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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 27, 2014

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

Re: Nueces River Authority; TPDES Permit No. WQ0015083001:
TCEQ Docket No. 2014-1317-MWD

Dear Ms. Bohac:

Enclosed for filing is the Executive Director's Response to Hearing Request in the above-titled matter.

Respectfully,

Anthony Tatu, Staff Attorney
Environmental Law Division
State Bar of Texas No. 00792869
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-2225
(512) 239-0606 (fax)

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

cc: Mailing List

Enclosure

TCEQ Docket No. 2014-1317-MWD

APPLICATION BY NUECES RIVER AUTHORITY FOR NEW TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM (TPDES) PERMIT NO. WQ0015083001	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Hearing Request on Nueces River Authority's application for new TPDES Permit No. WQ0015083001. Hearing requests were filed by Jay Harris on behalf of Jean C. Huffman and Dan C. Huffman.

Attached for Commission consideration are the following:

Attachment A – Adjacent Landowners Map
Attachment B – Fact Sheet and ED's Preliminary Decision
Attachment C – Draft permit
Attachment D – ED's Response to Public Comment (RTC)
Attachment E – Compliance History Report

I. FACILITY DESCRIPTION

The Nueces River Authority applied to the TCEQ for a new permit, Permit No. WQ0015083001 to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day via surface irrigation of up to 93.5 acres of public access pastureland during the Interim phase, and at a daily average flow not to exceed 360,000 gallons per day via surface irrigation of up to 93.5 acres of public access pastureland during the Final phase. The Nueces River Authority Leakey Regional Wastewater Treatment Facility will consist of an activated sludge process plant using the extended aeration mode. Treatment units will include an influent lift station, a manual bar screen, a mechanical bar screen, a grit removal system, an oxidation ditch, a final clarifier (two clarifiers during the Final phase), an aerated sludge holding tank (during the Final phase only), a belt filter press, sludge drying beds, and a chlorine contact chamber. The facility has not been constructed.

The effluent limits in both phases of the draft permit, based on a daily average, are 20 mg/l BOD_5, 20 mg/l TSS, and 126 CFU or MPN/100 ml of *E. coli*. The effluent shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes based on peak flow. The draft permit provides the option of changing the site to non-public access land, with appropriate effluent limits for non-public access land, if the applicant notifies the TCEQ that access will be restricted before operating the facility.

The effluent limit for non-public access, based on a single grab, is 65 mg/l BOD_5.

The wastewater treatment facility and disposal site will be located at 64 Stanford Hollow Road, approximately two miles south of the intersection of U. S. Highway 83 and Ranch Road 337, on the west side of U.S. Highway 83, Leakey in Real County, Texas 78873. The wastewater treatment facility and disposal site will be located in the drainage basin of Patterson Creek in Segment No. 2113 of the Nueces River Basin. No discharge of pollutants into water in the State is authorized by this permit.

II. BACKGROUND

The TCEQ received the application on March 18, 2013, and declared it administratively complete on March 27, 2013. The notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on April 10, 2013 in Hill Country Herald. ED staff completed the technical review of the application on November 6, 2013, and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on February 19, 2014 in Hill Country Herald. The public comment period ended on March 21, 2014. ED staff filed the RTC on August 8, 2014. The deadline for submitting hearing requests and requests for reconsideration was September 10, 2014.

III. THE EVALUATION PROCESS FOR HEARING REQUESTS

House Bill (HB) 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment and for the Commission's consideration of hearing requests. The application in this case was declared administratively complete on October 24, 2011. Therefore, it is subject to the HB 801 requirements. The Commission implemented HB 801 by adopting procedural rules in title 30, chapters 39, 50, and 55 of the Texas Administrative Code.

A. Response to Requests

"The ED, the public interest counsel, and the applicant may submit written responses to [hearing] requests . . . ."[1]

According to section 55.209(e), responses to hearing requests must specifically address the following:

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

[1] 30 TEX. ADMIN. CODE § 55.209(d) (West 2013).

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

B. Hearing Request Requirements

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements. As noted in section 55.201(c), "A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided . . . and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the ED's RTC."

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

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

C. Requirement that Requestor Be an Affected Person

To grant a contested case hearing, the Commission must determine that a requestor is an affected person. The factors to consider in making this determination are

found in section 55.203 as follows:

(a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.

(b) Governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.

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

  (1) whether the interest claimed is one protected by the law under which the application will be considered;

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

  (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;

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

  (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and

  (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

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

Section 50.115(b) details how the Commission refers a matter to SOAH: "When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing." Section 50.115(c) further states, "The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: (1) involves a disputed question of fact; (2) was raised during the public comment period; and (3) is relevant and material to the decision on the application."

IV. HEARING REQUEST ANALYSIS

A. Whether the Requestor Complied with Section 55.201(c) and (d)

Jay Harris submitted a timely written hearing requests on behalf of Jean C. Huffman and Dan C. Huffman on March 14, 2014, that raised issues presented during the public comment period that have not been withdrawn. Mr. Harris does not provide an address for Jean Huffman or Dan Huffman, but he states that they are joint owners of real property that will be used for a lift station by the Applicant. Mr. Harris identifies himself as the attorney representing Jean and Dan Huffman and provided his address and his telephone number and requested a contested case hearing. He identifies Jean

Huffman and Dan Huffman as a persons with what they believe to be a personal justiciable interests affected by the application and provided a list of disputed issues of fact that were raised during the public comment period, both of which will be discussed in greater detail below. The ED concludes that the hearing request substantially complies with the section 55.201(c) and (d) requirements.

B. Whether the Requestor Meets the Affected Person Requirements

Considering the affected person factors listed in section 55.203(c), the map of adjacent landowners (Attachment A) shows that T.W. Huffman owns property that is located directly across US Highway 83 from the proposed land application areas and the wastewater treatment plant site. Mr. Harris states that the property owned by Jean Huffman is located where a lift station for the proposed plant will be. Although Mr. Harris does not explain how Jean Huffman's property would be affected by the proposed facility, the ED reasonably concludes that Jean Huffman and Dan Huffman are affected persons based on the proximity of their property to the proposed facility.

The ED recommends that the Commission find that Jean Huffman and Dan Huffman are affected persons.

C. Whether Issues Raised Are Referable to SOAH for a Contested Case Hearing

The ED analyzed the issues raised in the hearing request in accordance with the applicable regulatory criteria and provides the following recommendations regarding whether the issues can be referred to SOAH if the Commission grants the hearing request. All issues were raised during the public comment period, and none of the issues were withdrawn. All identified issues are considered disputed unless otherwise noted.

1. Whether the design of the proposed wastewater treatment facility will be in the Frio River Floodway and the Patterson Creek Floodway. (RTC No.1)

This is an issue of fact. However, the TCEQ does not review engineering plans and specifications as part of an application for wastewater permit. This issue is not relevant and material to a decision on the application. The ED does not recommend referring this issue to SOAH.

2. Whether the proposed force main sewer line will withstand periodic flash floods that have destroyed a bridge across Patterson Creek in the past. (RTC No. 2)

This is an issue of fact. However this is another issue that is not relevant and material to a decision on the application. The ED does not recommend referring this issue to SOAH.

3. Whether the Applicant made incorrect and false or material misrepresentations to the US Army Corps of Engineers to avoid the requirements of obtaining an individual permit from the Corps. (RTC No. 4).

This is an issue of fact, but this issue is not relevant and material to the decision on the application. As explained in the ED's Response to Comments, the TCEQ is not responsible for reviewing the Application submitted to the Corps of Engineers.

4. Whether the Applicant failed to obtain the passage of a city ordinance to authorize the initiation of condemnation proceedings to acquire real property in connection with the proposed facility. (RTC No. 5)

This is an issue of fact, but it is outside the scope of the evaluation of a wastewater permit application and it is not relevant and material. The ED does not recommend referring this issue to SOAH.

5. Whether the Applicant has acquired all necessary easements for the proposed project. (RTC Nos. 6 and 7)

This is an issue of fact, but these issues are not relevant and material to the decision on the application. As explained in the ED's Response to comments, these issues are outside the scope of the evaluation of a wastewater permit application.

Because Mr. Harris has not identified any referable issues, there are no issues to refer to SOAH pursuant to section 50.115(c). Therefore, the ED recommends denying the hearing request for Jean Huffman and Dan Huffman.

V. CONTESTED CASE HEARING DURATION

If there is a contested case hearing on this application, the ED recommends that the duration of the hearing be six months, starting with the preliminary hearing and continuing until the presentation of a proposal for decision to the Commission.

VI. CONCLUSION

Because Mr Harris has not met the hearing request requirements, the ED recommends denying the hearing requests by Jean Huffman and Dan Huffman.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Richard A. Hyde, P.E., Executive Director

Robert Martinez, Director
Environmental Law Division

By:_____

Anthony Tatu
Staff Attorney
Environmental Law Division
State Bar of Texas No. 00792869
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NUECES RIVER AUTHORITY
DOCKET NO. 2014-1317-MWD; PERMIT NO. WQ0015083001

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Con Mims
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Office of Chief Clerk, MC-105
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Tel: (512) 239-3300
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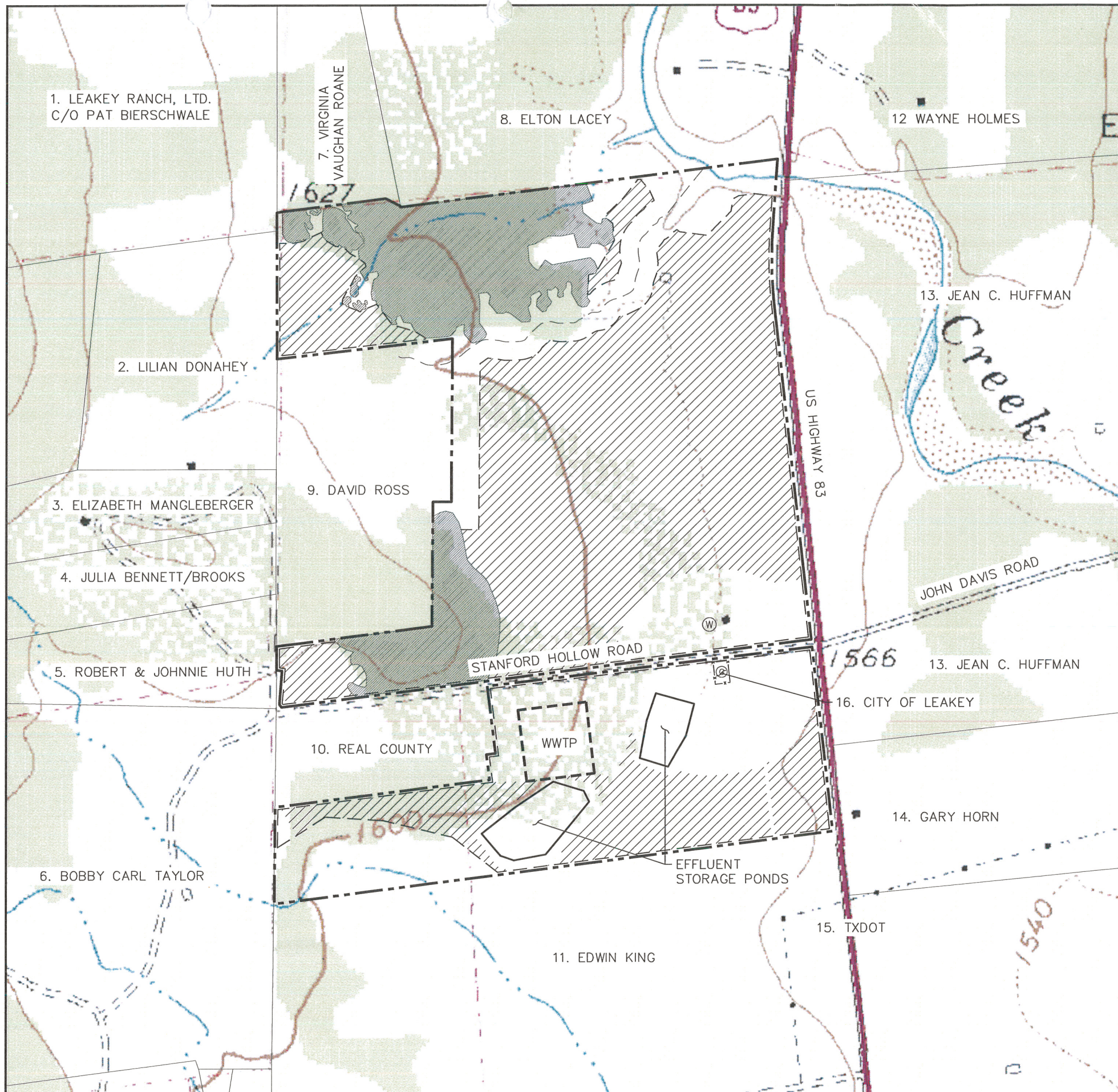
REQUESTER:
Jay Harris
30615 Cypress Park Drive
Denham Springs, Louisiana 70726-1737

ATTACHMENT A



Map Source: USGS, Real County, Texas.

Landowner ID (Map)	Name	Physical Address	Mailing Address
1	Leakey Ranch, LTD C/O Pat Bierschwale	3724 Bison Ranch Rd	26526 Stockdick School Rd Katy, TX 77493
2	Lillian Donahey	819 Stanford Hollow Rd	P.O. Box 921 Leakey, TX 78873
3	Elizabeth Mangleberger	591 Stanford Hollow Rd	P.O. Box 161 Leakey, TX 78873
4	Julia Bennett/Brooks	589 Stanford Hollow Rd	#456 CR 358 Burlington, TX 76519
5	Robert & Johnnie Huth	587 Stanford Hollow Rd	242 Cicero Dr San Antonio, TX 78218
6	Bobby Carl Taylor	551 Stanford Hollow Rd	P.O. Box 1309 Leakey, TX 78873
7	Virginia Vaughan Roane	1300 Cattail Road	815 S. Milano Rd Weslaco, TX 78596
8	Elton Lacey	1693 S. US Highway 83	11405 Ohmfield Ct Austin, TX 78739
9	David Ross	736 Stanford Hollow Rd	2904 Bridle Path Ln Friendswood, TX 77546
10	Real County	146 S. US Highway 83	P.O. Box 446 Leakey, TX 78873
11	Edwin King, et. Ux.	2755 S. US Highway 83	2755 US Hwy 83 South Leakey, TX 78873
12	Wayne Holmes	1658 S. US Highway 83	11502 Clifton Forge San Antonio, TX 78230
13	T. W. Huffman	399 John Davis Rd	#44 Sunnygrove Odessa, TX 79761
14	Gary Horn	2482 S US Hwy 83	200 Brook Lane O'Fallon, MO 63368
15	Texas Department of Transportation (TXDOT)	US Hwy 83	125 East 11th St. Austin, TX 78701
16	City of Leakey	109 Stanford Hollow Rd	148 W. 4th St. Leakey, TX 78873

LEGEND

- PROPOSED PROPERTY BOUNDARY
- PROPOSED WWTP BOUNDARY
- PROPOSED PROPERTY OFFSETS
- LANDOWNER BOUNDARY
- (W) EXISTING WATER WELL
- PROPOSED EFFLUENT LAND APPLICATION AREA
- RESERVE AREA (27.4 ACRES TOTAL) – NO WASTE MANAGEMENT ACTIVITIES WILL OCCUR

RECEIVED
MAR 18 2013
Water Quality Applications Team

N

0 300 600
SCALE IN FEET

REAL COUNTY

NaismithEngineering,Inc
ENGINEERING ■ ENVIRONMENTAL ■ SURVEYING
TBPE REGISTERED FIRM NO. F-355

AFFECTED LANDOWNER MAP

ATTACHMENT 3.A

PROPOSED WASTEWATER IMPROVEMENTS
NUECES RIVER AUTHORITY, REAL COUNTY, TEXAS

Drawn By: LG	Appr. By: DF	Scale: AS SHOWN	Dwg. NO.: TCEQ MAPS	Sheet
Checked By: LG	Project No.: 7514-02	Date: 3/7/13	Rev.:	Of

ATTACHMENT B

TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

DESCRIPTION OF APPLICATION

Applicant:	Nueces River Authority TCEQ Permit No. WQ0015083001
Regulated Activity:	Domestic Wastewater Permit
Type of Application:	New Permit
Request:	New Permit
Authority:	Texas Water Code (TWC) § 26.027; 30 Texas Administrative Code (TAC) Chapters 305, 309, 312, 319, and 30; and Commission policies.

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The draft permit includes an expiration date of **May 1, 2018,** according to 30 TAC Section 305.127(1)(C)(ii)(III), Conditions to be Determined for Individual Permits.

REASON FOR PROJECT PROPOSED

Nueces River Authority has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, Permit No. WQ0015083001 to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day via surface irrigation of up to 93.5 acres of public access pastureland during the Interim phase, and at a daily average flow not to exceed 360,000 gallons per day via surface irrigation of up to 93.5 acres of public access pastureland during the Final phase. In the Interim phase, the facility will include storage ponds with a total surface area of 2.02 acres and total capacity of 11.5 acre-feet for storage of treated effluent prior to irrigation. The Final phase will include storage ponds with a total surface area of 2.91 acres and total capacity of 16.6 acre-feet.The proposed wastewater treatment facility will serve the City of Leakey and surrounding areas.

PROJECT DESCRIPTION AND LOCATION

The Nueces River Authority Leakey Regional Wastewater Treatment Facility will consist of an activated sludge process plant using the extended aeration mode. Treatment units will include an influent lift station, a manual bar screen, a mechanical bar screen, a grit removal system, an oxidation ditch, a final clarifier (two clarifiers during the Final phase), an aerated sludge holding tank (during the Final phase only), a belt filter press, sludge drying beds, and a chlorine contact chamber. The facility has not been constructed.

The draft permit will authorize the disposal of sludge only at a TCEQ authorized land application site or co-disposal landfill.

The wastewater treatment facility and disposal site will be located at 64 Stanford Hollow Road, approximately two miles south of the intersection of U. S. Highway 83 and Ranch Road 337, on the west side of U.S. Highway 83, Leakey in Real County, Texas 78873.

The wastewater treatment facility and disposal site will be located in the drainage basin of Patterson Creek in Segment No. 2113 of the Nueces River Basin. No discharge of pollutants into water in the State is authorized by this permit.

SUMMARY OF EFFLUENT DATA

There is no effluent data since the facility has not been constructed.

DRAFT PERMIT CONDITIONS

The draft permit will authorize the disposal of treated domestic wastewater effluent at a daily average flow not to exceed 0.250 MGD (May-September) and 0.125 MGD (October-April) in the Interim phase and a daily average flow not to exceed 0.360 MGD (May-September) and 0.180 MGD (October-April) in the Final phase via surface irrigation of 93.5 acres of public access pastureland. In the Interim phase, the facility will include storage ponds with a total surface area of 2.02 acres and total capacity of 11.5 acre-feet for storage of treated effluent prior to irrigation. The Final phase will include storage ponds with a total surface area of 2.91 acres and total capacity of 16.6 acre-feet. Application rates to the irrigated land in each phase shall not exceed 3.06 acre-feet per year per acre irrigated. The irrigated crops will include Bermuda grass during the warm season and ryegrass during the cool season in the grassed area and native trees with grasses for the tree area. (See Attachment B.)

The effluent limits in both phases of the draft permit, based on a daily average, are 20 mg/l BOD_5, 20 mg/l TSS, and 126 CFU or MPN/100 ml of *E. coli*. The effluent shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes based on peak flow. The draft permit provides the option of changing the site to non-public access land, with appropriate effluent limits for non-public access land, if the applicant notifies the TCEQ that access will be restricted before operating the facility. The effluent limit for non-public access, based on a single grab, is 65 mg/l BOD_5.

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

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal and Transportation. The draft permit authorizes the disposal of sludge at a TCEQ authorized land application site or co-disposal landfill.

SUMMARY OF CHANGES FROM APPLICATION

Initially, the applicant requested a variable daily average flow not to exceed 0.25 MGD in the Interim phase and 0.3595 MGD in the Final phase with Ultraviolet (UV) disinfection. However, in an October 9, 2013 letter to the TCEQ, the applicant requested authorization for the disposal of treated domestic wastewater effluent at a daily average flow not to exceed 0.250 MGD (May-September) and 0.125 MGD (October-April) in the Interim phase and a daily average flow not to

exceed 0.360 MGD (May-September) and 0.180 MGD (October-April) in the Final phase with chlorination disinfection. The draft permit incorporates information from the October 9 letter.

The draft permit contains effluent limits and disinfection requirements for irrigation of public-access land, based on the applicant's October 9 letter. The draft permit provides the option of changing the site to non-public access land, with appropriate effluent limits for non-public access land, if the applicant notifies the TCEQ that access to the entire irrigation area will be restricted before operating the facility.

SUMMARY OF CHANGES FROM EXISTING PERMIT

N/A. This is a new permit.

BASIS FOR DRAFT PERMIT

The following items were considered in developing the permit draft:

1. Application submitted with letter dated March 18, 2013 and additional information submitted with letter dated March 26, April 19, October 9, 2013, December 4, 2013, and email dated January 13, 2014 and January 23, 2014.

2. Interoffice Memorandum from the Water Quality Assessment Team, Water Quality Assessment & Standards Section, Water Quality Division.

PROCEDURES FOR FINAL DECISION

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

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

Any interested person may request a public meeting on the application until the deadline for filing public comments. A public meeting is intended for the taking of public comment, and is not a contested case proceeding.

After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's Response to Comments and Final

Decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's Response to Comments and Final Decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If the Executive Director calls a public meeting or the Commission grants a contested case hearing as described above, the Commission will give notice of the date, time, and place of the meeting or hearing. If a hearing request or request for reconsideration is made, the Commission will consider all public comments in making its decision and shall either adopt the Executive Director's response to public comments or prepare its own response.

For additional information about this application, contact Bijaya Chalise at (512) 239-4545.

Bijaya R. Chalise

Bijaya Chalise
Municipal Permits Team
Wastewater Permitting Section (MC 148)

1/23/14
Date

ATTACHMENT C

PERMIT NO. WQ0015083001

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

PERMIT TO DISCHARGE WASTES
under provisions of Chapter 26
of the Texas Water Code

Nueces River Authority

whose mailing address is

200 East Nopal Street, Suite 206
Uvalde, Texas 78801

Nature of Business Producing Waste: Domestic wastewater treatment operation, SIC Code 4952.

General Description and Location of Waste Disposal System:

Description: The Nueces River Authority Leakey Regional Wastewater Treatment Facility consists of an activated sludge process plant using the extended aeration mode. Treatment units include an influent lift station, a manual bar screen, a mechanical bar screen, a grit removal system, an oxidation ditch, a final clarifier (two during the Final phase), an aerated sludge holding tank (Final phase only), a belt filter press, sludge drying beds, and a chlorine contact chamber. The permittee is authorized to dispose of treated domestic wastewater effluent at a daily average flow not to exceed 0.250 million gallons per day (MGD) (May-September) and 0.125 MGD (October-April) in the Interim phase and 0.360 MGD (May-September) and 0.180 MGD (October-April) in the Final phase via surface irrigation of 93.5 acres of public access pastureland. In the Interim phase, the facility will include storage ponds with a total surface area of 2.02 acres and total capacity of 11.5 acre-feet for storage of treated effluent prior to irrigation. The Final phase will include storage ponds with a total surface area of 2.91 acres and total capacity of 16.6 acre-feet. Application rates to the irrigated land in each phase shall not exceed 3.06 acre-feet per year per acre irrigated. The irrigated crops include and Bermuda grass during the warm season and ryegrass during the cool season in the grassed area and native trees with grasses for the tree area. (See Attachment B.)

Location: The wastewater treatment facility and disposal site are located at 64 Stanford Hollow Road, approximately two miles south of the intersection of U. S Highway 83 and Ranch Road 337, on the west side of U. S. Highway 83, Leakey, in Real County, Texas 78873. (See Attachment A.)

Drainage Area: The wastewater treatment facility and disposal site are located in the drainage basin of Patterson Creek in Segment No. 2113 of the Nueces River Basin. No discharge of pollutants into water in the State is authorized by this permit.

This permit and the authorization contained herein shall expire at midnight on **May 1, 2018**.

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Conditions of the Permit: No discharge of pollutants into water in the State is authorized.

A. Effluent Limitations

Character: Treated Domestic Sewage Effluent

Volume: Daily Average Flow – 0.250 MGD (May-September) and 0.125 MGD (October-April) from the treatment system (Interim Phase)

Quality: The following effluent limitations shall be required:

Parameter	Effluent Concentrations (Not to Exceed) Daily Average mg/l	7-Day Average mg/l	Daily Maximum mg/	Single Grab mg/l
*Biochemical Oxygen Demand (5-day)	20	30	45	65
*Total Suspended Solids	20	30	45	65
**E. coli*, CFU or MPN/100 ml	126			399

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units.

*The effluent shall be chlorinated in a chlorine contact chamber to a residual of 1.0 mg/l with a minimum detention time of 20 minutes. If the effluent is to be transferred to a holding pond or tank, re-chlorination prior to the effluent being delivered into the irrigation system will be required. A trace chlorine residual shall be maintained in the effluent at the point of irrigation application.

B. Monitoring Requirements:

Parameter	Monitoring Frequency	Sample Type
Flow	Continuous	Totalizing Meter
Biochemical Oxygen Demand (5-day)	One/week	Grab
*Total Suspended Solids	One/week	Grab
pH	One/month	Grab
*Chlorine Residual	Five/week	Grab
**E. coli*, CFU or MPN/100 ml	One/month	Grab

The monitoring shall be done after the final treatment unit and prior to storage of the treated effluent. If the effluent is land applied directly from the treatment system, monitoring shall be done after the final treatment unit and prior to land application. These records shall be maintained on a monthly basis and be available at the plant site for inspection by authorized representatives of the Commission for at least three years.

* See Other Requirement No. 27 on page 34

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Conditions of the Permit: No discharge of pollutants into water in the State is authorized.

A. Effluent Limitations

Character: Treated Domestic Sewage Effluent

Volume: Daily Average Flow – 0.360 MGD (May-September) and 0.180 MGD (October-April) from the treatment system (Final Phase)

Quality: The following effluent limitations shall be required:

Parameter	Effluent Concentrations (Not to Exceed) Daily Average mg/l	7-Day Average mg/l	Daily Maximum mg/	Single Grab mg/l
*Biochemical Oxygen Demand (5-day)	20	30	45	65
*Total Suspended Solids	20	30	45	65
**E. coli*, CFU or MPN/100 ml	126			399

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units.

*The effluent shall be chlorinated in a chlorine contact chamber to a residual of 1.0 mg/l with a minimum detention time of 20 minutes. If the effluent is to be transferred to a holding pond or tank, re-chlorination prior to the effluent being delivered into the irrigation system will be required. A trace chlorine residual shall be maintained in the effluent at the point of irrigation application.

B. Monitoring Requirements:

Parameter	Monitoring Frequency	Sample Type
Flow	Continuous	Totalizing Meter
Biochemical Oxygen Demand (5-day)	One/week	Grab
Total Suspended Solids	One/week	Grab
pH	One/month	Grab
*Chlorine Residual	Five/week	Grab
**E. coli*, CFU or MPN/100 ml	One/month	Grab

The monitoring shall be done after the final treatment unit and prior to storage of the treated effluent. If the effluent is land applied directly from the treatment system, monitoring shall be done after the final treatment unit and prior to land application. These records shall be maintained on a monthly basis and be available at the plant site for inspection by authorized representatives of the Commission for at least three years.

* See Other Requirement No. 27 on page 34

STANDARD PERMIT CONDITIONS

This permit is granted in accordance with the Texas Water Code and the rules and other Orders of the Commission and the laws of the State of Texas.

DEFINITIONS

All definitions in Section 26.001 of the Texas Water Code and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

   a. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.

   b. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with 1 million gallons per day or greater permitted flow.

   c. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.

2. Concentration Measurements

   a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.

      i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

      ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.

   b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.

   c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.

3. Sample Type

   a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).

   b. Grab sample - an individual sample collected in less than 15 minutes.

4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.

5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids which have not been classified as hazardous waste separated from wastewater by unit processes.

6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING REQUIREMENTS

1. Monitoring Requirements

   Monitoring results shall be collected at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling in accordance with 30 TAC §§ 319.4 - 319.12.

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

2. Test Procedures

   a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§ 319.11 - 319.12. Measurements, tests and calculations shall be accurately accomplished in a representative manner.

   b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

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

   b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, and records of all data used to complete the application for this permit shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, or application. This period shall be extended at the request of the Executive Director.

   c. Records of monitoring activities shall include the following:

      i. date, time and place of sample or measurement;
      ii. identity of individual who collected the sample or made the measurement.
      iii. date and time of analysis;
      iv. identity of the individual and laboratory who performed the analysis;
      v. the technique or method of analysis; and
      vi. the results of the analysis or measurement and quality assurance/quality control records.

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

4. Additional Monitoring by Permittee

   If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in determining compliance with permit requirements.

5. Calibration of Instruments

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

6. Compliance Schedule Reports

   Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

7. Noncompliance Notification

   a. In accordance with 30 TAC § 305.125(9), any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

   b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:

      i. Unauthorized discharges as defined in Permit Condition 2(g).

      ii. Any unanticipated bypass which exceeds any effluent limitation in the permit.

   c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.

   d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible.

8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.

9. Changes in Discharges of Toxic Substances

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

   a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

      i. One hundred micrograms per liter (100 μg/L);

      ii. Two hundred micrograms per liter (200 μg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 μg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;

iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or

iv. The level established by the TCEQ.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

i. Five hundred micrograms per liter (500 µg/L);
ii. One milligram per liter (1 mg/L) for antimony;
iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
iv. The level established by the TCEQ.

10. Signatories to Reports

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

PERMIT CONDITIONS

1. General

a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.

b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:

i. Violation of any terms or conditions of this permit;
ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.

b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation or suspension, or for denial of a permit renewal application or an application for a permit for another facility.

c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation which has a reasonable likelihood of adversely affecting human health or the environment.

e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.

f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and Texas Water Code Section 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Special Provisions section of this permit.

h. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties).

3. Inspections and Entry

a. Inspection and entry shall be allowed as prescribed in the Texas Water Code Chapters 26, 27, and 28, and Texas Health and Safety Code Chapter 361.

b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in

charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in Texas Water Code Section 7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

4. Permit Amendment and/or Renewal

   a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:

      i. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9;

      ii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

   b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.

   c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.

   d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.

   e. In accordance with the Texas Water Code § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.

5. Permit Transfer

   a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.

   b. A permit may be transferred only according to the provisions of 30 TAC § 305.64 (relating to Transfer of Permits) and 30 TAC § 50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

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

7. Property Rights

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

8. Permit Enforceability

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

9. Relationship to Permit Application

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

10. Notice of Bankruptcy.

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

       i. the permittee;
       ii. an entity (as that term is defined in 11 USC, § 101(14)) controlling the permittee or listing the permit or permittee as property of the estate; or
       iii. an affiliate (as that term is defined in 11 USC, § 101(2)) of the permittee.

    b. This notification must indicate:

       i. the name of the permittee;
       ii. the permit number(s);
       iii. the bankruptcy court in which the petition for bankruptcy was filed; and
       iv. the date of filing of the petition.

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.

2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge use and disposal and 30 TAC §§ 319.21 - 319.29 concerning the discharge of certain hazardous metals.

3. Domestic wastewater treatment facilities shall comply with the following provisions:

   a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.

   b. The permittee shall submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.

4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.

5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.

6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under Texas Water Code § 7.302(b)(6).

7. Documentation

   For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information specified as not confidential in 30 TAC § 1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim

must be asserted in the manner prescribed in the application form or by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

8. Facilities which generate domestic wastewater shall comply with the following provisions; domestic wastewater treatment facilities at permitted industrial sites are excluded.

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

      If in the judgement of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 149) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

   b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission, and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.

   c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.

9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.

10. Facilities which generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:

    a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.

    b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.

    c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Environmental Cleanup Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.

    d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.

    e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.

    f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:

        i. Volume of waste and date(s) generated from treatment process;
        ii. Volume of waste disposed of on-site or shipped off-site;
        iii. Date(s) of disposal;
        iv. Identity of hauler or transporter;
        v. Location of disposal site; and
        vi. Method of final disposal.

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

the TCEQ for at least five years.

11. For industrial facilities to which the requirements of 30 TAC Chapter 335 do not apply, sludge and solid wastes, including tank cleaning and contaminated solids for disposal, shall be disposed of in accordance with Chapter 361 of the Texas Health and Safety Code.

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SLUDGE PROVISIONS

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

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE LAND APPLICATION

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC Chapter 312 and all other applicable state and federal regulations in a manner which protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants which may be present in the sludge.

2. In all cases, if the person (permit holder) who prepares the sewage sludge supplies the sewage sludge to another person for land application use or to the owner or lease holder of the land, the permit holder shall provide necessary information to the parties who receive the sludge to assure compliance with these regulations.

3. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

B. Testing Requirements

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

   The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to:

Director, Permitting and Remediation Support Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 13) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

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

TABLE 1

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

* Dry weight basis

3. Pathogen Control

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

a. Six alternatives are available to demonstrate compliance with Class A sewage sludge. The first 4 options require either the density of fecal coliform in the sewage sludge be less than 1000 Most Probable Number (MPN) per gram of total solids (dry weight basis), or the density of Salmonella sp. bacteria in the sewage sludge be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. Below are the additional requirements necessary to meet the definition of a Class A sludge.

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

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

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

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

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

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

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

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

b. Three alternatives are available to demonstrate compliance with Class B criteria for sewage sludge.

Alternative 1 -

i. A minimum of seven random samples of the sewage sludge shall be collected within 48 hours of the time the sewage sludge is used or disposed of during each monitoring episode for the sewage sludge.

ii. The geometric mean of the density of fecal coliform in the samples collected shall be less than either 2,000,000 MPN per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

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

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

ii. An independent Texas Licensed Professional Engineer must make a certification to the generator of sewage sludge that the wastewater treatment facility generating the sewage sludge is designed to achieve one of the PSRP at the permitted design loading of the facility. The certification need only be repeated if the design loading of the facility is increased. The certification shall include a statement indicating the design meets all the applicable standards specified in Appendix B of 40 CFR Part 503;

iii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;

iv. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review; and

v. If the sewage sludge is generated from a mixture of sources, resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the PSRP, and shall meet the certification, operation, and record keeping requirements of this paragraph.

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

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

ii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;

iii. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review;

iv. The Executive Director will accept from the U.S. Environmental Protection Agency a finding of equivalency to the defined PSRP; and

v. If the sewage sludge is generated from a mixture of sources resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the Processes to Significantly Reduce Pathogens, and shall meet the certification, operation, and record keeping requirements of this paragraph.

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

i. Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.

ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer prior to incorporation into the soil.

iii. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than 4 months prior to incorporation into the soil.

iv. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of sewage sludge.

v. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.

vi. Turf grown on land where sewage sludge is applied shall not be harvested for 1 year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn.

vii. Public access to land with a high potential for public exposure shall be restricted for 1 year after application of sewage sludge.

viii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.

ix. Land application of sludge shall be in accordance with the buffer zone requirements found in 30 TAC Section 312.44.

4. Vector Attraction Reduction Requirements

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following alternatives 1 through 10 for Vector Attraction Reduction.

<u>Alternative 1</u> - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38 percent.

Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. Volatile solids must be reduced by less than 17 percent to demonstrate compliance.

Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20 degrees Celsius. Volatile solids must be reduced by less than 15 percent to demonstrate compliance.

Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.

Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40 degrees Celsius and the average temperature of the sewage sludge shall be higher than 45 degrees Celsius.

Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container.

Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 percent based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

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

Alternative 9 -

i. Sewage sludge shall be injected below the surface of the land.

ii. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.

iii. When sewage sludge that is injected below the surface of the land is Class A with respect to pathogens, the sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

Alternative 10-

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

C. Monitoring Requirements

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

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

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

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

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

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

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

A. Pollutant Limits

Table 2

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

Table 3

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

*Dry weight basis

B. Pathogen Control

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

C. Management Practices

1. Bulk sewage sludge shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters in the State.

2. Bulk sewage sludge not meeting Class A requirements shall be land applied in a manner which complies with the Management Requirements in accordance with 30 TAC Section 312.44.

3. Bulk sewage sludge shall be applied at or below the agronomic rate of the cover crop.

4. An information sheet shall be provided to the person who receives bulk sewage sludge sold or given away. The information sheet shall contain the following information:

   a. The name and address of the person who prepared the sewage sludge that is sold or given away in a bag or other container for application to the land.

   b. A statement that application of the sewage sludge to the land is prohibited except in accordance with the instruction on the label or information sheet.

   c. The annual whole sludge application rate for the sewage sludge application rate for the sewage sludge that does not cause any of the cumulative pollutant loading rates in Table 2 above to be exceeded, unless the pollutant concentrations in Table 3 found in Section II above are met.

D. Notification Requirements

1. If bulk sewage sludge is applied to land in a State other than Texas, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk sewage sludge is proposed to be applied. The notice shall include:

   a. The location, by street address, and specific latitude and longitude, of each land application site.

   b. The approximate time period bulk sewage sludge will be applied to the site.

   c. The name, address, telephone number, and National Pollutant Discharge Elimination System permit number (if appropriate) for the person who will apply the bulk sewage sludge.

2. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

E. Record keeping Requirements

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

period of five years. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC Section 312.47 for persons who land apply.

1. The concentration (mg/kg) in the sludge of each pollutant listed in Table 3 above and the applicable pollutant concentration criteria (mg/kg), or the applicable cumulative pollutant loading rate and the applicable cumulative pollutant loading rate limit (lbs/ac) listed in Table 2 above.

2. A description of how the pathogen reduction requirements are met (including site restrictions for Class B sludges, if applicable).

3. A description of how the vector attraction reduction requirements are met.

4. A description of how the management practices listed above in Section II.C are being met.

5. The following certification statement:

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

6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained.

   The person who applies bulk sewage sludge or a sewage sludge material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC Section 312.47 for persons who land apply.

   a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC Section 312.47(a)(4)(A)(ii) or 30 TAC Section 312.47(a)(5)(A)(ii), as applicable, and to the permittee's specific sludge treatment activities.

   b. The location, by street address, and specific latitude and longitude, of each site on which sludge is applied.

   c. The number of acres in each site on which bulk sludge is applied.

   d. The date and time sludge is applied to each site.

e. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.

f. The total amount of sludge applied to each site in dry tons.

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

F. Reporting Requirements

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

1. Results of tests performed for pollutants found in either Table 2 or 3 as appropriate for the permittee's land application practices.

2. The frequency of monitoring listed in Section I.C. which applies to the permittee.

3. Toxicity Characteristic Leaching Procedure (TCLP) results.

4. Identity of hauler(s) and TCEQ transporter number.

5. PCB concentration in sludge in mg/kg.

6. Date(s) of disposal.

7. Owner of disposal site(s).

8. Texas Commission on Environmental Quality registration number, if applicable.

9. Amount of sludge disposal dry weight (lbs/acre) at each disposal site.

10. The concentration (mg/kg) in the sludge of each pollutant listed in Table 1 (defined as a monthly average) as well as the applicable pollutant concentration criteria (mg/kg) listed in Table 3 above, or the applicable pollutant loading rate limit (lbs/acre) listed in Table 2 above if it exceeds 90% of the limit.

11. Level of pathogen reduction achieved (Class A or Class B).

12. Alternative used as listed in Section I.B.3.(a. or b.). Alternatives describe how the pathogen reduction requirements are met. If Class B sludge, include information on how site restrictions were met.

13. Vector attraction reduction alternative used as listed in Section I.B.4.

14. Annual sludge production in dry tons/year.

15. Amount of sludge land applied in dry tons/year.

16. The certification statement listed in either 30 TAC Section 312.47(a)(4)(A)(ii) or 30 TAC Section 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge treatment activities, shall be attached to the annual reporting form.

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

    a. The location, by street address, and specific latitude and longitude.

    b. The number of acres in each site on which bulk sewage sludge is applied.

    c. The date and time bulk sewage sludge is applied to each site.

    d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk sewage sludge applied to each site.

    e. The amount of sewage sludge (i.e., dry tons) applied to each site.

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

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

A. The permittee shall handle and dispose of sewage sludge in accordance with 30 TAC Chapter 330 and all other applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The permittee shall ensure that the sewage sludge meets the requirements in 30 TAC Chapter 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.

B. If the permittee generates sewage sludge and supplies that sewage sludge to the owner or operator of a Municipal Solid Waste Landfill (MSWLF) for disposal, the permittee shall provide to the owner or operator of the MSWLF appropriate information needed to be in compliance with the provisions of this permit.

C. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge disposal practice.

D. Sewage sludge shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I (Toxicity Characteristic Leaching Procedure) or other method, which receives the prior approval of the TCEQ for contaminants listed in Table 1 of 40 CFR Section 261.24. Sewage sludge failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal.

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

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

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

F. Record keeping Requirements

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

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

2. The description (including procedures followed and results) of all TCLP tests performed.

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

G. Reporting Requirements

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

1. Toxicity Characteristic Leaching Procedure (TCLP) results.

2. Annual sludge production in dry tons/year.

3. Amount of sludge disposed in a municipal solid waste landfill in dry tons/year.

4. Amount of sludge transported interstate in dry tons/year.

5. A certification that the sewage sludge meets the requirements of 30 TAC Chapter 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.

6. Identity of hauler(s) and transporter registration number.

7. Owner of disposal site(s).

8. Location of disposal site(s).

9. Date(s) of disposal.

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

SPECIAL PROVISIONS:

1. This permit is granted subject to the policy of the Commission to encourage the development of areawide waste collection, treatment and disposal systems. The Commission reserves the right to amend this permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an areawide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such areawide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.

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

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

3. The permittee shall maintain and operate the treatment facility in order to achieve optimum efficiency of treatment capability. This shall include required monitoring of effluent flow and quality as well as appropriate grounds and building maintenance.

4. Prior to construction of the wastewater treatment facilities, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) of the Water Quality Division, a summary submittal letter according to the requirements in 30 TAC Section 217.6(c). If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and a final engineering design report which comply with the requirements of 30 TAC Chapter 217, Design Criteria for Wastewater Treatment Systems. The permittee shall clearly show how the treatment system will meet the final permitted effluent limitations required on Page 2 and 2a of the permit.

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

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

7. The irrigated crops include Bermuda grass during the warm season and ryegrass during the cool season on the grassed areas and native tress on the tree areas (see Attachnment B). Application rates to the irrigated land for all phases shall not exceed 3.06 acre-feet per year per acre irrigated. The permittee is responsible for providing equipment to determine application rates and maintaining accurate records of the volume of effluent applied. These records shall be made available for review by the TCEQ and shall be maintained for at least three years.

8. Irrigation practices shall be designed and managed so as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Bermuda grass, ryegrass, and native trees shall be established and well maintained in the irrigation areas throughout the year for effluent and nutrient uptake by the crop and to prevent pathways for effluent surfacing. Tailwater control facilities shall be provided as necessary to prevent the discharge of any effluent from the irrigated land.

9. Effluent shall not be applied for irrigation during rainfall events or when the ground is frozen or saturated.

10. The permittee shall erect adequate signs stating that the irrigation water is from a non-potable water supply for any area where treated effluent is stored or where there exist hose bibs or faucets. Signs shall consist of a red slash superimposed over the international symbol for drinking water accompanied by the message "DO NOT DRINK THE WATER" in both English and Spanish. All piping transporting the effluent shall be clearly marked with these same signs.

11. Spray fixtures for the irrigation system shall be of such design that they cannot be operated by unauthorized personnel.

12. Irrigation with effluent shall be accomplished only when the area specified is not in use.

13. The permittee shall maintain a long term contract with the owner(s) of the land application site which is authorized for use in this permit, or own the land authorized for land application of treated effluent.

14. The permittee shall obtain representative soil samples from the root zones of the land application area receiving wastewater. Composite sampling techniques shall be used. Each composite sample shall represent no more than 40 acres with no less than 10 subsamples representing each composite sample. Subsamples shall be composited by like sampling depth, type of crop and soil type for analysis and reporting. Soil types are soils that have like topsoil or plow layer textures. These soils shall be sampled individually from 0 to 6 inches, 6 to 18 inches, and 18 to 30 inches below ground level. The permittee shall sample and analyze soils in December to February of each year. Soil samples shall be analyzed within 30 days of procurement.

    The permittee shall provide annual soil analyses of the land application area according to the following table:

Parameter	Method	Minimum Analytical Level (MAL)	Reporting units
pH	2:1 (v/v) water to soil mixture		Reported to 0.1 pH units after calibration of pH meter
Electrical Conductivity	Obtained from the SAR water saturated paste extract	0.01	dS/m (same as mmho/cm)
Nitrate-nitrogen	From a 1 N KCl soil extract	1	mg/kg (dry weight basis)
Total Kjeldahl Nitrogen (TKN)	For determination of Organic plus Ammonium Nitrogen. Procedures that use Mercury (Hg) are not acceptable.	20	mg/kg (dry weight basis)
Total Nitrogen	= TKN plus Nitrate-nitrogen		mg/kg (dry weight basis)
Plant-available: Phosphorus	Mehlich III with inductively coupled plasma	1	mg/kg (dry weight basis)
Plant-available: Potassium (K)	May be determined in the same Mehlich III extract with inductively coupled plasma	5 (K)	mg/kg (dry weight basis)
Water-soluble: Sodium (Na) Calcium (Ca) Magnesium (Mg)	Obtained from the SAR water saturated paste extract	1 (Na) 1 (Ca) 1 (Mg)	Water soluble constituents are *reported* in mg/L
Sodium Adsorption Ratio (SAR)	$SAR = \frac{Na}{\sqrt{\frac{(Ca + Mg)}{2}}}$		Express *concentrations* of Na, Ca and Mg in the water saturated paste extract in milliequivalents/liter (meq/L) to calculate the SAR. The SAR value is unit less. If the SAR is greater than 10, amendments (e.g., gypsum) shall be added to the soil to adjust the SAR to less than 10.

Amendment addition, e.g., gypsum	Recommendation from analytical laboratory		Report in *short tons/acre* in the year effected

A copy of this soil testing plan shall be provided to the analytical laboratory prior to sample analysis. The permittee shall submit the results of the annual soil sample analyses with copies of the laboratory reports and a map depicting the areas that have received wastewater within the permanent land application fields to the TCEQ Regional Office (MC Region 13), the Water Quality Assessment Team (MC 150), and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, no later than the end of September of each sampling year. If wastewater is not applied in a particular year, the permittee shall notify the same TCEQ offices and indicate that wastewater has not been applied on the approved land irrigation site(s) during that year.

15. The permittee shall use cultural practices to promote and maintain the health and propagation of the Bermuda grass during the warm season and ryegrass during the cool season and avoid plant lodging. The permittee shall harvest the established crops (cut and remove it from the field) at least once per year. Harvesting and mowing dates shall be recorded in a log book kept on site to be made available to TCEQ personnel upon request.

16. The physical condition of the land application fields shall be monitored on a weekly basis. Any areas with problems such as surface runoff, surficial erosion, stressed or damaged vegetation, etc., must be recorded in the field log kept onsite and corrective measures must be implemented within 24 hours of discovery.

17. The permittee shall comply with buffer zone requirements of 30 TAC Section §309.13(c). A wastewater treatment plant unit and land application field must be located a minimum horizontal distance of 150 feet from a private well and a minimum horizontal distance of 500 feet from a public water well site as provided by §290.41(c)(1)(C) of this title, spring, or other similar sources of public drinking water. The permittee shall establish and maintain a minimum 20-foot buffer around each monitor well at the site.

18. The permittee shall maintain a minimum buffer where wastewater shall not be applied of 100 feet from Patterson Creek, the tributary of Patterson Creek, unnamed tributaries to the Frio River, any other surface water feature, and a minimum of 15 feet from any drainage ditches located along U.S. Highway 83 and Stanford Hollow Road.

19. The facility overlies the recharge zone of a major aquifer as designated by the Texas Water Development Board. Facilities for the retention or storage of treated or untreated wastewater, such as constructed wetlands, ponds and lagoons, shall be adequately lined to control seepage. The liner shall meet the requirements in 30 TAC § 217.203, Design Criteria for Natural Treatment Facilities and 30 TAC § 309.13(d), related to Unsuitable Site Characteristics.

20. The permittee shall furnish certification signed and sealed by a Texas Licensed Professional Engineer that the completed pond lining for the Storage Ponds meets the appropriate criteria above prior to use of the facilities. The certification shall be submitted to the TCEQ San Antonio Regional Office (Region 13), Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division, Water Quality Assessment Team (MC 150) and Wastewater Permitting Section (MC 148) of the Water Quality Division. A copy of the liner certification shall be kept on-site for future reference. Also, liner and underdrain

construction details (i.e., as-built drawings) for the storage pond shall be provided to the TCEQ Water Quality Assessment Team (MC-150), the Enforcement Division (MC-224), and to the Regional Office (Region 13) upon construction completion.

21. At least once per month, the permittee shall inspect any pond leak detection systems that are in service. Leaking ponds shall be removed from service either until repairs are made or replacement ponds are constructed.

22. The liner shall be recertified by a Texas-licensed professional engineer ensuring that the liner for the storage pond meets the above requirements each time the liner undergoes repair, expansion, or each time sediments are cleaned from the pond. Within 45 days of completion of repair or cleaning, liner certifications should be provided to the TCEQ Water Quality Assessment Team (MC-150), the Enforcement Division (MC-224), and to the San Antonio Regional Office (Region 13). A copy of the liner certification shall be kept on-site for future reference.

23. Permittee shall plug all water wells located in the irrigation fields in accordance with 16 TAC Chapter 76 prior to utilization of the irrigation fields. A copy of the plugging report shall be submitted to the Water Quality Assessment Team (MC-150) and San Antonio Regional office (Region 13) within 30 days of the plugging.

24. Permittee shall submit a Groundwater Monitoring Plan for review and approval to the Water Quality Assessment Team (MC-150) and San Antonio Regional office (Region 13) within 60 days of permit issuance.

25. The permittee shall provide facilities for the protection of its wastewater treatment facilities from a 100-year flood.

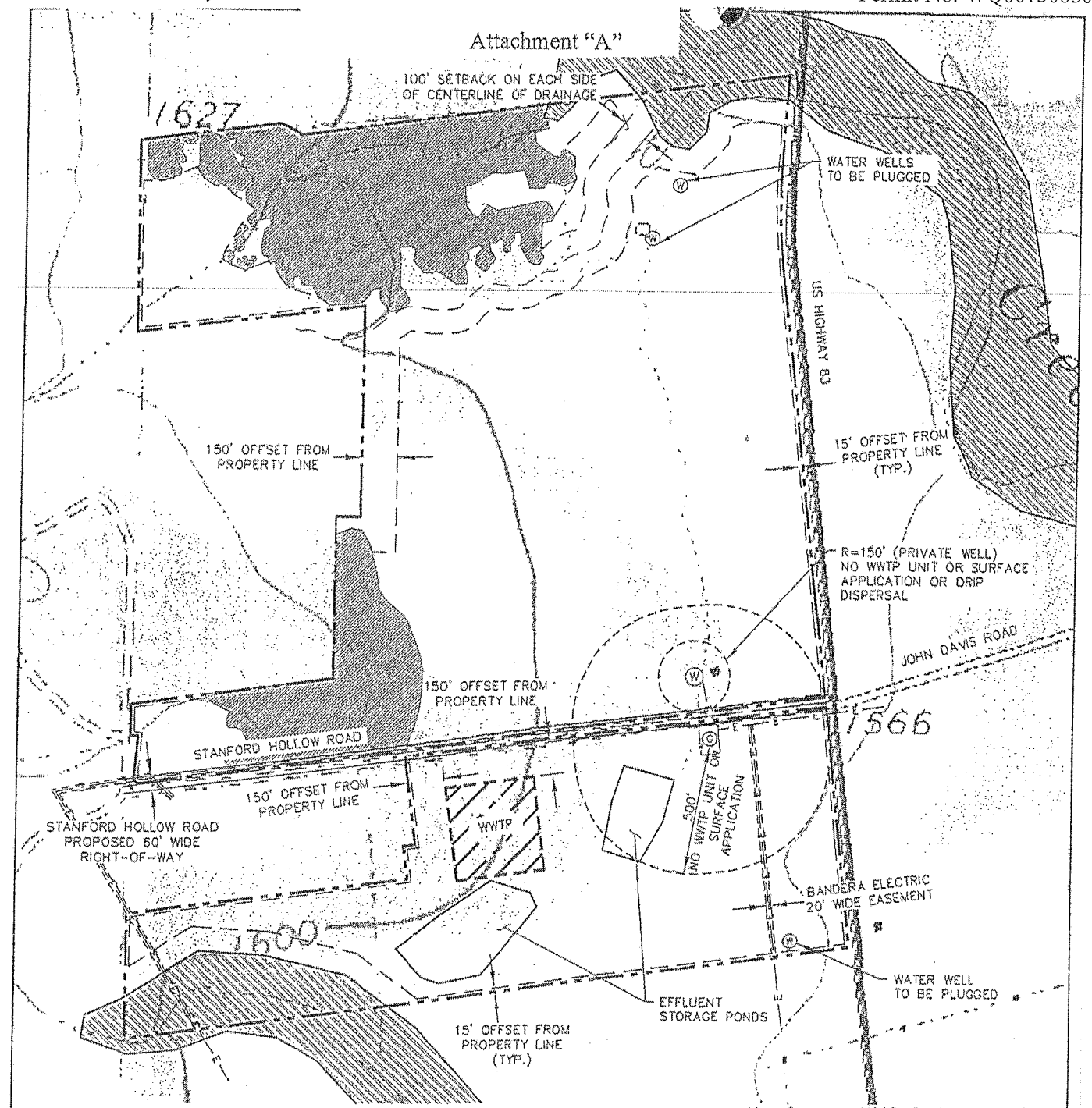
26. The permittee shall pump and haul wastewater from the facility to prevent the discharge of treated or untreated wastewater if complete shutdown of the wastewater treatment facility becomes necessary or if the storage capacity is exceeded.

27. The permittee shall notify the Wastewater Permitting Section (MC 148), the San Antonio Regional Office (Region 13), and the Enforcement Division (MC 224) at least 45 days before operating the facility if the entire irrigation area will be non-public access. If the permittee chooses to restrict access to the entire irrigation area, disinfection is not required, monitoring for TSS, *E. coli*, and chlorine residual are suspended, and the following effluent quality limits apply.

Parameter	Effluent Concentrations (Not to Exceed) Single Grab mg/l
Biochemical Oxygen Demand (5-day)	65

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units.

Attachment "A"



Map Source: USGS, Real County, Texas.

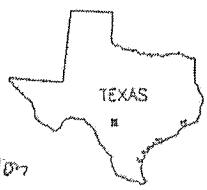
LEGEND

- PROPOSED PROPERTY BOUNDARY
- PROPOSED WWTP BOUNDARY ALL WWTP TREATMENT UNITS WILL BE LOCATED MORE THAN 150' FROM THE APPLICANT'S PROPERTY BOUNDARY
- PROPOSED PROPERTY OFFSETS
- (W) EXISTING WATER WELL
- (G) EXISTING POTABLE WATER GROUND STORAGE TANK
- 100 YEAR FLOOD ZONE
- RESERVE AREA (27.4 ACRES TOTAL) – NO WASTE MANAGEMENT ACTIVITIES WILL OCCUR

Waters in the State determination

RECEIVED MAR 18 2013 Water Quality Application

0 300 600 SCALE IN FEET



REAL COUNTY

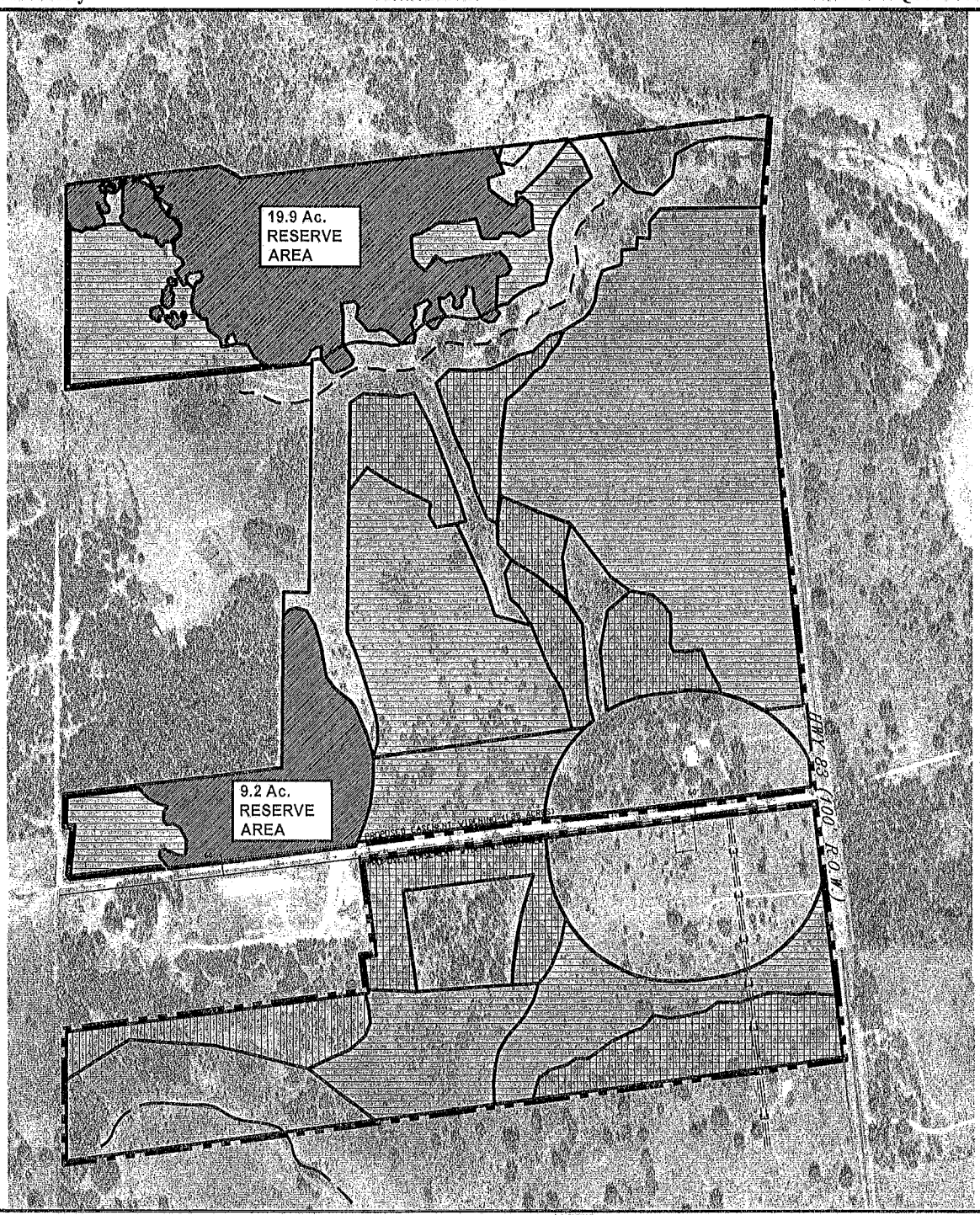
NaismithEngineering,Inc
ENGINEERING ■ ENVIRONMENTAL ■ SURVEYING
TBPE REGISTERED FIRM NO. F-355

BUFFER ZONE MAP

ATTACHMENT 6.A

PROPOSED WASTEWATER IMPROVEMENTS
NUECES RIVER AUTHORITY, REAL COUNTY, TEXAS

Drawn By:	LG	Appr. By:	DF	Scale:	AS SHOWN	Dwg. NO.:	TCEQ MAPS
Checked By:	DF	Project No.:	7514-02	Date:	2/6/13	Rev.:	



Map Source: USGS 7.5 Min. Quad Sheet LEAKEY, TX., 1971.

NOTE:
IRRIGATION USE ZONES IDENTIFIED BY PAUL REYNOLDS, P.G.
BASED ON SITE SOIL INVESTIGATION ON MAY 15-18, 2012

N

0 600
SCALE IN FEET

LEGEND

- TREE IRRIGATION AREAS
- GRASS IRRIGATION AREAS
- SETBACK AREA
- RESERVE AREA (29.1 Ac.)
- PROPERTY BOUNDARY

QUADRANGLE LOCATION

NaismithEngineering,Inc
ENGINEERING ENVIRONMENTAL SURVEYING
TBPE REGISTERED FIRM NO. F-355

ATTACHMENT B
IRRIGATION ZONES,SETBACKS AND RESERVE AREAS FOR LAND APPLICATION AREA

NUECES RIVER AUTHORITY
REAL COUNTY, TEXAS

Drawn By:	RPS	Appr. By:	DBF	Scale:		Dwg. NO.: 7514-02A28	Sheet
Checked By:	DBF	Project No.:	7514-02	Date: 12/03/13		Rev.: 12/03/13	of

ATTACHMENT D

TCEQ INTRA-AGENCY TRANSMITTAL MEMO

DATE: August 8, 2014

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

FROM: ANTHONY TATU
ENVIRONMENTAL LAW DIVISION
BUILDING A, MC-173

Attached: Executive Director's Response to Comments

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2014 AUG -8 AM 10: 26
CHIEF CLERKS OFFICE

Application Information
Program Area (Air, Water or Waste): **Water**
Permit No. **WQ0015083001**
Name: **THE NUECES RIVER AUTHORITY**
Docket/CID Item # (if known): _____

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

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

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

FOR WASTE & WATER:

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

Or

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

FOR AIR (NSR only):

☐ Send RTC with response to comments letter which solicits contested case hearing requests and requests for reconsideration to the mailing list in your files
For Air NSR applications this would occur only when there are pending contested case hearing requests (except no-increase renewals)

☐ Set for commission agenda and send RTC with agenda setting letter
This would occur when there are pending contested case hearing requests on a no-increase renewal and technical review is complete.

☐ Hold until a commission agenda date is requested and then send RTC with the Agenda Setting Letter
For Air applications this would occur when there are pending hearing requests on a no-increase renewal; but technical review is NOT complete.
If this box is checked, ED staff must call the OCC Agenda Team Leader to arrange a specific agenda date.

☐ Place RTC in File - no further action required by OCC
For Air NSR applications this would occur when the matter is uncontested but comments were received, APD will send a copy with MTO letter

☐ Other Instructions: _____

TCEQ Permit No. WQ0015083001

APPLICATION BY THE NUECES RIVER AUTHORITY , NEW TCEQ PERMIT NO. WQ0015083001	§ § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this Response to Public Comment on the Nueces River Authority's application for a new permit, TCEQ Permit No. WQ0015083001 and the ED's preliminary decision. As required by title 30, section 55.156 of the Texas Administrative Code, before a permit is issued, the ED prepares a response to all timely, relevant, and material, or significant comments. The Office of the Chief Clerk timely received a comment letter from Jay J. Harris. This response addresses all such timely public comments received, whether or not withdrawn. For more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at (800) 687-4040. General information about the TCEQ can be found on the TCEQ web site at www.tceq.texas.gov.

2011 AUG -8 AM 10:26
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

I. BACKGROUND

A. Facility Description

The Nueces River Authority applied to the TCEQ for a new permit, Permit No. WQ0015083001 to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day via surface irrigation of up to 93.5 acres of public access pastureland during the Interim phase, and at a daily average flow not to exceed 360,000 gallons per day via surface irrigation of up to 93.5 acres of public access pastureland during the Final phase. The Nueces River Authority Leakey Regional Wastewater Treatment Facility will consist of an activated sludge process plant using the extended aeration mode. Treatment units will include an influent lift station, a manual bar screen, a mechanical bar screen, a grit removal system, an oxidation ditch, a final clarifier (two clarifiers during the Final phase), an aerated sludge holding tank (during the Final phase only), a belt filter press, sludge drying beds, and a chlorine contact chamber. The facility has not been constructed.

The effluent limits in both phases of the draft permit, based on a daily average, are 20 mg/l BOD_5, 20 mg/l TSS, and 126 CFU or MPN/100 ml of *E. coli*. The effluent shall contain a chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes based on peak flow. The draft permit provides the option of changing the site to non-public access land, with appropriate effluent limits for non-public access land, if the applicant notifies the TCEQ that access will be restricted before operating the facility. The effluent limit for non-public access, based on a single grab, is 65 mg/l BOD_5.

The wastewater treatment facility and disposal site will be located at 64 Stanford

Hollow Road, approximately two miles south of the intersection of U. S. Highway 83 and Ranch Road 337, on the west side of U.S. Highway 83, Leakey in Real County, Texas 78873. The wastewater treatment facility and disposal site will be located in the drainage basin of Patterson Creek in Segment No. 2113 of the Nueces River Basin. No discharge of pollutants into water in the State is authorized by this permit.

B. Procedural Background

The TCEQ received the application on March 18, 2013, and declared it administratively complete on March 27, 2013. The notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on April 10, 2013 in *Hill Country Herald*. ED staff completed the technical review of the application on November 6, 2013, and prepared a draft permit. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on February 19, 2014 in *Hill Country Herald*. The public comment period ended on March 21, 2014. This application was administratively complete on or after September 1, 1999. Therefore, it is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

C. Access to Rules, Statutes, and Records

- Secretary of State web site for all Texas administrative rules: www.sos.state.tx.us.
- TCEQ rules in title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac (select "View the current *Texas Administrative Code*" on the right, then "Title 30 Environmental Quality").
- Texas statutes: www.statutes.legis.state.tx.us.
- TCEQ web site: www.tceq.texas.gov (for downloadable rules in Adobe portable document format, select "Rules," then "Download TCEQ Rules").
- Federal rules in title 40 of the Code of Federal Regulations: www2.epa.gov/laws-regulations/regulations#find.
- Federal environmental laws: www2.epa.gov/laws-regulations.

TCEQ records for this application are available for viewing and copying at the TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, First Floor (Office of the Chief Clerk), until the TCEQ takes final action.

If you would like to file a complaint about the facility concerning its compliance with provisions of its permit or TCEQ rules, you may call the TCEQ Environmental Complaints Hot Line at (888) 777-3186 or the TCEQ Region 13 Office directly at (210) 490-3096. Citizen complaints may also be filed by sending an e-mail to cmplaint@tceq.texas.gov or online at the TCEQ web site (select "Reporting," then "Make an Environmental Complaint"). If the facility is found to be out of compliance, it may be subject to enforcement action.

II. COMMENTS AND RESPONSES

Comment 1: Jay Harris commented on the design of the proposed wastewater collection system. Specifically, Mr. Harris commented that lift stations will be in the

Frio River Floodway and the Patterson Creek Floodway.

Response 1: The TCEQ does not review engineering plans and specifications for collection systems or wastewater treatment facilities as part of an application for a wastewater permit. However, the draft permit requires that plans and specifications must be approved by the Commission before a collection system is constructed. Operational Requirement No. 8(b) in the draft permit states:

> The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and each day is an additional violation until approval has been secured.

Comment 2: Jay Harris commented that the force main sewer line proposed to be built across the Patterson Creek Bridge is not built to withstand periodic flash floods that have destroyed the bridge on a regular basis. Mr. Harris believes this will result in the rupture of the force main sewer into Patterson Creek.

Response 2: This comment raises an engineering issue related to the proposed facility's collection system that is outside the scope of review for a permit application. The engineering of treatment facilities and collection systems is handled during the TCEQ's review of engineering plans and specifications. An applicant is not required to submit collection system or treatment facility plans and specifications for approval prior to the commission issuing the facility's wastewater permit (30 Texas Administrative Code § 217.6(a)).

Comment 3: Mr. Harris states that all projects constructed with funds from the State of Texas must meet the requirements of the standard bridge design specifications of the Texas Department of Transportation.

Response 3: The wastewater permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. This issue is outside the scope of the evaluation of a wastewater permit application.

Comment 4: Mr. Harris comments that the Applicant made incorrect and false or material misrepresentations to the US Army Corps of Engineers to avoid the requirements of obtaining an individual 404 permit from the Corps.

Response 4: The Executive Director is not responsible for reviewing the Application submitted to the Corps of Engineers for the federal permit, beyond certifying that it will meet State Water Quality Standards. Any concerns relating to the Corps of Engineers permit should be addressed to the Corps branch in Fort Worth, Texas.

Comment 5: Jay Harris commented that the Applicant has failed to obtain the passage of a city ordinance to authorize the initiation of condemnation proceedings to acquire real property in connection with the proposed waste water treatment plant.

Response 5: The application states that the applicant owns the property on which the wastewater treatment facility and the effluent disposal site will be located. The wastewater permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. This issue is outside the scope of the evaluation of a wastewater permit application, except for the land where the wastewater treatment facility and disposal site will be located. Issuance of this permit does not convey any property rights to the Applicant.

Comment 6: Mr. Harris stated that the Applicant has no right of way or easement for a force main sewer trunk line on John Davis Road or on surrounding property.

Response 6: The issue of whether the Applicant has acquired easements is not within the scope of the agency review. The draft permit states that issuance of the permit does not convey any property rights to the permittee.

Comment 7: Mr. Harris stated that the City of Leakey does not have adequate funding to purchase all of the necessary right of ways that will be needed for the proposed plant.

Response 7: The wastewater permitting process is limited to controlling the discharge of pollutants into water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters. This issue is outside the scope of the evaluation of a wastewater permit application.

Comment 8: Jay Harris commented that the Nueces River Authority has engaged in deceptive and bad faith conduct to deprive interested persons of their due process rights to file public comments.

Response 8: The Executive Director is not aware of any deceptive conduct by the Applicant in this case. Notice was published according to TCEQ rules, the notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on April 10, 2013 in *Hill Country Herald*, and The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on February 19, 2014 in *Hill Country Herald.*

III. CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

The ED did not make any changes to the draft permit in response to public comment.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Richard A. Hyde, P.E., Executive Director

Robert Martinez, Director
Environmental Law Division

By:_____

Anthony Tatu, Staff Attorney
Environmental Law Division
State Bar of Texas No. 00792869
MC-173, P.O. Box 13087
Austin, Texas 78711-3087
Phone: (512) 239-5778
Fax: (512) 239-0606
E-mail: Anthony.tatu@tceq.texas.gov

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY

ATTACHMENT E

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

Compliance History Report

PUBLISHED Compliance History Report for CN600692552, RN106638653, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600692552, Nueces River Authority	**Classification:** NOT APPLICABLE	**Rating:** N/A
Regulated Entity:	RN106638653, LEAKEY REGIONAL WWTF	**Classification:** NOT APPLICABLE	**Rating:** N/A
Complexity Points:	N/A	**Repeat Violator:** N/A	
CH Group:	14 - Other		
Location:	64 STANFORD HOLLOW RD LEAKEY, TX 78873, REAL COUNTY		
TCEQ Region:	REGION 13 - SAN ANTONIO		

ID Number(s):
WASTEWATER PERMIT WQ0015083001

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: June 17, 2013

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

Component Period Selected: March 18, 2008 to June 17, 2013

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

Name: Dex Dean **Phone:** (512) 239-4570

Site and Owner/Operator History:

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

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

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

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A