

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Office of Chief Clerk Date: August 16, 2022
From: Michael Parr, Staff Attorney, Environmental Law Division
Subject: Transmittal of Documents for Administrative Record

Applicant: City of Star Harbor
Proposed Permit No.: WQ0016017001
Program: Water Quality Division
TCEQ Docket No.: 2022-0325-MWD

In a contested case hearing, the administrative record includes copies of the public notices relating to the permit application, as well as affidavits of public notices filed by the applicant directly with the Office of the Chief Clerk (OCC). In addition, the record includes the following documents provided to the OCC by the Executive Director's (ED) staff. See 30 TAC § 80.118.

This transmittal serves to also request that the OCC transmit the attached items, together with (a) the public notice documents (including notice of hearing), and (b) where available for direct referral cases only, the ED's Response to Comments to the State Office of Administrative Hearings.

Indicated below are the documents included with this transmittal:

1. The Executive Director's Response to Hearing Request.
2. The Executive Director's Technical Backup Memos (Fact Sheet, Draft Permit and the Executive Director's Preliminary Decision and the Compliance History).
3. The Executive Director's Response to Comments and Final Decision letter.

Sincerely,



Michael Parr II
Staff Attorney
Environmental Law Division

TCEQ DOCKET NUMBER 2022-0325-MWD

**APPLICATION BY
THE CITY OF STAR HARBOR
FOR NEW TCEQ PERMIT NO.
WQ0016017001**

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**BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY**

EXECUTIVE DIRECTOR’S RESPONSE TO HEARING REQUESTS

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Hearing Requests on the application by the City of Star Harbor (Applicant) for a new Texas Land Application Permit (TLAP), proposed TCEQ permit no. WQ0016017001, authorizing the disposal of treated domestic wastewater at a daily average flow limit of 60,000 gallons per day via irrigation of 22 acres of public access-golf course land (Star Harbor Golf Course). Don Norwood and Castell Realty, LLC, filed timely Contested Case Hearing (CCH) requests.

Attached for Commission consideration are the following:

Attachment A - ED's GIS Map

II. DESCRIPTION OF FACILITY

If the permit is ultimately issued, the Applicant’s proposed wastewater treatment facility (WWTF) and land application fields (disposal area), while unbuilt, will serve the City of Star Harbor but not authorize a discharge of pollutants into water in the state. The WWTF will be located approximately 3,050 feet west of the intersection of Briarwood Harbor Rd. and F.M. 3062, in Henderson County, Texas 75148, and is located below the Cedar Creek Reservoir in the drainage basin of Segment No. 0804 of the Trinity River Basin. The golf course/disposal area is in Malakoff, Texas 75148, 1.12 miles due north of the WWTF and in the drainage basin of Segment No. 0818 of the Trinity River Basin.

When constructed, the WWTF will be an activated sludge process plant operated in extended aeration mode. Treatment units include an aeration basin, a final clarifier, a holding tank, an aerobic digester, and a chlorine contact chamber. The facility also includes one storage pond with a total surface area of 4.02 acres and total capacity of 24.12 acre-feet for storage of treated effluent prior to irrigation.

Land application rates on the disposal area must not exceed 3.05 acre-feet per year per acre irrigated on the 22 acres. The Applicant is responsible for providing equipment to determine application rates and maintaining accurate records of the volume of effluent applied.

The Applicant is also required to use cultural practices to promote and maintain the health and propagation of the Bermuda grass (warm and cool seasons) to avoid plant lodging, and must harvest the crops (cut and remove it from the field) at least once during the year. Irrigation practices must be designed and managed as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Crops must be established and well maintained in the irrigation area 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. The physical condition of the spray irrigation fields will be monitored on a weekly basis when the fields are being utilized for wastewater irrigation and must not occur within 24 hours following a rainfall event. Areas with problems such as surface runoff, surficial erosion, stressed or damaged vegetation will be recorded in the field log kept onsite and corrective measures must be initiated within 24 hours of discovery.

The effluent limitations (limits) of the proposed permit for conventional effluent parameters (e.g., Five-day Biochemical Oxygen Demand (**BOD₅**), Total Suspended Solids (**TSS**), Minimum Dissolved Oxygen (**DO**)) are based on stream standards and waste load allocations for water quality-limited streams as established in the Texas Surface Water Quality Standards (**TSWQS**) and the State of Texas Water Quality Management Plan.

Therefore, the entire set of effluent quality limitations of the proposed permit, based on a 30-day average, are 20 mg/l of BOD₅ and 20 mg/l of TSS and when based on a single grab are 65 mg/l of BOD₅ and 65 mg/l of TSS. S/NH₃-N/TP, respectively The proposed permit includes a bacteria limit of 126 colony forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml.

The proposed permit includes provisions that require the Applicant to comply with buffer zone requirements of 30 TAC § 309.13(c). As defined by 30 TAC § 309.11(9), wastewater treatment plant unit must be located a minimum horizontal distance of 250 feet from a private well and a minimum horizontal distance of 500 feet from a public water well site, spring, or other similar sources of public drinking water, as provided by 30 TAC § 290.41(c)(1). Additionally, a 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, spring, or other similar sources of public drinking water. Lastly, by ownership of the required buffer zone area, the Applicant must comply with the requirements of 30 TAC § 309.13(e).

The proposed permit also requires facilities for the retention of treated or untreated wastewater that must be adequately managed and lined to control seepage. In addition, the Applicant must inspect the sides and bottom (if visible) of the wastewater ponds for signs of damage and leakage, and any pond leak detection systems that are in service, at least once per month. Likewise, leaking ponds must be removed from service, or operated in a manner to prevent discharge, until repairs are made or replacement ponds are constructed.

Because the proposed facility is located over the recharge zone of the Carrizo-Wilcox aquifer, any new or modified wastewater ponds must be adequately lined to control seepage in accordance with TCEQ rules, and new or modified wastewater ponds must not be put into service until the Applicant demonstrates that the pond liners meet the requirements of 30 TAC § 217.203 and 30 TAC § 309.13(d). The Applicant must submit liner certifications for a new or modified wastewater pond to the Water Quality Assessment Team (MC-150), the TCEQ Regional Office (MC-Region 5), and the TCEQ Compliance Monitoring Section (MC-224) within 30 days of completion and prior to use. The certification shall be signed and sealed by a Texas-licensed professional engineer and include a description of how the liner meets the requirements of 30 TAC § 217.203 and 30 TAC § 309.13(d). The Applicant must also construct and maintain earthen berms to prevent runoff from leaving the irrigation site and run on from entering the holding pond.

Sludge generated from the proposed facility will be hauled by a registered transporter to the City of Log Cabin's WWTF (permit No. WQ0014158001) to be digested, dewatered, and then disposed of with the bulk of the sludge from Log Cabin's treatment facility. The proposed permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

III. PROCEDURAL BACKGROUND

The TCEQ received the application on July 14, 2021, and declared it administratively complete on August 16, 2021. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Henderson County, Texas in the *Athens Daily Review* on August 19, 2021. The ED completed the technical review of the application on August 24, 2021, and prepared the proposed permit, which if approved, would establish the conditions under which the proposed facility must operate. The Applicant published the Notice of Application and Preliminary Decision (NAPD) in Henderson County, Texas in the *Athens Daily Review* on October 16, 2021, and the public comment period closed on November 15, 2021. Because this application was received after September 1, 2015, and because it was declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the procedural requirements and rules implementing Senate Bill 709, 84th Legislature, 2015, which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

IV. EVALUATION OF HEARING REQUESTS

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests. The Commission implemented HB 801 by adopting procedural rules in 30 TAC chapters 39, 50, and 55. Senate Bill 709 revised the requirements for submitting public comment and the commission's consideration of hearing requests.

A. LEGAL AUTHORITY TO RESPOND TO HEARING REQUESTS

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

Responses to hearing requests must specifically address:

- (1) whether the requestor is an affected person;
- (2) whether 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;
- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- (6) whether the issues are relevant and material to the decision on the application; and

¹ 30 TAC § 55.209(d).

- (7) a maximum expected duration for the contested case hearing.²

B. HEARING REQUEST REQUIREMENTS

For the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements.

A request for a contested case hearing by an affected person must be in writing, filed with the chief clerk within the time provided . . ., based only on the requester's timely comments, and not based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment.³

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 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 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 facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) for applications filed:
 - (B) on or after September 1, 2015, list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, and list any disputed issues of law; and
- (5) provide any other information specified in the public notice of application.⁴

C. REQUIREMENT THAT REQUESTER BE AN AFFECTED PERSON

To grant a contested case hearing, the commission must determine, pursuant to 30 TAC § 55.203, that a requestor is an affected person.

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

² *Id.* at § 55.209(e).

³ 30 TAC § 55.201(c).

⁴ *Id.* at § 55.201(d).

(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;
- (6) whether the requester timely submitted comments on the application which were not withdrawn; and
- (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.⁵

(d) In making this determination, the commission may also consider, to the extent consistent with case law:

- (1) the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;
- (2) the analysis and opinions of the executive director; and
- (3) any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.⁶

D. REFERRAL TO THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to State Office of Administrative Hearing (SOAH) for a hearing.”⁷ “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 or a mixed question of law and fact;
- (2) was raised during the public comment period by an affected person; and
- (3) is relevant and material to the decision on the application.”⁸

⁵ 30 TAC § 55.203(a)-(c).

⁶ *Id.* at § 55.203(d).

⁷ 30 TAC § 50.115(b).

⁸ *Id.* at § 50.115(c).

V. ANALYSIS OF THE HEARING REQUESTS

For this permit application the relevant public comment period ended on November 15, 2021, and the period for filing a Request for Reconsideration or a CCH request ended on February 22, 2022. The ED's analyses determined whether the CCH requests followed TCEQ rules, if the requesters qualified as affected persons, what issues may be referred for a possible CCH, and the appropriate length of that hearing.

E. WHETHER THE REQUESTS COMPLIED WITH 30 TAC §§ 55.201(C) AND (D).

1. **Don Norwood** filed a timely, written hearing request that provided the requisite contact information, raised issues that form the basis of the request in timely comments not withdrawn before the RTC was filed, and requested a hearing. Mr. Norwood's hearing request states he owns property, including private domestic groundwater wells and surface water features, immediately adjacent to the proposed facility and that his use and enjoyment of his property will be severely impacted.

Mr. Norwood's request complied with 30 TAC §§ 55.201(c) and (d) because it identified and described a personal justiciable interest in a written explanation plainly describing his location and distance relative to the proposed WWTF and why Mr. Norwood believes he will be adversely affected by the application in a manner not common to the public. Mr. Norwood raised issues, among others, such as whether the proposed permit complies with odor buffer zone requirements and whether the proposed permit protects surface and groundwater quality.

The ED recommends finding that Don Norwood's CCH request substantially complied with 30 TAC §§ 55.201(c) and (d).

2. **Castell Realty, LLC** - filed a timely, written hearing request that raised the same issues as Mr. Norwood, which formed the basis of its CCH request in timely comments not withdrawn before the RTC was filed and requested a hearing. The LLC's CCH request stated it owns property, including private domestic groundwater wells and surface water features, adjacent to the proposed facility and that the proposed permit could severely impair use and enjoyment of the property owned by Castell Realty's owners. However, the LLC's request did not comply with 30 TAC § 55.201(d) because it did not have any statement explaining in plain language the LLC's location and distance relative to the proposed facility or activity that is the subject of the application. Without more specificity as to the LLC's location, it is not possible to identify a personal justiciable interest or explain why the LLC believes it will be adversely affected by the application in a manner not common to the public.

The ED recommends finding that Castell Realty, LLC's CCH request did not substantially comply with 30 TAC §§ 55.201(c) and (d).

F. WHETHER REQUESTERS ARE AFFECTED PERSONS UNDER 30 TAC § 55.203.

1. **Don Norwood** - Mr. Norwood filed a CCH request that identified a personal, justiciable interest affected by the application, describing in plain language in a brief, written statement of how and why Mr. Norwood believes he will be adversely affected by the proposed WWTF in a manner not common to members of the public. According to the GIS map prepared by the ED's staff, the Henderson County Appraisal District's parcel number provided by Mr. Norwood during the comment period is in proximity to the proposed WWTF. Mr. Norwood's proximity and his

concerns, among others, related to odors from the WWTF and whether the proposed permit, demonstrate a reasonable relationship between the interests claimed and the activity regulated exists, which increases the likelihood that Mr. Norwood will be personally affected in a way not common to the public.

The ED recommends that the Commission find that Don Norwood is an Affected Person under 30 TAC § 55.203.

2. **Castell Realty, LLC** - the LLC filed a CCH request that failed to identify a personal, justiciable interest affected by the application because the CCH request did not comply with the requirements of 30 TAC §§ 55.201 (c) and (d) as it failed to provide an address. Additionally, the LLC's CCH request lacked a brief, but specific, written statement explaining in plain language the LLC's location and distance relative to the proposed WWTF that is the subject of the application and how and why the LLC believes it will be adversely affected by the proposed WWTF in a manner not common to members of the public. Because the LLC's CCH request lacked an address, parcel ID number, or any other identifying information; and instead relied on a previous "affectedness" determination, the request, on its own does not comply with the 30 TAC § 55.203 and although the LLC's request raised the same relevant issues as Mr. Norwood, the LLC's CCH request failed to demonstrate a reasonable relationship between the interests claimed and the activity regulated, decreasing the likelihood that Castell Realty, LLC will be personally affected in a way not common to the public.

The ED recommends that the Commission find that Castell Realty, LLC is not an Affected Person under 30 TAC § 55.203.

G. WHETHER THE ISSUES ARE REFERABLE TO SOAH

In addition to recommending to the Commission those persons who qualify as affected persons, the ED analyzes issues raised in accordance with regulatory criteria. Unless otherwise noted, the issues discussed below are considered relevant, disputed and were raised during the public comment period and addressed in the ED's RTC. None of the issues were raised solely in a comment which has been withdrawn. For applications submitted on or after September 1, 2015, only those issues raised in a timely comment by a requester whose request is granted may be referred.⁹

Issues raised in the Hearing Requests:

The Following issues were raised in the CCH Requests:

1. **Whether the public notice of the application was deficient because the Chief Clerk failed to mail notice to all required persons.**

(RTC Response Nos. 8 and 2) This is an issue of fact. If it can be shown that the public notice of the application was deficient because it wasn't mailed to all eligible property owners, that information would be relevant and material to a decision on the application.

The ED concludes that this issue is relevant and material and should the Commission decide to refer this case to SOAH, the ED recommends referring this issue.

⁹ TX. GOV'T CODE § 2003.047(e-1); 30 TAC § 55.211 (c)(2)(A)(ii).

- 2. Whether the application failed to identify private groundwater wells within one mile of the proposed facility and storage holding pond, including registered domestic water wells owned by Mr. Norwood.**

(RTC Response No.4) This is an issue of fact. If it can be shown that the proposed permit's application failed to identify private groundwater wells within a mile of the proposed facility and owned by Mr. Norwood, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material and should the Commission decide to refer this case to SOAH, the ED recommends referring this issue.

- 3. Whether the application included all maps, diagrams, basis of design, calculations, and other data required under 30 TAC Ch. 309, likewise, requirements in Ch. 309, Subchapter B, related to odor-buffer zones, pond lining requirements, and siting of the WWTF and effluent storage holding pond.**

(RTC Response Nos.5 and 6) This is an issue of fact. If it can be shown that the proposed permit's application did not include maps, diagrams, basis of design, or other data required by chapter 309 of the TCEQ rules, such as odor/buffer zones, pond lining requirements and siting of the WWTF and storage pond, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material and should the Commission decide to refer this case to SOAH, the ED recommends referring this issue.

- 4. Whether the application has the required data for design analysis, hydraulic application rates, effluent storage calculations, and yearly rainfall and consumptive use requirements.**

(RTC Response No. 7) This is an issue of fact. If it can be shown that the proposed permit's application lacked the required data for design analysis, hydraulic application rates, effluent storage calculations, and yearly rainfall and consumptive use requirements, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material and should the Commission decide to refer this case to SOAH, the ED recommends referring this issue.

- 5. Whether the water balance study in the application complies with the TCEQ's rules.**

(RTC Response No .8) This is an issue of fact. If it can be shown that the water balance study in the proposed permit's application did not comply with the TCEQ's rules, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material and should the Commission decide to refer this case to SOAH, the ED recommends referring this issue.

- 6. Whether the application includes the proper data for nitrogen application rates, soil testing, and irrigation best management practices.**

(RTC Response No. 8) This is an issue of fact. If it can be shown that the proposed permit's application lacked the proper data for nitrogen application rates, soil

testing, and irrigation best management practices, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material and should the Commission decide to refer this case to SOAH, the ED recommends referring this issue.

7. Whether the effluent limits in the proposed were properly calculated and comply with TCEQ rules.

(RTC Response Nos. 10) This is an issue of fact is relevant and material to a decision on the application. If it can be shown that the proposed permit's effluent limits were not calculated properly and do not comply with TCEQ rules, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material and should the Commission decide to refer this case to SOAH, the ED recommends referring this issue.

8. Whether the proposed pattern and method of disposal will protect surface water quality and groundwater quality.

(RTC Response No.9) This is an issue of fact. If it can be shown that the proposed permit's pattern and method of disposal will not protect surface water quality and groundwater quality, that information would be relevant and material to a decision on the application.

The ED concludes this issue is relevant and material and should the Commission decide to refer this case to SOAH, the ED recommends referring this issue.

9. Whether the ED has violated 30 TAC § 80.25(b) by refusing to “enter an order” dismissing Star Harbor’s previous application for TPDES Permit No. WQ0014268002, with prejudice.

This is an issue of fact that is not relevant and material to a decision on the application. The ED issued an order dismissing the application for WQ0014268002 with prejudice on September 29, 2021, and the order has been placed in the permit file.

The ED concludes this issue is not relevant and material and should the Commission decide to refer this case to SOAH, the ED recommends not referring this issue.

10. Whether the TCEQ is legally precluded under the doctrine of collateral estoppel, or 30 TAC § 80.25(b) from considering similar issues raised by the current application that were previously considered in TCEQ Docket No. 2019-0575-MWD.

(RTC Response Nos.1 and 2) This is an issue of law that is not relevant and material to a decision on the application. There is no legal basis preventing the TCEQ from considering the application.

For multiple reasons, Collateral Estoppel is not available to Mr. Norwood in this application, which is meant to protect parties from having to relitigate multiple lawsuits and is often used as an affirmative defense against another lawsuit.

Even if a proper party exists to assert estoppel against, the TCEQ is not the appropriate party. The ED and Mr. Norwood were not adversaries in the first proceeding. The ED's role is to processes applications to determine whether the information complies with the TCEQ rules and in-turn completes the administrative record.

Likewise, there was no full and fair opportunity by any party to litigate the issues in the previous proceeding, and for Collateral Estoppel to be proper, the issues to be estopped must have been submitted for determination by a court and determined. In Texas, a court must enter a judgment after conducting a hearing or trial at which the plaintiff meets his evidentiary burden, and only then will the issues raised be considered fully and fairly litigated. The previous application was withdrawn before any of the issues were actually litigated.

Finally, as noted above in (c)(9), the ED has issued an order dismissing the permit application for TCEQ Docket No. 2019-0575-MWD, with prejudice.

The ED concludes this issue is not relevant and material and should the Commission decide to refer this case to SOAH, the ED recommends not referring this issue.

11. Whether the method of disposal will result in a discharge to surface waters of the state.

(RTC Response No.9) This is an issue of fact that is not relevant and material to a decision on the application. The authorization sought by the Applicant prohibits a discharge to surface waters of the state. If a discharge were to occur it would be a violation of the terms of the permit.

The ED concludes this issue is not relevant and material and should the Commission decide to refer this case to SOAH, the ED recommends not referring this issue.

VI. REQUESTS FOR RECONSIDERATION

The ED did not receive any RFRs filed on this application.

VII. CONTESTED CASE HEARING DURATION

If the Commission grants a hearing on this application, the ED recommends that the duration of the hearing be 180 days from the preliminary hearing to the presentation of a proposal for decision to the Commission.

VIII. EXECUTIVE DIRECTOR'S RECOMMENDATION

The ED recommends the following actions by the Commission:

1. Find that Don Norwood is an Affected Person under 30 TAC § 55.203;
2. Grant the CCH request of Don Norwood;
3. Find that all other Requestors are not affected persons under 30 TAC § 55.203 and deny all other CCH requests;
4. Should the Commission decide to refer this matter to SOAH, first refer the matter to Alternative Dispute Resolution for a reasonable period;
5. Should the Commission decide to refer this case to SOAH, refer the identified issues above in section (C)(1)-(8) to SOAH for a contested case hearing.

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker,
Executive Director

Charmaine Backens, Deputy Director
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REPRESENTING THE
EXECUTIVE DIRECTOR OF
THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on May 9, 2022, a true and correct copy of the Executive Director's Response to Hearing Requests on the application by the City of Star Harbor for new TCEQ Permit No. WQ0016017001 was filed with the TCEQ's Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, electronic delivery, inter-agency mail, or by deposit in the U.S. Mail.



Michael T. Parr II, *Staff Attorney*
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**MAILING LIST
CITY OF STAR HARBOR
DOCKET NO. 2022-0325-MWD; PERMIT NO. WQ0016017001**

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REQUESTER(S)/INTERESTED PERSONS

See attached list

0012

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Attachment A

City of Star Harbor

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



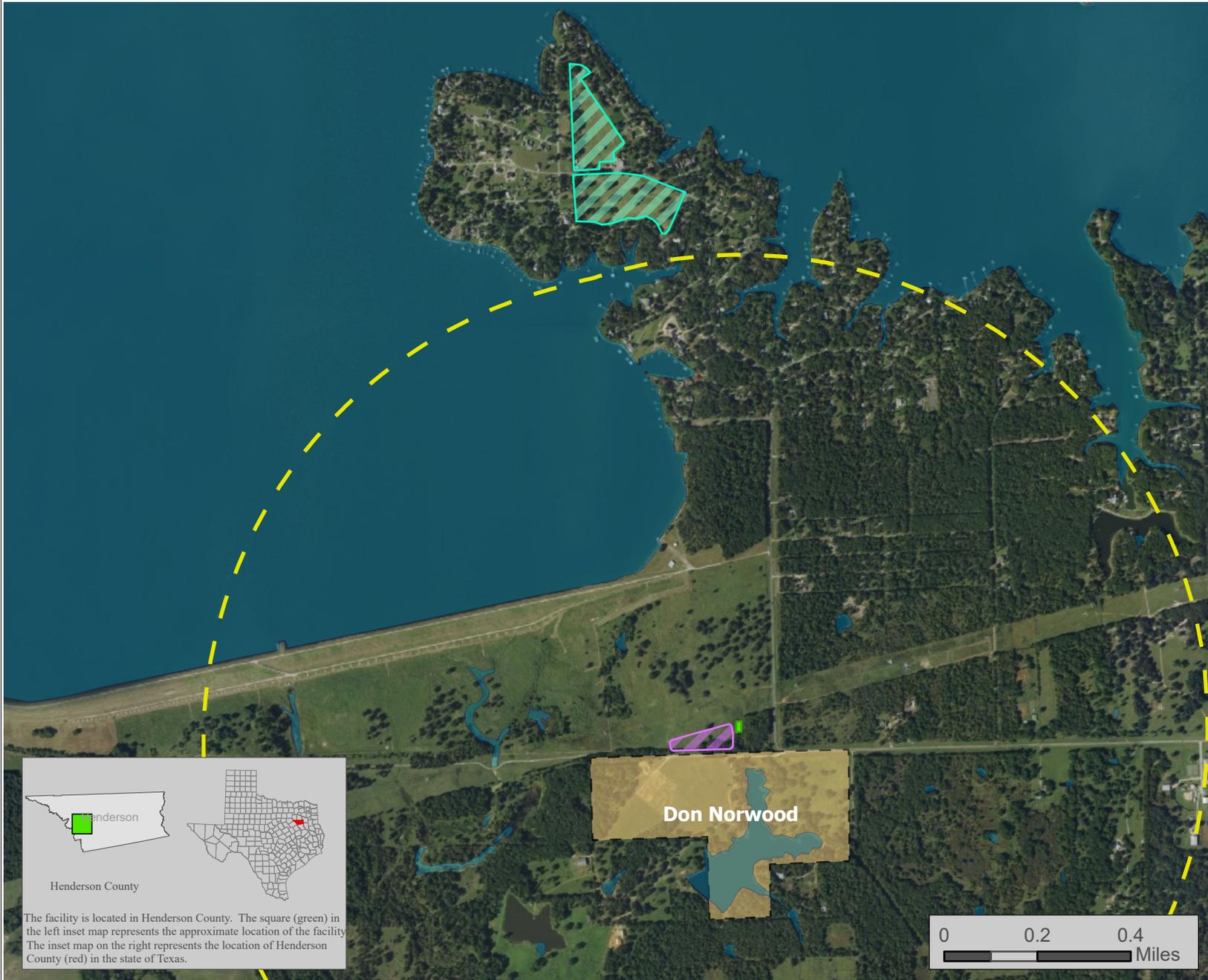
*Protecting Texas by
Reducing and
Preventing Pollution*

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 4/13/2022
CRF Edits0068109
Cartographer: CHoddePi



- One Mile Radius
- Don Norwood
- Facility Boundary
- Effluent Holding Pond
- Irrigation Area

Don Norwood is 1.2
miles from the
irrigation area



Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

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



The facility is located in Henderson County. The square (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Henderson County (red) in the state of Texas.



Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Office of the Chief Clerk **DATE:** May 13, 2022

From: Michael Parr II
Staff Attorney
Environmental Law Division

Subject: Backup Documents Filed for Consideration of Hearing Requests at
Agenda

Applicant: City of Star Harbor
Proposed Permit No.: WQ0016017001
Program: Water
Docket No.: TCEQ Docket No. 2022-0325-MWD

Enclosed please find a copy of the following documents for inclusion in the background material for this permit application:

- Draft permit
- Fact sheet and ED's preliminary decision



PERMIT NO. WQ0016017001

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

City of Star Harbor

whose mailing address is

P.O. Box 949
Malakoff, Texas 75148

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

General Description and Location of Waste Disposal System:

Description: The Star Harbor Wastewater Treatment Facility is an activated sludge process plant using the extended aeration mode. Treatment units include an aeration basin, a final clarifier, a holding tank, an aerobic digester, and a chlorine contact chamber. The permittee is authorized to dispose of treated domestic wastewater effluent at a daily average flow not to exceed 0.06 million gallons per day (MGD) via surface irrigation of 22.0 acres of golf course. The facility includes one storage pond with a total surface area of 4.02 acres and total capacity of 24.12 acre-feet for storage of treated effluent prior to irrigation. Application rates to the irrigated land shall not exceed 3.05 acre-feet per year per acre irrigated.

Location: The wastewater treatment facility and disposal site is located approximately 3,050 feet west of the intersection of Briarwood Harbor Road and Farm-to-Market Road 3062, in Henderson County, Texas 75148. (See Attachment A.)

Drainage Area: The wastewater treatment facility and disposal site is located in the drainage basin of Cedar Creek Reservoir in Segment No. 0818 of the Trinity 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 **five years from the date of issuance.**

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 – 0.06 MGD from the treatment system
- Quality: The following effluent limitations are required:

<u>Parameter</u>	<u>Effluent Concentrations</u>			
	<u>(Not to Exceed)</u>			
	<u>Daily Average</u> mg/l	<u>7-Day Average</u> mg/l	<u>Daily Maximum</u> mg/	<u>Single Grab</u> mg/l
Biochemical Oxygen Demand (5-day)	20	30	45	65
Total Suspended Solids	20	30	45	65

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 total chlorine residual shall be maintained in the effluent at the point of irrigation application.

B. Monitoring Requirements:

<u>Parameter</u>	<u>Monitoring Frequency</u>	<u>Sample Type</u>
Flow	Five/week	Instantaneous
Biochemical Oxygen Demand (5-day)	One/month	Grab
Total Suspended Solids	One/month	Grab
pH	One/month	Grab
Total Chlorine Residual	Five/week	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.

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 a 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. The term "biosolids" is defined as sewage sludge that has been tested or processed to meet Class A, Class AB, or Class B pathogen standards in 30 TAC Chapter 312 for beneficial use.
 7. 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 or biosolids 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 Compliance Monitoring Team of 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. Except as allowed by 30 TAC § 305.132, 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 Compliance Monitoring Team of 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 Compliance Monitoring Team of 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 Compliance Monitoring Team of 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 Compliance Monitoring Team of 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 or biosolids 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 219) 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 Corrective Action 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.

TCEQ Revision 06/2020

SLUDGE PROVISIONS

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

SECTION I. REQUIREMENTS APPLYING TO ALL SEWAGE SLUDGE OR BIOSOLIDS LAND APPLICATION

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge or biosolids in accordance with 30 TAC § 312 and all other applicable state and federal regulations in a manner that protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present in the sludge or biosolids.
2. In all cases, if the person (permit holder) who prepares the sewage sludge or biosolids supplies the sewage sludge or biosolids 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 or biosolids to assure compliance with these regulations.
3. The land application of processed or unprocessed chemical toilet waste, grease trap waste, grit trap waste, milk solids, or similar non-hazardous municipal or industrial solid wastes, or any of the wastes listed in this provision combined with biosolids, WTP residuals or domestic septage is prohibited unless the grease trap waste is added at a fats, oil and grease (FOG) receiving facility as part of an anaerobic digestion process.

B. Testing Requirements

1. Sewage sludge or biosolids shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I [Toxicity Characteristic Leaching Procedure (TCLP)] or other method that receives the prior approval of the TCEQ for the contaminants listed in 40 CFR Part 261.24, Table 1. Sewage sludge or biosolids 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 or biosolids 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 or biosolids 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 Registration Support Division and the Regional Director (MC Region 5) within seven (7) days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Registration 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 5) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year.

2. Biosolids shall not be applied to the land if the concentration of the pollutants exceeds the pollutant concentration criteria in Table 1. The frequency of testing for pollutants in Table 1 is found in Section I.C. of this permit.

TABLE 1

<u>Pollutant</u>	<u>Ceiling Concentration</u> (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 must be treated by one of the following methods to ensure that the sludge meets either the Class A, Class AB or Class B biosolids pathogen requirements.

- a. For sewage sludge to be classified as Class A biosolids with respect to pathogens, the density of fecal coliform in the sewage sludge must be less than 1,000 most probable number (MPN) per gram of total solids (dry weight basis), or the density of *Salmonella* sp. bacteria in the sewage sludge must be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. In addition, one of the alternatives listed below must be met:

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

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

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

- b. For sewage sludge to be classified as Class AB biosolids with respect to pathogens, the density of fecal coliform in the sewage sludge must be less than 1,000 MPN per gram of total solids (dry weight basis), or the density of *Salmonella* sp. bacteria in the sewage sludge be less than three MPN per four grams of total solids (dry weight basis) at the time the sewage sludge is used or disposed. In addition, one of the alternatives listed below must be met:

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

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

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

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

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

- c. Sewage sludge that meets the requirements of Class AB biosolids may be classified a Class A biosolids if a variance request is submitted in writing that is supported by substantial documentation demonstrating equivalent methods for reducing odors and written approval is granted by the executive director. The executive director may deny the variance request or revoke that approved variance if it is determined that the variance may potentially endanger human health or the environment, or create nuisance odor conditions.
- d. Three alternatives are available to demonstrate compliance with Class B biosolids criteria.

Alternative 1

- i. A minimum of seven random samples of the sewage sludge shall be collected within 48 hours of the time the sewage sludge is used or disposed of during each monitoring episode for the sewage sludge.
- ii. The geometric mean of the density of fecal coliform in the samples collected shall be less than either 2,000,000 MPN per gram of total solids (dry weight basis) or 2,000,000 Colony Forming Units per gram of total solids (dry weight basis).

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

- i. Prior to use or disposal, all the sewage sludge must have been generated from a single location, except as provided in paragraph v. below;
- ii. An independent Texas Licensed Professional Engineer must make a certification to the generator of a sewage sludge that the wastewater treatment facility generating the sewage sludge is designed to achieve one of the PSRP at the permitted design loading of the facility. The certification need only be repeated if the design loading of the facility is increased. The certification shall include a statement indicating the design meets all the applicable standards specified in Appendix B of 40 CFR Part 503;
- iii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;
- iv. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review; and
- v. If the sewage sludge is generated from a mixture of sources, resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the PSRP, and shall meet the certification, operation, and record keeping requirements of this paragraph.

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

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

- ii. Prior to any off-site transportation or on-site use or disposal of any sewage sludge generated at a wastewater treatment facility, the chief certified operator of the wastewater treatment facility or other responsible official who manages the processes to significantly reduce pathogens at the wastewater treatment facility for the permittee, shall certify that the sewage sludge underwent at least the minimum operational requirements necessary in order to meet one of the PSRP. The acceptable processes and the minimum operational and record keeping requirements shall be in accordance with established U.S. Environmental Protection Agency final guidance;
- iii. All certification records and operational records describing how the requirements of this paragraph were met shall be kept by the generator for a minimum of three years and be available for inspection by commission staff for review;
- iv. The Executive Director will accept from the U.S. Environmental Protection Agency a finding of equivalency to the defined PSRP; and
- v. If the sewage sludge is generated from a mixture of sources resulting from a person who prepares sewage sludge from more than one wastewater treatment facility, the resulting derived product shall meet one of the Processes to Significantly Reduce Pathogens, and shall meet the certification, operation, and record keeping requirements of this paragraph.

In addition to the Alternatives 1 – 3, the following site restrictions must be met if Class B biosolids are land applied:

- i. Food crops with harvested parts that touch the biosolids /soil mixture and are totally above the land surface shall not be harvested for 14 months after application of biosolids.
- ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of biosolids when the biosolids remain 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 biosolids when the biosolids remain 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 biosolids.
- v. Domestic livestock shall not be allowed to graze on the land for 30 days after application of biosolids.
- vi. Turf grown on land where biosolids are applied shall not be harvested for 1 year after application of the biosolids 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 biosolids.
- viii. Public access to land with a low potential for public exposure shall be restricted

for 30 days after application of biosolids.

- ix. Land application of biosolids shall be in accordance with the buffer zone requirements found in 30 TAC § 312.44.
4. Vector Attraction Reduction Requirements
- All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following Alternatives 1 through 10 for vector attraction reduction.
- Alternative 1 - The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38%.
- Alternative 2 - If Alternative 1 cannot be met for an anaerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30° and 37° Celsius. Volatile solids must be reduced by less than 17% to demonstrate compliance.
- Alternative 3 - If Alternative 1 cannot be met for an aerobically digested sludge, demonstration can be made by digesting a portion of the previously digested sludge with percent solids of two percent or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20° Celsius. Volatile solids must be reduced by less than 15% to demonstrate compliance.
- Alternative 4 - The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20° Celsius.
- Alternative 5 - Sewage sludge shall be treated in an aerobic process for 14 days or longer. During that time, the temperature of the sewage sludge shall be higher than 40° Celsius and the average temperature of the sewage sludge shall be higher than 45° Celsius.
- Alternative 6 - The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali shall remain at 12 or higher for two hours and then remain at a pH of 11.5 or higher for an additional 22 hours at the time the sewage sludge is prepared for sale or given away in a bag or other container.
- Alternative 7 - The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials. Unstabilized solids are defined as organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- Alternative 8 - The percent solids of sewage sludge that contains unstabilized solids

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

- Alternative 9 -
- i. Sewage sludge shall be injected below the surface of the land.
 - ii. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.
 - iii. When sewage sludge that is injected below the surface of the land is Class A or Class AB with respect to pathogens, the biosolids shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

- Alternative 10-
- i. Biosolids 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 biosolids that are incorporated into the soil is Class A or Class AB with respect to pathogens, the sewage sludge shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

C. Monitoring Requirements

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

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

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

(*) *The amount of bulk biosolids applied to the land (dry wt. basis).*

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

Identify each of the analytic methods used by the facility to analyze enteric viruses, fecal coliforms, helminth ova, *Salmonella* sp., and other regulated parameters.

Identify in the following categories (as applicable) the sewage sludge or biosolids treatment process or processes at the facility: preliminary operations (e.g., sludge or biosolids grinding and degritting), thickening (concentration), stabilization, anaerobic digestion, aerobic digestion, composting, conditioning, disinfection (e.g., beta ray irradiation, gamma ray irradiation, pasteurization), dewatering (e.g., centrifugation, sludge drying beds, sludge lagoons), heat drying, thermal reduction, and methane or biogas capture and recovery.

Identify the nature of material generated by the facility (such as a biosolid for beneficial use or land-farming, sewage sludge or biosolids for disposal at a monofill) and whether the material is ultimately conveyed off-site in bulk or in bags.

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

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

A. Pollutant Limits

Table 2

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

Table 3

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

*Dry weight basis

B. Pathogen Control

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

C. Management Practices

1. Bulk biosolids 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 or biosolids enters a wetland or other waters in the State.
2. Bulk sewage sludge not meeting Class A biosolids requirements shall be land applied in a manner which complies with Applicability in accordance with 30 TAC §312.41 and the Management Requirements in accordance with 30 TAC § 312.44.
3. Bulk biosolids 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 Class A or AB biosolids sold or given away. The information sheet shall contain the following information:
 - a. The name and address of the person who prepared the Class A or AB biosolids that are sold or given away in a bag or other container for application to the land.
 - b. A statement that application of the Class A or AB biosolids 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 biosolids 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 biosolids are 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 biosolids are 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 biosolids 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 biosolids.
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 biosolids disposal practice.

E. Record keeping Requirements

The 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 biosolids material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative for a period

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

1. The concentration (mg/kg) in the sludge of each pollutant listed in Table 3 above and the applicable pollutant concentration criteria (mg/kg), or the applicable cumulative pollutant loading rate and the applicable cumulative pollutant loading rate limit (lbs/ac) listed in Table 2 above.
2. A description of how the pathogen reduction requirements are met (including site restrictions for Class AB and Class B biosolids, if applicable).
3. A description of how the vector attraction reduction requirements are met.
4. A description of how the management practices listed above in Section II.C are being met.
5. The following certification statement:

“I certify, under penalty of law, that the applicable pathogen requirements in 30 TAC § 312.82(a) or (b) and the vector attraction reduction requirements in 30 TAC § 312.83(b) have been met for each site on which bulk biosolids are 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 biosolids shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply:
 - a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii), as applicable, and to the permittee’s specific sludge or biosolids treatment activities.
 - b. The location, by street address, and specific latitude and longitude, of each site on which sludge or biosolids are applied.
 - c. The number of acres in each site on which bulk sludge or biosolids are applied.
 - d. The date and time sludge or biosolids are 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 5) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year the following information.

1. Identify in the following categories (as applicable) the sewage sludge or biosolids treatment process or processes at the facility: preliminary operations (e.g., sludge or biosolids grinding and degritting), thickening (concentration), stabilization, anaerobic digestion, aerobic digestion, composting, conditioning, disinfection (e.g., beta ray irradiation, gamma ray irradiation, pasteurization), dewatering (e.g., centrifugation, sludge drying beds, sludge lagoons), heat drying, thermal reduction, and methane or biogas capture and recovery.
2. Identify the nature of material generated by the facility (such as a biosolid for beneficial use or land-farming, or sewage sludge for disposal at a monofill) and whether the material is ultimately conveyed off-site in bulk or in bags.
3. Results of tests performed for pollutants found in either Table 2 or 3 as appropriate for the permittee's land application practices.
4. The frequency of monitoring listed in Section I.C. that applies to the permittee.
5. Toxicity Characteristic Leaching Procedure (TCLP) results.
6. PCB concentration in sludge or biosolids in mg/kg.
7. Identity of hauler(s) and TCEQ transporter number.
8. Date(s) of transport.
9. Texas Commission on Environmental Quality registration number, if applicable.
10. Amount of sludge or biosolids disposal dry weight (lbs/acre) at each disposal site.
11. The concentration (mg/kg) in the sludge or biosolids 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.
12. Level of pathogen reduction achieved (Class A, Class AB or Class B).
13. Alternative used as listed in Section I.B.3.(a. or b.). Alternatives describe how the pathogen reduction requirements are met. If Class B biosolids, include information on how site restrictions were met.
14. Identify each of the analytic methods used by the facility to analyze enteric viruses, fecal coliforms, helminth ova, *Salmonella* sp., and other regulated parameters.
15. Vector attraction reduction alternative used as listed in Section I.B.4.
16. Amount of sludge or biosolids transported in dry tons/year.

17. The certification statement listed in either 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge or biosolids treatment activities, shall be attached to the annual reporting form.
18. 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 biosolids are applied.
 - c. The date and time bulk biosolids are applied to each site.
 - d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk biosolids applied to each site.
 - e. The amount of biosolids (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 OR BIOSOLIDS DISPOSED IN A MUNICIPAL SOLID WASTE LANDFILL

- A. The permittee shall handle and dispose of sewage sludge or biosolids in accordance with 30 TAC § 330 and all other applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The permittee shall ensure that the sewage sludge or biosolids meet the requirements in 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.
- B. If the permittee generates sewage sludge or biosolids and supplies that sewage sludge or biosolids 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 or biosolids disposal practice.
- D. Sewage sludge or biosolids shall be tested once during the term of this permit in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I (Toxicity Characteristic Leaching Procedure) or other method, which receives the prior approval of the TCEQ for contaminants listed in Table 1 of 40 CFR § 261.24. Sewage sludge or biosolids 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 or biosolids 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 or biosolids 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 Registration Support Division and the Regional Director (MC Region 5) 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 Registration 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 5) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

- E. Sewage sludge or biosolids 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 5) and Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year the following information.

1. Identify in the following categories (as applicable) the sewage sludge or biosolids treatment process or processes at the facility: preliminary operations (e.g., sludge or biosolids grinding and dewatering), thickening (concentration), stabilization, anaerobic digestion, aerobic digestion, composting, conditioning, disinfection (e.g., beta ray irradiation, gamma ray irradiation, pasteurization), dewatering (e.g., centrifugation, sludge drying beds, sludge lagoons), heat drying, thermal reduction, and methane or biogas capture and recovery.
2. Toxicity Characteristic Leaching Procedure (TCLP) results.
3. Annual sludge or biosolids production in dry tons/year.
4. Amount of sludge or biosolids disposed in a municipal solid waste landfill in dry tons/year.
5. Amount of sludge or biosolids transported interstate in dry tons/year.
6. A certification that the sewage sludge or biosolids meets the requirements of 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.
7. Identity of hauler(s) and transporter registration number.
8. Owner of disposal site(s).
9. Location of disposal site(s).
10. Date(s) of disposal.

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

SECTION IV. REQUIREMENTS APPLYING TO SLUDGE OR BIOSOLIDS TRANSPORTED TO ANOTHER FACILITY FOR FURTHER PROCESSING

These provisions apply to sludge or biosolids that is transported to another wastewater treatment facility or facility that further processes sludge or biosolids. These provisions are intended to allow transport of sludge or biosolids to facilities that have been authorized to accept sludge or biosolids. These provisions do not limit the ability of the receiving facility to determine whether to accept the sludge or biosolids, nor do they limit the ability of the receiving facility to request additional testing or documentation.

A. General Requirements

1. The permittee shall handle and dispose of sewage sludge or biosolids in accordance with 30 TAC Chapter 312 and all other applicable state and federal regulations in a manner that protects public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present in the sludge.
2. Sludge or biosolids may only be transported using a registered transporter or using an approved pipeline.

B. Record Keeping Requirements

1. For sludge or biosolids transported by an approved pipeline, the permittee must maintain records of the following:
 - a. the amount of sludge or biosolids transported;
 - b. the date of transport;
 - c. the name and TCEQ permit number of the receiving facility or facilities;
 - d. the location of the receiving facility or facilities;
 - e. the name and TCEQ permit number of the facility that generated the waste; and
 - f. copy of the written agreement between the permittee and the receiving facility to accept sludge or biosolids.
2. For sludge or biosolids transported by a registered transporter, the permittee must maintain records of the completed trip tickets in accordance with 30 TAC § 312.145(a)(1)-(7) and amount of sludge or biosolids transported.
3. The above records shall be maintained on-site on a monthly basis and shall be made available to the TCEQ upon request. These records shall be retained for at least five years.

C. Reporting Requirements

The permittee shall report the following information annually to the TCEQ Regional Office (MC Region 5) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year.

1. Identify in the following categories (as applicable) the sewage sludge or biosolids treatment process or processes at the facility: preliminary operations (e.g., sludge or biosolids grinding and degritting), thickening (concentration), stabilization, anaerobic digestion, aerobic digestion, composting, conditioning, disinfection (e.g., beta ray irradiation, gamma ray irradiation, pasteurization), dewatering (e.g., centrifugation, sludge drying beds, sludge lagoons), heat drying, thermal reduction, and methane or biogas capture and recovery.
2. the annual sludge or biosolids production;
3. the amount of sludge or biosolids transported;
4. the owner of each receiving facility;
5. the location of each receiving facility; and
6. the date(s) of disposal at each receiving facility.

SPECIAL PROVISIONS:

1. This permit is 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 this permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, if an area-wide system is developed; to require the delivery of the wastes authorized to be collected in, treated by, or discharged from the system, to an 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.
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 C facility must be operated by a chief operator or an operator holding a Class C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift 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 transmittal letter according to the requirements in 30 TAC § 217.6(d). 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 Domestic Wastewater Systems. The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Page 2 of the permit. A copy of the summary transmittal letter shall be available at the plant site for inspection by authorized representatives of the TCEQ.
5. Reporting requirements according to 30 TAC §§ 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 5) 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, on Notification of Completion Form 20007.

6. The permittee shall notify the TCEQ Regional Office (MC Region 5) and the Applications Review and Processing Team (MC 148) of the Water Quality Division, in writing at least forty-five (45) days prior to the completion of the new facilities on Notification of Completion Form 20007.
7. The permittee shall comply with the requirements of 30 TAC § 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 § 309.13(e).
8. A wastewater treatment plant unit, defined by 30 TAC § 309.11(9), must be located a minimum horizontal distance of 250 feet from a private well and a minimum horizontal distance of 500 feet from a public water well site, spring, or other similar sources of public drinking water, as provided by 30 TAC § 290.41(c)(1). A 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, spring, or other similar sources of public drinking water.
9. Monitoring requirements contained in the permit are suspended from the effective date of the permit until plant startup. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 5) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup.
10. Application rates to the irrigated land shall not exceed a rate of 3.05 acre-feet per year per acre on the 22.0 acres of land. 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 TCEQ and shall be maintained for at least three years.
11. The permittee shall submit soil sample analyses within 90 days of permit issuance to the TCEQ Water Quality Assessment Team (MC 150). Provide analyses of the soil in the land application site for pH [2:1 (v/v) water/soil mixture]; electrical conductivity [2:1 (v/v) water/soil mixture]; sodium adsorption ratio (SAR) from a water saturated paste and its constituent parameters (water-soluble Na, Ca and Mg reported in mg/L); total Kjeldahl nitrogen (TKN); total nitrogen (organic-nitrogen + nitrate-nitrogen + ammonium-nitrogen); nitrate-nitrogen (from a 1 N KCl soil extract); potassium; phosphorous; calcium; magnesium; sulfur; and sodium (plant available basis using Mehlich III procedure reported in mg/kg). Composite sampling techniques shall be used. Each composite sample shall represent no more than 22.0 acres with no less than 8 to 15 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. For additional reference see Special Provision 15.
12. The permittee shall use cultural practices to promote and maintain the health and propagation of the Bermuda grass (warm and cool seasons) to avoid plant lodging. The permittee shall harvest the crops (cut and remove it from the field) at least once during the year. Harvesting and mowing dates shall be recorded in a log book kept on site to be made available to TCEQ personnel upon request.
13. The physical condition of the spray irrigation fields will be monitored on a weekly basis when the fields are being utilized for the purpose of wastewater irrigation and shall not

occur within 24 hours following a rainfall event. Any areas with problems such as surface runoff, surficial erosion, or stressed or damaged vegetation will be recorded in the field log kept onsite and corrective measures will be initiated within 24 hours of discovery.

14. Irrigation practices shall be designed and managed as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Crops shall be established and well maintained in the irrigation area 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.
15. 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 22.0 acres with no less than 10 to 15 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 soils in December to February of each year. Soil samples shall be analyzed within 30 days of sample collection.

Samples shall be analyzed 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	2:1 (v/v) water to soil mixture	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)
		1 (P)	mg/kg (dry weight basis)

Plant-available: Phosphorus,	Mehlich III with inductively coupled plasma		
Plant-available: Potassium (K) Calcium (Ca) Magnesium (Mg) Sodium (Na) Sulfur (S)	May be determined in the same Mehlich III extract with inductively coupled plasma	5 (K) 10 (Ca) 5 (Mg) 10 (Na) 1 (S)	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			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 5) and the Compliance Monitoring Team (MC-224), no later than September 1st 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.

- The permittee shall analyze the irrigation effluent a minimum of once per year for Total Kjeldahl nitrogen (TKN), nitrate-nitrogen, total Phosphorous, and electrical conductivity. The permittee shall submit the annual results of these analyses to the TCEQ Water Quality Assessment Team (MC 150), TCEQ Region Office (MC Region 5) and the TCEQ Compliance Monitoring Team (MC 224) by the end of September of each monitoring year. The permittee may request removal of this provision if for three consecutive years the land application of total nitrogen does not exceed 250 lb/ac/year. This request with an assessment of the data

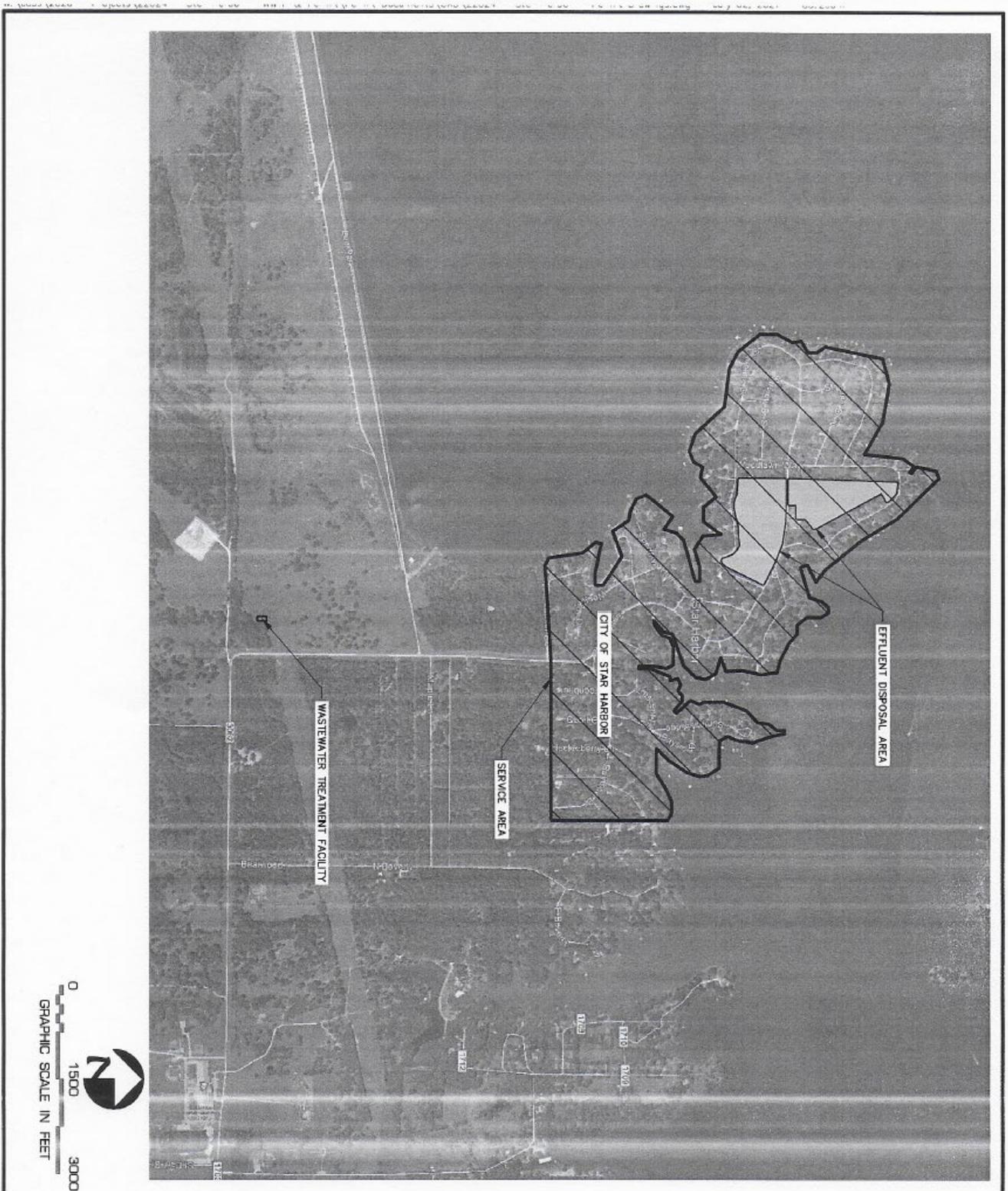
shall be submitted to the Water Quality Assessment Team (MC 150) for review/revision and approval with copies to the TCEQ Region Office (MC Region 5) and the TCEQ Compliance Monitoring Team (MC 224).

17. Effluent shall not be applied for irrigation during rainfall events or when the ground is frozen or saturated.
18. 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.
19. Spray fixtures for the irrigation system shall be of such design that they cannot be operated by unauthorized personnel.
20. Irrigation with effluent shall be accomplished only when the area specified is not in use.
21. Permanent transmission lines shall be installed from the holding pond to each tract of land to be irrigated utilizing effluent from that pond.
22. 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.
23. Holding or storage ponds shall conform to the design criteria for stabilization ponds with regard to construction and levee design and shall maintain a minimum freeboard of two feet according to 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems.
24. 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.
25. Any new or modified wastewater pond shall be adequately lined to control seepage in accordance with 30 TAC §§ 217.203 and 309.13(d) since the facility overlies the recharge zone of an aquifer. New or modified wastewater ponds shall not be put into service until the permittee demonstrates that the pond liners meet the requirements of 30 TAC §§ 217.203 and 309.13(d). The permittee shall demonstrate that the number, location, and test results of samples collected for geotechnical testing are in accordance with 30 TAC § 217.203(d) and (e), and that the liner has a minimum thickness of 3 feet in accordance with 30 TAC § 309.13(d) since the facility overlies the recharge zone of an aquifer. The report providing this demonstration shall be submitted to the Water Quality Assessment Team (MC 150) and the TCEQ Regional Office (MC Region 5) for review and approval prior to use of the wastewater ponds. If a synthetic liner is to be used, the liner thickness shall be a minimum of 40 mils and be constructed with an underground leak detection system with appropriate sampling points.
26. The permittee shall submit the liner certification for a newly-constructed or modified wastewater pond to the Water Quality Assessment Team (MC 150), the TCEQ Regional

Office (MC Region 5), and the TCEQ Compliance Monitoring Section (MC 224) within 30 days of completion and prior to use. The certification shall be signed and sealed by a Texas-licensed professional engineer and include a description of how the liner meets the requirements of 30 TAC §§ 217.203 and 309.13(d).

27. Facilities for the retention of treated or untreated wastewater shall be adequately managed and lined to control seepage. At least once per month, the permittee shall inspect the sides and bottom (if visible) of the wastewater ponds for signs of damage and leakage, and any pond leak detection systems that are in service. Leaking ponds shall be removed from service, or operated in a manner to prevent discharge, until repairs are made, or replacement ponds are constructed.
28. Pond liner certifications and all liner construction and repair documentation shall be maintained by the Permittee for the life of the facility and be made available for TCEQ personnel for inspection and review.
29. The permittee shall construct and maintain earthen berms to prevent runoff from leaving the irrigation site and run on from entering the holding pond.
30. The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.

Attachment A_Site Drawing
 City of Star Harbor Permit No. WQ0016017001



ATTACHMENT A9	NEW WWTP PERMIT FOR CITY OF STAR HARBOR	 WASTELINE ENGINEERING, INC. Texas Registered Engineering Firm #F-1669	Date: July 2021 Drawn by: J.A.F. Designed by: G.B. QA: G.B.
	SITE DRAWING		Project Job#: 22024

**TECHNICAL SUMMARY AND
EXECUTIVE DIRECTOR'S PRELIMINARY DECISION**

DESCRIPTION OF APPLICATION

Applicant: City of Star Harbor
TCEQ Permit No. WQ0016017001

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 **five years from the date of issuance**, according to 30 TAC § 305.127(1)(C)(ii)(III), Conditions to be Determined for Individual Permits.

REASON FOR PROJECT PROPOSED

City of Star Harbor has applied to the Texas Commission on Environmental Quality (TCEQ) for new Permit No. WQ0016017001 to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 0.06 million gallons per day (MGD) via surface irrigation of 22.0 acres of golf course. The facility will include one storage pond with a total surface area of 4.02 acres and total capacity of 24.12 acre-feet for storage of treated effluent prior to irrigation. The proposed wastewater treatment facility will serve the City of Star Harbor.

PROJECT DESCRIPTION AND LOCATION

The Star Harbor Wastewater Treatment Facility will be an activated sludge process plant using the extended aeration mode. Treatment units will include an aeration basin, a final clarifier, a holding tank, an aerobic digester, and a chlorine contact chamber. The facility has not been constructed.

Sludge generated from the treatment facility will be hauled by a registered transporter to CITY OF LOG CABIN WWTP Wastewater Treatment Facility, Permit No. WQ0014158001, to be digested, dewatered, and then disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

The wastewater treatment facility and disposal site will be located approximately 3,050 feet west of the intersection of Briarwood Harbor Road and Farm-to-Market Road 3062 in Henderson

City of Star Harbor

Permit No. WQ0016017001

Statement of Basis/Technical Summary and Executive Director's Preliminary Decision

County, Texas 75148.

The wastewater treatment facility and disposal site will be located in the drainage basin of Cedar Creek Reservoir in Segment No. 0818 of the Trinity 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 authorizes the disposal of treated domestic wastewater effluent at a daily average flow not to exceed 0.06 MGD via surface irrigation of 22.0 acres of golf course. The facility will include one storage pond with a total surface area of 4.02 acres and total capacity of 24.12 acre-feet for storage of treated effluent prior to irrigation. Application rates to the irrigated land shall not exceed 3.05 acre-feet per year per acre irrigated.

The effluent limitations in the draft permit, based on a daily average, are 20 mg/l biochemical oxygen demand (BOD₅) and 20 mg/l total suspended solids (TSS). The effluent limitations in the draft permit, based on a single grab, are 65 mg/l BOD₅, and 65 mg/l TSS. The effluent shall contain a total chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes based on peak flow.

The permittee shall comply with the requirements of 30 TAC § 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 § 309.13(e).

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation. Sludge generated from the treatment facility will be hauled by a registered transporter to CITY OF LOG CABIN WWTP Wastewater Treatment Facility, Permit No. WQ0014158001, to be digested, dewatered, and then disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

SUMMARY OF CHANGES FROM APPLICATION

None.

BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received on July 14, 2021, and additional information received on July 23, 2021.
2. Interoffice Memorandum from the Water Quality Assessment Team, Water Quality Assessment & Standards Section, Water Quality Division.

City of Star Harbor

Permit No. WQ0016017001

Statement of Basis/Technical Summary and Executive Director's Preliminary Decision

PROCEDURES FOR FINAL DECISION

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

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

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

After the public comment deadline, the Executive Director prepares a response to all significant public comments on the application or the draft permit raised during the public comment period. The Chief Clerk then mails the Executive Director's response to comments and final decision to people who have filed comments, requested a contested case hearing, or requested to be on the mailing list. This notice provides that if a person is not satisfied with the Executive Director's response and decision, they can request a contested case hearing or file a request to reconsider the Executive Director's decision within 30 days after the notice is mailed.

The Executive Director will issue the permit unless a written hearing request or request for reconsideration is filed within 30 days after the Executive Director's response to comments and final decision is mailed. If a hearing request or request for reconsideration is filed, the Executive Director will not issue the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal 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 Deba Dutta, P.E. at (512) 239-4608.

City of Star Harbor

Permit No. WQ0016017001

Statement of Basis/Technical Summary and Executive Director's Preliminary Decision

Deba Dutta

Deba Dutta, P.E.
Municipal Permits Team
Wastewater Permitting Section (MC 148)

8/29/2021

Date

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Office of the Chief Clerk

DATE: May 20, 2022

From: Michael Parr II
Staff Attorney
Environmental Law Division

Subject: Supplemental Backup Document Filed for Consideration of Hearing Requests at Agenda

Applicant:	City of Star Harbor
Proposed Permit No.:	WQ0016017001
Program:	Water
Docket No.:	TCEQ Docket No. 2022-0325-MWD

Enclosed please find a copy of the following documents for inclusion in the background material for this permit application:

- Compliance History Report



Compliance History Report

Compliance History Report for CN600631246, RN111296158, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator:	CN600631246, City of Star Harbor	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN111296158, STAR HARBOR WWTP	Classification: NOT APPLICABLE	Rating: N/A
Complexity Points:	N/A	Repeat Violator:	N/A
CH Group:	14 - Other		
Location:	LOCATED APPROX 3050 FT W OF INTERX OF BRIARWOOD HARBOR RD AND FM RD 3062 HENDERSON, TX, HENDERSON COUNTY		
TCEQ Region:	REGION 05 - TYLER		
ID Number(s):	WASTEWATER PERMIT WQ0016017001		
Compliance History Period:	September 01, 2015 to August 31, 2020	Rating Year: 2020	Rating Date: 09/01/2020
Date Compliance History Report Prepared:	August 20, 2021		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Component Period Selected:	July 14, 2016 to August 20, 2021		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	WH	Phone:	(512) 239-3581

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

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

TCEQ PERMIT NO. WQ0016017001

**APPLICATION BY THE
CITY OF STAR HARBOR FOR
NEW TCEQ PERMIT
NO. WQ0016017001**

**§
§
§
§**

**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 (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by the City of Star Harbor (Applicant) for new Texas Land Application Permit (TLAP), proposed TCEQ permit No. WQ0016017001 (2021-application), and on the ED's preliminary decision on the application. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, 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 received timely comments from Castell Realty LLC, and Don Norwood (collectively, "the Landowners"). This response addresses all timely public comments received, whether withdrawn or not. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on the TCEQ web site at <http://www.tceq.texas.gov>.

BACKGROUND

The Applicant applied to the TCEQ for new TCEQ Permit No. WQ0016017001 authorizing the disposal of treated wastewater at a volume not to exceed a daily average flow of 60,000 gallons per day (GPD) via irrigation of 22 acres of public access-golf course land. The proposed permit does not authorize a discharge of pollutants into water in the state.

Description of Facility

If this permit is ultimately issued, the Applicant's domestic wastewater treatment facility and disposal area (proposed facility) will serve the City of Star Harbor and will be located approximately 3,050 feet west of the intersection of Briarwood Harbor Road and Farm-to-Market Road 3062, in Henderson County, Texas 75148. The link below is to an electronic map of the site or facility's general location and is provided as a public courtesy and not part of the application or notice. For the exact location, please refer to the application.

<https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-96.052836%2C32.177622.0&level=12>

When constructed, the proposed facility will be located within the drainage basin of Cedar Creek Reservoir in Segment No. 0818 of the Trinity River Basin, and will be an activated sludge process plant operated in extended aeration mode. Treatment units include an aeration basin, a final clarifier, a holding tank, an aerobic digester, and a chlorine contact chamber. The proposed facility will also include one storage pond with a total surface area of 4.02 acres and total capacity of 24.12 acre-feet for storage of treated effluent prior to irrigation.

Application rates on the land application area must not exceed 3.05 acre-feet per year per acre irrigated on the 22 acres. The Applicant is responsible for providing

equipment to determine application rates and maintaining accurate records of the volume of effluent applied.

The Applicant is also required to use cultural practices to promote and maintain the health and propagation of the Bermuda grass (warm and cool seasons) to avoid plant lodging, and must harvest the crops (cut and remove it from the field) at least once during the year. Irrigation practices must be designed and managed as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Crops must be established and well maintained in the irrigation area 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. The physical condition of the spray irrigation fields will be monitored on a weekly basis when the fields are being utilized for wastewater irrigation and must not occur within 24 hours following a rainfall event. Areas with problems such as surface runoff, surficial erosion, stressed or damaged vegetation will be recorded in the field log kept onsite and corrective measures must be initiated within 24 hours of discovery.

The effluent limitations (limits) of the proposed permit for conventional effluent parameters (e.g., Five-day Biochemical Oxygen Demand (**BOD₅**), Total Suspended Solids (**TSS**), Minimum Dissolved Oxygen (**DO**)) are based on stream standards and waste load allocations for water quality-limited streams as established in the Texas Surface Water Quality Standards (**TSWQS**) and the State of Texas Water Quality Management Plan.

Therefore, the entire set of effluent quality limitations of the proposed permit, based on a 30-day average, are 20 mg/l of BOD₅ and 20 mg/l of TSS and when based on a single grab are 65 mg/l of BOD₅ and 65 mg/l of TSS. S/NH₃-N/TP, respectively The proposed permit includes a bacteria limit of 126 colony forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml.

The proposed permit includes provisions that require the Applicant to comply with buffer zone requirements of 30 TAC § 309.13(c). As defined by 30 TAC § 309.11(9), wastewater treatment plant unit must be located a minimum horizontal distance of 250 feet from a private well and a minimum horizontal distance of 500 feet from a public water well site, spring, or other similar sources of public drinking water, as provided by 30 TAC § 290.41(c)(1). Additionally, a 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, spring, or other similar sources of public drinking water. Lastly, by ownership of the required buffer zone area, the Applicant must comply with the requirements of 30 TAC § 309.13(e).

The proposed permit also includes provisions that require facilities for the retention of treated or untreated wastewater must be adequately managed and lined to control seepage. At least once per month, the Applicant must inspect the sides and bottom (if visible) of the wastewater ponds for signs of damage and leakage, and any pond leak detection systems that are in service. Leaking ponds shall be removed from service, or operated in a manner to prevent discharge, until repairs are made or replacement ponds are constructed.

Because the proposed facility is located over the recharge zone of the Carrizo-Wilcox aquifer, any new or modified wastewater ponds must be adequately lined to control seepage in accordance with TCEQ rules, and new or modified wastewater

ponds must not be put into service until the Applicant demonstrates that the pond liners meet the requirements of 30 TAC § 217.203 and 30 TAC § 309.13(d). The Applicant must submit liner certifications for a new or modified wastewater ponds to the Water Quality Assessment Team (MC-150), the TCEQ Regional Office (MC-Region 5), and the TCEQ Compliance Monitoring Section (MC-224) within 30 days of completion and prior to use. The certification shall be signed and sealed by a Texas-licensed professional engineer and include a description of how the liner meets the requirements of 30 TAC § 217.203 and 30 TAC § 309.13(d). The Applicant must also construct and maintain earthen berms to prevent runoff from leaving the irrigation site and run on from entering the holding pond.

Sludge generated from the proposed facility will be hauled by a registered transporter to the City of Log Cabin's Wastewater Treatment Facility (permit No. WQ0014158001) to be digested, dewatered, and then disposed of with the bulk of the sludge from Log Cabin's treatment facility. The proposed permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

Procedural Background

The TCEQ received the application on July 14, 2021, and declared it administratively complete on August 16, 2021. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Henderson County, Texas in the *Athens Daily Review* on August 19, 2021. The ED completed the technical review of the application on August 24, 2021, and prepared the proposed permit, which if approved, would establish the conditions under which the proposed facility must operate. The Applicant published the Notice of Application and Preliminary Decision (NAPD) in Henderson County, Texas in the *Athens Daily Review* on October 16, 2021, and the public comment period closed on November 15, 2021. Because this application was received after September 1, 2015, and because it was declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999, and the procedural requirements and rules implementing Senate Bill 709, 84th Legislature, 2015, which are implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55.

Access to Rules, Laws and Records

- All administrative rules: Secretary of State Website: www.sos.state.tx.us
- TCEQ rules: Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: www.statutes.capitol.texas.gov
- TCEQ website: www.tceq.texas.gov (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Current TCEQ Rules," then "Download TCEQ Rules");
- Federal rules: Title 40 of the Code of Federal Regulations (C.F.R.) http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl
- Federal environmental laws: <http://www.epa.gov/lawsregs/>
- Environmental or citizen complaints may be filed online at: <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html> or by sending an email to the following address: complaint@TCEQ.state.tx.us.

Commission records for the proposed facility are available for viewing and copying at TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken). In light of directives to protect public health, documents can be obtained from the Office of the Chief Clerk by leaving a voice mail at (512) 239-3300; someone will return your call the same day. Some documents located at the Office of the Chief Clerk may also be located in the Commissioners' Integrated Database at <https://www14.tceq.texas.gov/epic/eCID/>. The permit application has been available for viewing and copying at the at the Star Harbor City Hall, 99 Sunset Boulevard, Malakoff, Texas, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision have been available for viewing and copying at the same location since the publication of the NAPD.

The ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, and human health. However, if you would like to file a complaint about the facility concerning its compliance with the provisions of its permit or with TCEQ rules, you may contact the TCEQ Regional Office (Region 5) in Tyler, TX at (903) 535-5100 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. Citizen complaints may be filed by sending an e-mail to complaint@tceq.texas.gov, or online at: <https://www.tceq.texas.gov/compliance/complaints> (select "use our online form"). If an inspection by the Regional Office finds that the facility is out of compliance, the facility may be subject to enforcement actions.

COMMENTS AND RESPONSES

COMMENT 1:

The Landowners commented that the TCEQ should return the Applicant's 2021 application for a TLAP permit, because, according to the landowners, the Applicant, pursuant to 30 TAC § 80.25, withdrew its application for a Texas Pollutant Discharge Elimination System (TPDES) permit (2017 discharge application) *with prejudice*.¹ As noted by the Landowners, on October 9, 2017, the Applicant submitted the application for a TPDES permit; the Landowners then requested a Contested Case Hearing, which the Commission granted on June 18, 2019. The Administrative Law Judge (Judge Henderson) with the State Office of Administrative Hearings (SOAH) held a preliminary hearing on September 23, 2019, and subsequently, on December 10, 2019, Star Harbor filed a Motion to Withdraw and Remand its Application, which Judge Henderson granted on December 11, 2019, by issuing Order No.5.²

RESPONSE 1:

Order No.5, signed by Judge Henderson on December 11, 2019, was a procedural order that dismissed the 2017 discharge application from consideration on SOAH's docket; remanded the application and the Applicant's requested withdrawal back to the ED; and instructed the ED to issue an order dismissing the 2017 discharge application so that the Applicant could not ever resubmit the 2017 discharge application for any future consideration by the Commission. Similarly, on December 20, 2019, the ED sent a letter to the Applicant acknowledging the requested withdrawal

¹ Proposed TPDES Permit No. WQ0014268002; TCEQ Docket No. 2019-0575-MWD

² Order No. 5, SOAH Docket No. 582-19-6260, December 11, 2019.

of the 2017 discharge application and conveying that the 2017 application had been removed from the ED's list of pending applications.

Order No.5 was not a ruling, nor a dispositive order, related to any of the issues referred by the Commission in Interim Order No. 2019-0575-MWD.³

Additionally, the Applicant's TLAP application is not affected by Order No.5 because not only is it a different type of wastewater permit, it is not a discharge application with a discharge route, and is a different and separate application from the 2017 discharge application.

COMMENT 2:

According to the Landowners, Star Harbor cannot legally construct a wastewater treatment facility at the currently proposed location.

RESPONSE 2:

The Landowner Map, Attachment 4, depicts the immediate area of land around the facility and pond as the "Applicant Property Boundary" because that is the area that the property owner, Tarrant Regional Water District ("TRWD"), has agreed to allow the Applicant to use under the Memorandum of Understanding in which TRWD stated its intention to grant an easement for the Applicant's use. Because the area of land TRWD is allowing the Applicant to use is within a larger tract of land owned by TRWD, Attachment 4 depicts that the only landowner adjacent to the proposed facility and effluent pond site is TRWD.

COMMENT 3:

The Landowners commented that the effluent limits are inadequate and not properly calculated based on the location of the proposed facility and storage pond to surface water features owned by the Landowners.

RESPONSE 3:

The 2017 discharge application listed the Landowners as a "downstream property owner" because the Landowners owned property within 1-mile downstream. In the 2021-TLAP application, the Landowners were not listed as an "adjacent property owner" because the Applicant's property boundary is encompassed on all sides by the Tarrant Regional Water District's property. The 2021-TLAP is a request for a Texas Land Application Permit, and will not have a discharge route. Therefore, the Landowners were not listed as a downstream property owner.

COMMENT 4:

The Landowners commented that the Star Harbor application does not include information regarding private groundwater wells within one mile of the proposed facility and effluent pond. According to the landowners, they own at least five domestic water wells within one mile of the facility.

RESPONSE 4:

On August 17, 2021, in a response to the request by the TCEQ Water Quality Division dated August 6, 2021, the Applicant submitted a USGS map properly

³ Interim Order No. 2019-0575-MWD; TCEQ Docket No. 2019-0575-MWD, December 18, 2019.
Executive Director's Response to Public Comment, TCEQ Permit No. WQ0016017001

identifying all groundwater wells within one mile radius of the treatment facility and the disposal site.

COMMENT 5:

The Landowners commented that the 2021-TLAP application does not include “all maps, diagrams, basis of design, calculations, and other pertinent data required” by 30 TAC Chapter 309.

RESPONSE 5:

To date, the applicant has submitted all maps, diagrams, basis of design, calculations, and other pertinent data required under Chapter 309 of the Commission’s Rules and has been reviewed, and found to be sufficient by the TCEQ-WQD staff.

COMMENT 6:

The Landowners commented that the location of the plant and effluent pond do not meet the siting requirements in 30 TAC Chapter 309, Subchapter B. Specifically, according to the Landowners, the application does not include accurate information regarding the: buffer zone, pond liner, and distance from private wells.

RESPONSE 6:

To control and abate odors the TCEQ rules require domestic wastewater treatment facilities to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides three options for applicants to satisfy the nuisance odor abatement and control requirements. The Applicant can comply with the rule by: 1) ownership of the buffer zone area; 2) restrictive easement from the adjacent property owners for any part of the buffer zone not owned by Applicant; or 3) providing nuisance odor control. For this application, the Applicant will comply with the requirements of 30 TAC § 309.13(e) by ownership of the required buffer zone area. Additionally, the Applicant must comply with the requirements of 30 TAC § 309.13(a) through (d). In addition, by ownership of the required buffer zone area, the Applicant must comply with the requirements of 30 TAC § 309.13(e).

The Applicant must comply with buffer zone requirements of 30 TAC Section § 309.13(c). A wastewater treatment plant unit, defined by 30 TAC Section § 309.11(9), must be located a minimum horizontal distance of 250 feet from a private well and a minimum horizontal distance of 500 feet from a public water well site, spring, or other similar sources of public drinking water, as provided by § 290.41(c)(1) of this title. A 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, spring, or other similar sources of public drinking water.

Wastewater pond shall be adequately lined to control seepage in accordance with 30 TAC §§ 217.203 and 309.13(d) since the facility overlies the recharge zone of an aquifer. New or modified wastewater ponds shall not be put into service until the permittee demonstrates that the pond liners meet the requirements of 30 TAC §§ 217.203 and 309.13(d). 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 transmittal letter according to the requirements in 30 TAC § 217.6(d). 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 Domestic Wastewater Systems. Pond liner certifications and all liner construction and repair documentation shall be maintained by the permittee for the life of the facility and be made available for TCEQ personnel for inspection and review.

TCEQ recommends that well owners periodically test their water for microbial and chemical contaminants and properly maintain their well. It is the responsibility of the private well owner to take steps to have his or her water quality tested at least annually for possible constituents of concern—or more often if the well is thought to have a surface water connection. Please see <http://wellowner.org/water-quality/water-testing/> for more information about testing private water wells. If your well tests positive for fecal coliform bacteria, please see the Texas A&M AgriLife Extension publication titled “What to Do About Coliform Bacteria in Well Water” at <http://twon.tamu.edu/media/619641/what-to-do-about-coliform-in-wellwater.pdf> or the TCEQ publication titled “Disinfecting Your Private Well” at <https://www.tceq.texas.gov/publications/gi/gi-432.html> for more information.

COMMENT 7:

The Landowners stated that the 2021-TLAP application is not complete because it does not include information regarding design analysis, hydraulic application rates, effluent storage calculations, and yearly rainfall and consumptive use requirements.

RESPONSE 7:

To date, the Applicant has submitted information required for design analyses, hydraulic application rates, and effluent storage calculations; the water balance study, and yearly rainfall and consumptive use requirements, which have been reviewed, and found to be sufficient by the TCEQ-WQD staff.

COMMENT 8:

The Landowners commented that the data regarding crop systems and nitrogen application rates, soil testing, and irrigation best management practices was deficient.

RESPONSE 8:

The Applicant has submitted information on crop systems and nutrient uptakes, soil testing, and irrigation best management practices that have been reviewed, and found to be sufficient by the TCEQ-WQD staff.

The Applicant must submit soil sample analyses within 90 days of permit issuance to the TCEQ, and must obtain representative soil samples from the root zones of the land application area receiving wastewater.

The Applicant’s irrigation practices must be designed and managed as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Crops must be established and well maintained in the irrigation area throughout the year for effluent and nutrient uptake by the crop and to prevent pathways for effluent surfacing. Tailwater control facilities must be provided as necessary to prevent the discharge of any effluent from the irrigated land. Application rates to the irrigated land must not exceed a rate of 3.05 acre-feet per year per acre on the 22.0 acres of land. The Applicant is responsible for providing equipment to determine application rates and maintaining accurate records

of the volume of effluent applied. These records must be made available for review by TCEQ and shall be maintained for at least three years. Spray fixtures for the irrigation system must be of such design that they cannot be operated by unauthorized personnel.

COMMENT 9:

The Landowners commented that the pattern and method of disposal in the proposed permit will not adequately protect surface water or ground water and will result in a discharge to surface waters in the state.

RESPONSE 9:

TCEQ oversees the protection of water quality with federal regulatory authority (TPDES program) over discharges of pollutants into Texas surface waterbodies. The TCEQ has the sole legislative authority to protect water quality in Texas and under Texas Water Code (TWC), Chapter 26, to authorize TPDES discharge permits subject to the regulations in 30 TAC Chapters 305, 307, 309, including specific rules for wastewater treatment systems under Chapters 217 and 309.

However, the proposed permit does not authorize a discharge of wastewater into waters in the state. Because the surface water quality will not be affected by this permitting action, the groundwater quality in the vicinity will not be impacted. Irrigation practices must be designed and managed as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Crops must be established and well maintained in the irrigation area throughout the year for effluent and nutrient uptake by the crop and to prevent pathways for effluent surfacing. The facility will include one storage pond with a total surface area of 4.02 acres and total capacity of 24.12 acre-feet for storage of treated effluent prior to irrigation to prevent the discharge of any effluent from the irrigated land.

The Texas Legislature has determined that “the goal of groundwater policy in this state is that the existing quality of groundwater not be degraded. This goal of non-degradation does not mean zero-contaminant discharge.”⁴ Chapter 26 of the Texas Water Code further states, “discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard.”⁵

Further, 30 TAC § 309.13(c) states that a wastewater treatment plant unit may not be located closer than 500 feet from a public water well nor 250 feet from a private water well. Public water supply systems in Texas are regulated by the TCEQ’s Water Supply Division. Please contact the Water Supply Division at 512-239-4691 for more information.

The Ground Water Rule does not address private wells because they are not under the jurisdiction of the Safe Drinking Water Act and are therefore not subject to TCEQ regulation. TCEQ recommends that well owners periodically test their water for microbial and chemical contaminants and properly maintain their well. It is the responsibility of the private well owner to take steps to have his or her water quality tested at least annually for possible constituents of concern—or more often if the well

⁴ Texas Water Code § 26.401(b)

⁵ Texas Water Code § 26.401(c)(2)

is thought to have a surface water connection. Please see <http://wellowner.org/water-quality/water-testing/> for more information about testing private water wells. If your well tests positive for fecal coliform bacteria, please see the Texas A&M AgriLife Extension publication titled "What to Do About Coliform Bacteria in Well Water" at <http://twon.tamu.edu/media/619641/what-to-do-about-coliform-in-wellwater.pdf> or the TCEQ publication titled "Disinfecting Your Private Well" at <https://www.tceq.texas.gov/publications/gi/gi-432.html> for more information.

COMMENT 10:

The Landowners commented that the effluent limits are inadequate and not properly calculated based on the location of the proposed facility and storage pond to surface water features owned by the Landowners.

RESPONSE 10:

TCEQ oversees the protection of water quality with federal regulatory authority (TPDES program) over discharges of pollutants into Texas surface waterbodies. The TCEQ has the sole legislative authority to protect water quality in Texas and under Texas Water Code (TWC), Chapter 26, to authorize TPDES discharge permits subject to the regulations in 30 TAC Chapters 305, 307, 309, including specific rules for wastewater treatment systems under Chapters 217 and 309. No discharge of pollutants into water in the state is authorized by the proposed permit, however, the effluent limitations were properly calculated using TCEQ rules found at 30 TAC § 309.4. Table 1, Effluent Limitations for Domestic Wastewater Treatment Plants.

In addition to the Biochemical Oxygen Demand (5-day) and Total Suspended Solids effluent limitations, the pH of the effluent must not be less than 6.0 standard units nor greater than 9.0 standard units. The effluent must 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 total chlorine residual must be maintained in the effluent at the point of irrigation application.

COMMENT 11:

The Landowners commented that the calculations for agronomic uptake of nutrients and other pollutants are not adequate. Because the calculations are incorrect, suitable crops were not identified.

RESPONSE 11:

The Applicant submitted sufficient calculations for agronomic uptake of nutrients and other pollutants that were reviewed by TCEQ staff. Crops must be established and well maintained in the irrigation area throughout the year for effluent and nutrient uptake by the crop and to prevent pathways for effluent surfacing. The Applicant must use cultural practices to promote and maintain the health and propagation of the Bermuda grass (warm and cool seasons) to avoid plant lodging. The Applicant must harvest the crops (cut and remove it from the field) at least once during the year. Harvesting and mowing dates shall be recorded in a log book kept on site to be made available to TCEQ personnel upon request.

COMMENT 12:

Landowners commented that the 2021-TLAP application is incorrect because, according to the Landowners, the treatment facility would be in the Cedar Creek watershed below Cedar Creek Reservoir in Segment No. 0804, not in the drainage basin of Cedar Creek Reservoir in Segment No. 0818 as represented in the application.

RESPONSE 12:

For clarification, the disposal site will be located in the drainage basin of Segment No. 0818 of the Trinity River Basin, while the treatment facility will be located just below the Cedar Creek Reservoir in the drainage basin of Segment No. 0804 of the Trinity River Basin.

CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

- No changes to the proposed permit were made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Toby Baker,
Executive Director

Guy Henry, Acting Deputy Director
Environmental Law Division



Michael T. Parr II, Staff Attorney
Environmental Law Division
State Bar No. 24062936
P.O. Box 13087, MC 173
Austin, Texas 78711 3087
Telephone No. 512-239 0611
Facsimile No. 512-239-0626
REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on January 12, 2022, the Executive Director's Response to Public Comment for Permit No. WQ0016017001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Michael T. Parr II, *Staff Attorney*
Environmental Law Division
State Bar No. 24062936

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 20, 2022

TO: Persons on the attached mailing list.

RE: City of Star Harbor
Permit No. WQ0016017001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central Office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Star Harbor City Hal, 99 Sunset Boulevard, Malakoff, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedures for these two requests follows.

How to Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. Your hearing request must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.

- (3) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: “I request a contested case hearing.”
- (4) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization’s purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

Additionally, your request must demonstrate that you are an **“affected person.”** 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission’s decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

To facilitate the commission’s determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director’s responses to **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

How to Request Reconsideration of the Executive Director’s Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director’s decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director’s decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html or by mail to the following address:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the TCEQ's Alternative Dispute Resolution Program and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Education Program, toll free, at 1-800-687-4040.



LG/mo

Enclosure

MAILING LIST
for
City of Star Harbor
Permit No. WQ0016017001

FOR THE APPLICANT:

The Honorable Warren Claxton, Mayor
City of Star Harbor
P.O. Box 949
Malakoff, Texas 75148

Glenn Breisch, P.E.
Wasteline Engineers, Inc.
208 South Front Street
Aledo, Texas 76008

INTERESTED PERSONS:

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Lloyd Gosselink Rochelle & Townsend, P.C.
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FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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