0004666000

H

From: dotsimons@aol.com [mailto:dotsimons@aol.com]
Sent: Thursday, April 21, 2016 12:11 AM
To: DoNot Reply <donotreply@tceq.texas.gov>
Subject: Public comment on Permit Number WQ0004666000

SLG
86086

REGULATED ENTY NAME ARENOSA CREEK RANCH

RN NUMBER: RN103911889

PERMIT NUMBER: WQ0004666000

DOCKET NUMBER:

COUNTY: VICTORIA

PRINCIPAL NAME: BENEFICIAL LAND MANAGEMENT LLC

CN NUMBER: CN600919591

FROM

NAME: MS Dorothy B. Simons

E-MAIL: dotsimons@aol.com

COMPANY:

ADDRESS: 2021 MCDUFFIE ST
HOUSTON TX 77019-6133

PHONE: 7134088474

FAX:

COMMENTS: On March 28, 2016, the TCEQ provided the Executive Director's Response to Comments concerning this matter. I would like to request a Contested Case Hearing for Permit No. WQ0004666000. As an adjoining landowner and affected person in this matter, I continue to oppose the issuance of this permit. I am pleased that the TCEQ has made changes regarding removing the "experimental use" authorization of the grease and grit trap waste, however, I believe that the permit as proposed will continue to allow the disposal of heavy

MW

metals and other contaminants which could pose a threat to my family's health, safety and welfare. I believe that there is potential for contamination of the groundwater and surface water due to heavy metals and other contaminants in the sewage sludge. I am concerned about the potential for chemicals leaching into the groundwater and the Arenosa Creek which could pose an unacceptable risk to the health, safety and welfare of my family, the wildlife and livestock. I am concerned that the runoff and drainage during heavy rains has the potential to impair the water quality of the Arenosa Creek, the surface water and groundwater and constitutes an unacceptable risk and threat to our family's health, safety and welfare. I do not feel that the buffer zones are adequate to protect the groundwater, surface water and soil from runoff and drainage of heavy metals and other contaminants which are in sewage sludge and that this may constitute an unacceptable risk to the health, safety and welfare of my family, my livestock and wildlife. I am concerned that breathing the air emissions from the site constitutes an unacceptable risk to the health, safety and welfare of my family, my livestock and wildlife. For these reasons, if the permit is not denied upon reconsideration and the Commission moves forward with processing the application, I request a contested case hearing regarding the aforementioned matter.

TCEQ Public Meeting Form
January 21, 2016

5

Beneficial Land Management, L.L.C.
Land Application Permit of Sewage Sludge
Renewal for Permit No. WQ0004666000

PLEASE PRINT

Name: Dorothy Simons

Mailing Address: 2021 McDuffie

Physical Address (if different): _____

City/State: Houston, Tx Zip: 77019

****This information is subject to public disclosure under the Texas Public Information Act****

Email: dotsimons@aol.com ✓

Phone Number: 713 408-8474

• Are you here today representing a municipality, legislator, agency, or group? Yes No

If yes, which one? _____

Please add me to the mailing list.

I wish to provide formal *ORAL COMMENTS* at tonight's public meeting. ✓

I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting. ✓

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

MS

01/21/2015

Office of the Chief Clerk

TCEQ

Mail Code MC-105

PO Box 13087

Austin, Texas 77901

RECEIVED

JAN 21 2016

AT PUBLIC MEETING

Written Statement for
Permit No WQ00046660

Dorothy Simons


dotsimons@aol.com 713-408-8474

MS

My name is Dorothy Simons. I am a rancher who's property is adjacent to this Land Application Site. My husband's family has been in Jackson County since Francis Wells, received a Land Grant from Stephen F. Austin as one of the Original 300 Settlers. I take extreme pride in this historical area. My husband George who died of Multiple Myeloma Cancer was raised on our family's land. I am trying to be a faithful steward of our family's ranch.

I have a number of serious questions I want answered, but I understand that this hearing is a Catch-22: if I ask questions and want to get answers it has to be off the record, but if I want to speak on the record I can't get answers. I think it is more important to be on the record, but I would welcome your answers tonight. If you refuse to provide

them here, I formally request that you respond to my comments in writing as soon as possible. I also urge our Legislators here tonight to take action in the 2017 session to change the nature of these hearings to ensure that ALL comments and questions from the public, from applicants, and from the agency are on the record in meetings like this one.

First things first, from what neighbors of this site and others can tell, it appears that Beneficial Land Mgt. has Not been land applying materials at this site lately, perhaps because measures to take soil and water samples are being taken. My question is where are these loads being taken if not here?

More broadly, I want to know why the

TCEQ has allowed the "Experimental Use Permit" to dump Grease and Grit Trap Waste Mixed with Sewage Sludge on our beautiful Coastal Plains with sandy loam soil near the Arenosa Creek. Such soils are porous, and I am concerned about build up of heavy metals and other contaminants from grit and grease trap wastes on this type of soil. Such soil conditions need to be taken into consideration when weighing a permit such as this one, and should be grounds for denial. Also, why has the State of Texas allowed laws that are "one size fits all"? Why are buffer zones the same all over Texas when Texas has such a diversity of climates and topography. I am extremely concerned about my property. Arenosa Creek has already been impaired with a spike in levels of e-coli according to a study by Texas A&M.

Aside from the bacteria concerns, has the agency weighed the impact that grit and grease trap wastes will have on Lavaca Bay? Lavaca Bay is already threatened, couldn't this make Lavaca Bay's problems worse?

This company is a part of a trio of companies-A Liquid Waste hauler, a sewage treatment and dewatering co, and this land application company-which vertically integrate the liquid waste business. This strikes me as a dangerous monopoly-does TCEQ take this into account in it's permitting? Furthermore, from what I have seen, the TCEQ does not have the manpower or the budget to regulate a project of this magnitude. For one, the testing ordered by the agency as part of their experimental permit is done by an Agronomist hired by Mr. Mayfield himself. Doesn't this sound like the proverbial 'Fox Guarding the Henhouse'.

I have been told by the TCEQ and an attorney Eric Allmon that the BLM site has uncapped water wells on the experimental site. I am extremely concerned that these wells could become contaminated by the runoff from this site.

The TCEQ does not seem to be equipped to do their own proper water well testing. They had to hire a 3rd party company to do the testing for them and they still have not been able to accomplish the task of getting the studies on the uncapped water wells. The TCEQ could only test water wells that have a faucet to turn the water on. If the TCEQ can not accomplish these studies on an ongoing basis we should all be worried about safety.

How can the wildlife be protected from grazing on this land application site? Chronic Wasting Disease is becoming a concern for the Deer Population. According to the U.S. EPA National Water Research Compendium 2009-2014 Lists Prions 8 times as an emerging contaminant of concern in sewage sludge. (biosolids). Chronic Wasting Disease is caused by Prions. Why have studies not been done to protect our wildlife? I have hunting leases on my land. The hunters have smelled the emissions coming from this site. How can you insure my hunters safety? Why doesn't this Land Application Sight have proper "signage" warning citizens who are jogging or playing nearby that site dumping is taking place? I am concerned that the emissions coming from the site can pose health risks for the community.

How often is the Air Quality Assessed?

Why is the TCEQ only testing for a handful

of heavy metals instead of the 1000's of potential toxins? Why is the Company not dumping these toxins in a Type 1 or Type 2 landfill like everyone else in the industry?

I have a few more questions I demand answers to, and the public deserves to know:

1. Since Grease and Grit Trap Waste is classified as Special Waste and must be disposed of in a Class 1 or Class 2 landfill, under what authority has the TCEQ used to allow Beneficial Land Management to land apply Grease and Grit Trap Waste?
2. Though it is unlawful to land apply grease and grit trap waste, under what Authority allowed the TCEQ to enter into an "Agreement" to allow BLM to land apply Grease and Grit Trap Waste?

3. The so called Agreement for "Experimental Use" was for three years commencing on July 6, 2011 through July 6, 2014. Under what authority has TCEQ continued to allow BLM to land apply Grease and Grit Trap Waste beyond this inappropriate agreement?
4. Who at the TCEQ approved this waste to be land applied and under what authority.

The Counties of Jackson, Victoria and Calhoun are by resolution against this permit. I, along with many neighbors are against all sewage sludge and grease and grit dumping in our area.

This Sludge Factory must be shut down to protect our groundwater, our surface water, our health, our wildlife and our Property

Values from the damaging effects of Land Application of Sewage Sludge and Grease and Grit. We are not guinea pigs. This "Experiment" must stop. The Permittee must take the potential of truckloads full of feces, urine, heavy metals, flame retardants, pathogens, viruses, blood, vomit, medical waste, industrial chemicals, solvents, pharmaceuticals, pesticides, herbicides, household cleaners, endocrine disruptors and filth and dump it elsewhere! We DO NOT want you here. This "Odiferous Smoothie" of everything cities pour down their drains has no place on our soil. Our abundant groundwater is at risk! Grease and Grit is "Special Waste" and must NOT by law be allowed on Texas soil.

The TCEQ, The Governor of the State of Texas, The Senators, and The State Representatives MUST protect the Citizens of the Great State of Texas by making

better laws. Any inaction is a slap in the face of Texas citizens.

The Citizens of the Coastal Bend should NOT be part of this dreadful EXPERIMENT.

Please Oppose this Permit or any future permits from this Company. GOD BLESS TEXAS!

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Monday, August 31, 2015 9:29 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public Comment Permit No WQ0004666000

From: dotsimons@aol.com [<mailto:dotsimons@aol.com>]
Sent: Sunday, August 30, 2015 1:00 PM
To: COMMISSR
Subject: Fwd: land application of sewage sludge Permit No WQ0004666000

-----Original Message-----

From: dotsimons <dotsimons@aol.com>
To: Susan.clewis <Susan.clewis@tceq.texas.gov>
Cc: Richard.hyde <Richard.hyde@tceq.texas.gov>
Sent: Sun, Aug 30, 2015 12:58 pm
Subject: land application of sewage sludge Permit No WQ0004666000

IWD
86086

TCEQ,

Thank you for the investigation reports.

What is the Class for Processed Sewage Sludge with "Grease and Grit Trap Waste"?

Since the Class of hazardous, toxic processes sewage sludge has been Class B, Class A and since anaerobic digestion does not kill all pathogens what pathogen tests were made on the Arenosa Dump site?

Run off can carry these pathogens off the contaminated property, what were the finding of pathogens in creeks and streams on adjacent properties next to the dump site?

Lists of some pathogens are attached from the CDC. Of concern is prion which can be on site or move off site with run off. Cattle can pick this up while foraging and also from plants. See prion research attached "prion in plants".

Because the EPA listed average chemicals in 72 Publicly Owned WWTP of sewage sludge in their 2009 Targeted Nation Survey of Sewage Sludge (TNSSS) attached and the 04/2014 EPA's Office of Inspector General Report #14-P-0363 states "EPA regulates hazardous chemical discharges to and from sewage treatment plants, but these regulations are not effective in controlling the discharge of hundreds of hazardous chemicals". This means the concentrations of "hazardous chemicals" in

MS

processed sewage sludge being dumped on Arenosa and elsewhere would basically be unmonitored and extremely dangerous to ground and surface water resources.

Industrial waste has been dumped into the sewer system for years what are the concentration levels on the Arenosa dump sites?

What testing has been done to make sure this is not in my ground water or on my property?

TAC 30.312.44(h),(3) states: *"Sewage sludge may not be applied during rainstorms or during periods in which surface soils are water-saturated, and when pooling of water is evident on the land application site. The operator of a TCEQ permitted or bulk sewage sludge site subject to the notification requirements in §312.4(b) of this title (relating to Required Authorizations or Notifications) who land applies sewage sludge on agricultural land shall submit an Adverse Weather and Alternative Plan. This plan shall detail procedures to address times when the sewage sludge cannot be applied to the land application site due to adverse weather or other conditions such as wind, precipitation, field preparation delays, and access road limitations."*

How many times has the TCEQ proactively watched this site for this violation? Please send those reports or the "Adverse Weather and Alternative Plan".

My concern is that the TCEQ is behind on very important current data that would protect my family and friend's health.

My friends and I look forward to the TCEQ's answers to these questions.

Respectfully,

Dorothy

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, August 24, 2015 8:36 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0004666000

From: dotsimons@aol.com [mailto:dotsimons@aol.com]
Sent: Wednesday, August 19, 2015 6:18 PM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0004666000

SLG
86086

REGULATED ENTY NAME ARENOSA CREEK RANCH

RN NUMBER: RN103911889

PERMIT NUMBER: WQ0004666000

DOCKET NUMBER:

COUNTY: VICTORIA

PRINCIPAL NAME: BENEFICIAL LAND MANAGEMENT LLC

CN NUMBER: CN600919591

FROM

NAME: MS Dorothy Simons

E-MAIL: dotsimons@aol.com

COMPANY:

ADDRESS: 2021 MCDUFFIE ST
HOUSTON TX 77019-6133

PHONE: 7134088474

FAX:

COMMENTS: As I have discovered in my quest for information relating to land application, grit trap waste often comes from oil change shops and car washes and contains the brake dust, motor oil, and transmission fluids leaked from or washed off of cars and trucks. TCEQ regulations classify grit trap wastes as "Special Waste." TCEQ regulations define Special Waste as one that "because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and disposal to protect human health

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or the environment. If improperly handled, transported, stored, processed, or disposed of or otherwise managed, [Special Waste] may pose a present or potential danger to the human health or the environment.” Current regulations require that grit trap waste be processed at a Type V facility, and then usually disposed in a Class 1 landfill. Class 1 landfills are facilities specially permitted to handle materials that are more toxic and volatile than typical municipal solid waste. Grit trap waste must be disposed of in a Class 1 landfill because this waste typically contains high levels of “total petroleum hydrocarbons” from used motor oil. Petroleum hydrocarbons is a term that covers hundreds of different compounds including toxic chemicals found in crude oil, gasoline, jet fuel, and motor oil. Used motor oil also contains toxic metals (such as lead, mercury, and arsenic) that can be harmful to plants and animals. Because of its constituents, grit trap waste warrants the higher level of waste management, processing, and disposal required by the TCEQ regulations. I believe this is reason enough not to allow this project to be approved.

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, August 17, 2015 4:38 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0004666000

SLG
86086

From: dotsimons@aol.com [mailto:dotsimons@aol.com]
Sent: Monday, August 17, 2015 4:19 PM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0004666000

REGULATED ENTY NAME ARENOSA CREEK RANCH

RN NUMBER: RN103911889

PERMIT NUMBER: WQ0004666000

DOCKET NUMBER:

COUNTY: VICTORIA

PRINCIPAL NAME: BENEFICIAL LAND MANAGEMENT LLC

CN NUMBER: CN600919591

FROM

NAME: MS Dorothy Simons

E-MAIL: dotsimons@aol.com

COMPANY:

ADDRESS: 2021 MCDUFFIE ST
HOUSTON TX 77019-6133

PHONE: 7134088474

FAX:

COMMENTS: I visited the sewage sludge grease and grit land application site. The ranch is beautiful. Jess Mayfield toured me around and promoted the place and his ideas-encouraging me to believe it is a great idea. He is a top-notch promoter! The grass was thick and green like it is by a septic drain field, but I smelled a chemical smell from sludge residue that was applied 9 weeks prior. It was unsettling. I began to read all I could get my hands on to educate myself about land application of sewage sludge and grease and grit. After weeks of

MCD

study and calls to experts in the field, and correspondence with Environmentalists, such as Erin Brockovich and many politicians, I have been made aware that it is unreasonable to allow this project for land application of sewage sludge and grease and grit to be approved. I am concerned that long-term public health risks have not been properly addressed. Has the TCEQ tested the groundwater near the site? Does the applicant have test wells for groundwater? If so, how often are they tested and what are the findings? Are there any uncapped wells on the site that runoff could find its way into? Has the TCEQ tested the water in the nearby Arenosa Creek for various contaminants including e-coli, viruses, etc. that potentially could come from the land application site, brought there by recent heavy spring rains from runoff over the flat pastures and into the creek? The applicant says this is not so. Should we believe it? I know that Texas A&M has been doing a study of the recreational aspects of the Arenosa Creek. I have been told that there have been findings of an increase in the E-Coli in that creek. Is this just a coincidence? Children play in the Arenosa creek! I have read that Health Issues can be posed by pathogens and other risks can be caused by the elevation of heavy metals in the soil due to land-applied sludge. Does the TCEQ test the site for these contaminants or does it merely rely on the agronomist that is employed by the applicant? How many times has the TCEQ visited the site? I believe it is seven times in 10 years? Is that enough? Do they know what exactly is in the sludge that has been applied? I saw remnants of plastic straws and other incidental trash items mixed in with the dried sludge. Does the TCEQ have their own report findings of the sludge samples? If the applicant has ownership interest in the treatment facility, the trucking company, the land and he hires his own agronomist for studies regarding toxins in the sludge, grease and grit, how can we be so sure that we are being fully protected? This sounds so much like the proverbial "Fox Guarding the Henhouse". Mr. Mayfield's site for spreading sludge is, without question, near the Arenosa Creek. I am concerned that Runoff caused by heavy rains will flow from the site and will naturally drain into the Arenosa Creek. This natural drain flows to the wetlands and ultimately to the Lavaca Bay. Because the site is near the Arenosa Creek I feel it is an inappropriate site for this Land application! The Arenosa creek floods at times. Rising water from the Arenosa creek has flooded my ranch house before. Water has at times risen 3 feet into my ranch house. Many people have water wells that they rely on for personal use as well as for livestock and wildlife. My fear is that potential Toxic runoff can pollute these wells. The increased risk that pathogens in sewage sludge can be transported by rising water to ranchers, neighbors, wildlife and livestock is a huge concern. The land in Victoria county and Jackson County is flat as we are in the coastal plains. I worry Heavy rains can cause runoff from application sites into the creek and on to other landowners properties. Besides just ranches there are subdivisions near the site. Is it fair that these neighbors and the neighboring ranchers have to not only worry about pollution in the groundwater but also breathe foul airborne odors? I have read that Land application may allow pathogens to be transported by weather events by land and air. It is a huge concern that this could facilitate the spread of diseases to residents in the community as well as livestock and wildlife. I believe there should be a moratorium on this land application of sewage sludge, grease and grit as the health risks to the public have not been properly evaluated and the location is too close to a waterway. In addition to the health risks can the farm to market roads withstand the heavy traffic from his sludge hauling trucks? Is the county responsible for maintaining these mixed, gravel and asphalt roads, which may be damaged from the heavy truckloads? The coastal bend is a beautiful area and I believe one of its greatest assets is its clean groundwater! You need to protect this asset by opposing this Experimental project!!!! Save the Texas wetlands, save the Bay and save our groundwater! Don't mess with Victoria County and Jackson County! Don't mess with Texas!

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, August 10, 2015 12:54 PM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0004666000

PM

*SLG
BLOOM*

From: dotsimons@aol.com [<mailto:dotsimons@aol.com>]
Sent: Monday, August 10, 2015 11:14 AM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0004666000

REGULATED ENTY NAME ARENOSA CREEK RANCH

RN NUMBER: RN103911889

PERMIT NUMBER: WQ0004666000

DOCKET NUMBER:

COUNTY: VICTORIA

PRINCIPAL NAME: BENEFICIAL LAND MANAGEMENT LLC

CN NUMBER: CN600919591

FROM

NAME: MS Dorothy Simons

E-MAIL: dotsimons@aol.com

COMPANY:

ADDRESS: 2021 MCDUFFIE ST
HOUSTON TX 77019-6133

PHONE: 7134088474

FAX:

COMMENTS: After weeks of research on the various health and environmental problems caused by land application of sewage sludge and grit and grease, I have decided to oppose the project and request a public meeting.

MW

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Thursday, August 06, 2015 11:22 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-ELD; PUBCOMMENT-WQ; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0004666000

From: dotsimons@aol.com [mailto:dotsimons@aol.com]
Sent: Thursday, August 06, 2015 7:53 AM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0004666000

*SLG
Bleoble*

REGULATED ENTY NAME ARENOSA CREEK RANCH

RN NUMBER: RN103911889

PERMIT NUMBER: WQ0004666000

DOCKET NUMBER:

COUNTY: VICTORIA

PRINCIPAL NAME: BENEFICIAL LAND MANAGEMENT LLC

CN NUMBER: CN600919591

FROM

NAME: MS Dorothy Simons

E-MAIL: dotsimons@aol.com

COMPANY:

ADDRESS: 2021 MCDUFFIE ST
HOUSTON TX 77019-6133

PHONE: 7134088474

FAX:

COMMENTS: I wanted to clarify a comment which named me as describing various contaminants in the sludge at the Arenosa Creek Ranch. I have heard that sludge waste has been known to contain these hazardous materials. I was concerned these things might be in the sludge at the site. The extensive tour of the Arenosa Creek Ranch satisfied my concerns that this is not an issue. I am confident that this facility is being run in compliance with the law and is not a health hazard. The company operates in a professional manner and has

RM

safety and quality controls in effect as well as constant monitoring by the TCEQ and an agronomist from Texas A&M. I did notice that the pastures that had sludge applied to them were healthy and beautiful.

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Wednesday, July 29, 2015 8:16 AM
To: PUBCOMMENT-WQ; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WQ0004666000

*SLG
06/08/15*

From: dotsimons@aol.com [mailto:dotsimons@aol.com]
Sent: Tuesday, July 28, 2015 10:53 PM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0004666000

REGULATED ENTY NAME ARENOSA CREEK RANCH

RN NUMBER: RN103911889

PERMIT NUMBER: WQ0004666000

DOCKET NUMBER:

COUNTY: VICTORIA

PRINCIPAL NAME: BENEFICIAL LAND MANAGEMENT LLC

CN NUMBER: CN600919591

FROM

NAME: MS Dorothy Simons

E-MAIL: dotsimons@aol.com

COMPANY:

ADDRESS: 2021 McDuffie St.
Houston TX 77019

PHONE: 7134088474

FAX:

COMMENTS: The acreage where the dumping will be taking place is located within the drainage area of segment 2435. The runoff will drain into the Arenosa Creek and ultimately onto my property. I am very concerned about the high levels of bacteria. This could be a concern for groundwater and the wetlands. The Lavaca Bay could also be an area of concern because it is downstream from the Arenosa Creek. The bacteria is

MW

bad enough but the smell is nauseating when it is applied. It is hard to imagine that anyone would do this disgusting dumping of sludge, grease and grit on this beautiful country. This needs to be stopped.