

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Office of Chief Clerk Date: January 5, 2023
From: Michael Parr, Staff Attorney, Environmental Law Division
Subject: Transmittal of Documents for Administrative Record

Applicant: Rattler Ridge LLC
Proposed Permit No.: WQ0016049001
Program: Water Quality Division
TCEQ Docket No.: 2022-1046-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 2022-1046-MWD

APPLICATION BY	§	BEFORE THE
RATTLER RIDGE, LLC FOR	§	TEXAS COMMISSION ON
NEW TPDES PERMIT	§	ENVIRONMENTAL
NO. WQ0016049001	§	QUALITY

EXECUTIVE DIRECTOR’S RESPONSE TO HEARING REQUESTS

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (commission or TCEQ) files this Response to Hearing Requests on the application by Rattler Ridge, LLC (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016049001 (the permit), authorizing the discharge of treated domestic wastewater at a daily average flow limit of 0.1/ 0.2/ 0.4 million gallons per day (MGD) in the Interim I/ Interim II/ Final phases, respectively, from the Rattler Ridge Wastewater Treatment Facility (proposed facility). The City of San Marcos (San Marcos) filed timely a Contested Case Hearing request (request).

II. ATTACHMENTS FOR COMMISSION CONSIDERATION

- Attachment A - ED's GIS Maps (2)

III. DESCRIPTION OF FACILITY AND RECEIVING STREAMS

If the permit is ultimately issued, the proposed facility will serve the Rattler Ridge subdivision and will be located approximately 7,656 feet southeast of the intersection of Farm-to-Market Road 1978 and State Highway 123, in Guadalupe County, Texas 78666.

When constructed, the proposed facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units common across all phases include a bar screen and tertiary filters. Interim I phase-specific treatment units include an aeration basin, a final clarifier, an aerobic sludge digester, and a chlorine contact chamber. Interim II phase-specific treatment units include a flow splitter, two aeration basins, two final clarifiers, two aerobic sludge digesters, and two chlorine contact chambers. Final phase-specific treatment units include a flow splitter, three aeration basins, three final clarifiers, three aerobic sludge digesters, and three chlorine contact chambers.

The treated effluent will be discharged to an onsite pond where it will continue to an unnamed tributary, then to Long Creek, then to an unnamed impoundment, then back to Long Creek, then to York Creek, and finally to the Lower San Marcos River in Segment No. 1808 of the Guadalupe River Basin.

Because the discharge is directly to an unclassified water body, this permitting action was reviewed in conformity with the 2018 Texas Surface Water Quality Standards (TSWQS), found in Title 30 of the Texas Administrative Code(30 TAC), sections (§§) 307.4(h) and (l), and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards-June 2010 (IPs)*. Based on a receiving water assessment and other available information, a preliminary determination of the aquatic life uses around the area of the discharge’s impact has been performed and the

corresponding Dissolved Oxygen (**DO**) criterion assigned as stipulated in the TSWQS (30 TAC § 307.5) and the IPs.

The unclassified receiving water uses are limited aquatic life use for the onsite pond, the unnamed tributary, and Long Creek (all 3.0 mg/L DO), and high aquatic life use for the unnamed reservoir (5.0 mg/L DO). The designated uses for Segment No. 1808 are primary contact recreation, public water supply, and high aquatic life use. Segment No. 1808 is not currently listed on the state's inventory of impaired and threatened waters (the 2020 CWA § 303(d) list).

In accordance with the TSWQS (30 TAC § 307.5), and the IPs, an antidegradation review of the receiving waters was performed. The Tier 1 antidegradation review preliminarily determined that existing water quality uses will not be impaired by this permitting action and that numerical and narrative criteria to protect existing uses will be maintained. The Tier 2 review preliminarily determined that no significant degradation of water quality is expected in the unnamed reservoir, which was identified as having high aquatic life use, and that existing uses will be maintained and protected. However, if new information is received, these determinations can be reexamined or modified.

Additionally, the permit's water quality-related effluent limitations (limits) will maintain and protect the existing instream uses, and for the conventional effluent parameters such as Minimum Dissolved Oxygen (**DO**), Five-day Carbonaceous Biochemical Oxygen Demand (**CBOD5**), Total Suspended Solids (**TSS**), and Ammonia Nitrogen (**NH3-N**), the limits are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and Texas' Water Quality Management Plan. The permit's effluent limits and conditions meet requirements for secondary treatment and disinfection according to 30 TAC Chapter 309 (Subchapter A: Effluent Limits) and comply with the TSWQS (30 TAC §§ 307.1-.10, *eff.* 7/22/2010), and the United States Environmental Protection Agency (**USEPA**)-approved portions of the TSWQS (*eff.* 3/6/2014). In a case such as this, end-of-pipe compliance with pH limits between

6.0 and 9.0 standard units reasonably assures instream compliance with the TSWQS for pH when the discharge authorized is from a minor facility and the unclassified waterbodies have minimal or limited aquatic life uses. This technology-based approach reasonably assures instream compliance with TSWQS criteria due to the smaller discharge volumes authorized by these permits. This conservative approach is based on TCEQ sampling throughout Texas indicating that instream buffering quickly restores pH levels to ambient conditions.

Based on water quality modeling results from an "uncalibrated QUAL-TX" model, for all effluent flow phases (0.10, 0.20, and 0.40 MGD) an effluent limit set of 10.0 mg/L CBOD5, 2.0 mg/L NH3-N, and 5.0 mg/L DO is predicted to ensure that DO will be maintained above the criterion established by the Standards Implementation Team within the ED's Water Quality Division (WQD staff) for the unnamed tributary and the on-site pond (both 3.0 mg/L DO).

Coefficients and kinetics used in the model are a combination of site specific, standardized default, and estimated values. The results of this evaluation can be reexamined upon receipt of information that conflicts with the assumptions employed in this analysis. Based on the total phosphorus screening, a 0.5 mg/L Total Phosphorus

(TP) limit is recommended for all phases of the permit to preclude eutrophication in instream pools within the unnamed tributary, Long Creek, and the unnamed reservoir.

The permit's entire set of water quality limits, based on a 30-day average, are 10/15/2.0 mg/L, CBOD5/TSS/NH3-N, respectively, 0.5 mg/L TP, and a bacteria limit of 126 colony forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml. The permit's disinfection requirements are that the Applicant use Chlorine. Specifically, the treated effluent must contain a total chlorine residual of at least 1.0 mg/l and must not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and must be monitored five times per week by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the ED.

The proposed discharge is not expected to impact any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat, as no priority watershed of critical concern has been identified in Segment 1808. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization for the Texas Pollutant Discharge Elimination System (September 14, 1998, October 21, 1998, update). To make this determination for TPDES permits, TCEQ and EPA only consider aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species. This determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion.

IV. PROCEDURAL BACKGROUND

The TCEQ received the application on October 1, 2021, and declared it administratively complete on December 2, 2021. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in English in Guadalupe County, Texas in the *San Marcos Daily Record* on December 8, 2021, and in Spanish in *El Mundo* on December 9, 2021. The ED completed the technical review of the application on February 23, 2022, and prepared the 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 English in Guadalupe County, Texas in the *San Marcos Daily Record* on March 31, 2022, and in Spanish in *El Mundo* on March 31, 2022. The public comment period ended on May 2, 2022. 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, (HB 801) and the procedural requirements of and rules implementing Senate Bill 709, 84th Legislature, 2015, (SB 709) both implemented by the TCEQ in its rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The Texas Legislature enacted Senate Bill 709, effective September 1, 2015, amending the requirements for comments and contested case hearings.

V. 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 (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 Requests. This application was declared administratively complete on December 2, 2022; therefore, it is subject to the procedural requirements adopted pursuant to both HB 801 and SB 709.

A. Legal Authority To Respond To Hearing Requests

The ED may submit written responses to 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 [only] in a [] comment withdrawn by the commenter by filing a written withdrawal letter with the chief clerk prior to the filing of the ED's Response to Comment;
6. whether the issues are relevant and material to the decision on the application; and
7. a maximum expected duration for the contested case hearing.²

B. Hearing Request Requirements

To consider a Request, the Commission must first conclude that the requirements in 30 TAC §§ 55.201 and 55.203, are met as follows.

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 ED's Response to Comment.³

A hearing request must substantially comply with the following:

- (1) give the name, address, 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 is 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

¹ 30 TAC § 55.209(d).

² *Id.* at § 55.209(e).

³ 30 TAC § 55.201(c).

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 ED's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, list any disputed issues of law; and

- (5) provide any other information specified in the public notice of application.⁴

C. Requirement that Requestor 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 public does not qualify as a personal justiciable interest.
- (b) Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
 - (1) whether the interest claimed is one protected by the law under which the application will be considered;
 - (2) distance restrictions or other limitations imposed by law on the affected interest;
 - (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
 - (6) 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

⁴ *Id.* at § 55.201(d).

⁵ 30 TAC § 55.203(a)-(c).

- (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 ED; and
 - (3) any other expert reports, affidavits, opinions, or data submitted by the ED, 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”

VI. ANALYSIS OF THE HEARING REQUESTS

For this permit application the relevant public comment period ended on May 2, 2022, and the period for filing a Request for Reconsideration or a Request ended on February 22, 2022. The ED's analyses determined whether the Requests followed TCEQ rules, if San Marcos qualified as an affected person, what issues may be referred for a possible hearing, and the length of that hearing.

A. Whether The Request Complied With 30 Tac §§ 55.201(C) And (D).

1. San Marcos filed five substantially similar, timely, written Requests that provided the requisite contact information, raised issues that form the basis of the Requests in timely comments not withdrawn before the RTC was filed, and requested a hearing.

San Marcos' Requests complied with 30 TAC §§ 55.201(c), and (d) because they effectively identified a personal justiciable interest in a written explanation plainly describing why it believes it will be affected by the application in a way not common to the public. San Marcos' Requests stated that the proposed facility will be within its Extra Territorial Jurisdiction (ETJ) and raised relevant issues to a decision on the application.

The ED recommends finding that San Marcos' Requests substantially complied with 30 TAC §§ 55.201(c) and (d).

⁶ *Id.* at § 55.203(d).

⁷ 30 TAC § 50.115(b).

⁸ *Id.* at § 50.115(c).

B. Whether Requestor Is An Affected Person Under 30 Tac § 55.203.

1. San Marcos – Filed Requests that effectively identified a personal, justiciable interest affected by the application because the Requests stated that the proposed facility will be located within its ETJ limits; and according to the GIS map prepared by the ED’s staff, the proposed facility, while not within the San Marcos’ incorporated limits, is within the limits of San Marcos’ ETJ, which increases the likelihood that San Marcos will be affected in a way not common to the public. This is also because San Marcos’ Requests raised relevant issues to a decision on the application, including but not limited to, whether the permit will allow nuisance odors from the proposed facility, whether surface and groundwater quality will be protected in accordance with the TSWQS, whether the Applicant’s Operator is qualified to run the proposed facility, and whether the proposed facility and permit comply with the requirements for “need” in TWC Sec. 26.0282 and Texas’ regionalization policy. Those issues all relate to statutory interests granted to municipalities and wastewater treatment providers by state law.

Pursuant to Texas Local Gov’t Code § 42.001, the purpose of a municipality’s ETJ is so that the municipality can promote and protect the general health, safety, and welfare of residents within it. Surface and groundwater quality being protected within San Marcos’ ETJ according to state law, and a qualified operator running the proposed facility so spills and malfunctions can be prevented, are issues related to San Marcos’ interest in promoting and protecting the general health, safety, and welfare of persons residing in its ETJ. This highlights that a reasonable relationship exists between the interest claimed and the activity regulated.

Additionally, Chapter 217 of the Local Gov’t Code gives all municipalities the powers to abate and regulate nuisances and ensuring that the proposed permit addresses the prevention of nuisance odors, demonstrates San Marcos’ interest and the possibility San Marcos may suffer adverse effects by this application, not common to the public.

Pursuant to the TWC, the development and use of regional and area-wide wastewater systems is encouraged and promoted (TWC § 26.081(a)). In furtherance of that goal, *the commission may deny or alter the terms and conditions of a permit based on consideration of factors, including but not limited to “Need,” and the availability of existing or proposed areawide or regional wastewater systems not designated by commission order pursuant to TWC § 26.081(a)* (TWC § 26.0282). San Marcos, as a wastewater treatment provider, has an interest in the application demonstrating the need for the proposed facility and the correct implementation of TCEQ’s Regionalization policy, within its ETJ.

San Marcos’ Requests raised relevant issues to the application, explained briefly and specifically, in plain language, San Marcos’ ETJ limits relative to the proposed facility and how and why San Marcos might be adversely affected by the proposed facility in a manner not common to the public.

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

C. 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

D. Issues raised in the Hearing Request:

The following issues were raised in San Marcos' Requests:

1. Whether the proposed discharge will violate TCEQ's antidegradation policy and procedures.

(RTC Response No. 4) This is an issue of fact. If it can be shown that this issue is factually accurate, 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 refer this case to SOAH, the ED recommends referring this issue.

2. Whether the proposed discharge negatively will impact livestock or aquatic or terrestrial wildlife.

(RTC Response No. 4) This is an issue of fact. If it can be shown that this issue is factually accurate, 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 refer this case to SOAH, the ED recommends referring this issue.

3. Whether the permit will protect human health and the environment.

(RTC Response No. 4) This is an issue of fact. If it can be shown that this issue is factually accurate, 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 refer this case to SOAH, the ED recommends referring this issue.

4. Whether the permit will be protective of surface and groundwater quality.

(RTC Response Nos. 4 and 5) This is an issue of fact. If it can be shown that this issue is factually accurate, 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 refer this case to SOAH, the ED recommends referring this issue.

5. Whether the permit will ensure no impairment of the existing uses of the discharge route.

⁹ TX. GOV'T CODE § 2003.047(e-1); 30 TAC § 55.211 (c)(2)(A)(ii).
Executive Director's Response to Hearing Requests
TCEQ Permit No. WQ0016049001
TCEQ Docket No. 2022-1046-MWD

(RTC Response No. 4) This is an issue of fact. If it can be shown that this issue is factually accurate, 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 refer this case to SOAH, the ED recommends referring this issue.

6. Whether the Applicant's compliance history for the last five years raises issues regarding the Applicant's ability to comply with the material terms of the permit.

(RTC Response No. 10) This is an issue of fact. If it can be shown that this issue is factually accurate, 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 refer this case to SOAH, the ED recommends referring this issue.

7. Whether the permit and proposed facility violate the TCEQ's regionalization policy, and whether the requirements in TWC Sec. 26.0282 for "need" have been met.

(RTC Response No. 11) This is an issue of fact. If it can be shown that this issue is factually accurate, 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 refer this case to SOAH, the ED recommends referring this issue.

8. Whether the permit's nuisance odor control complies with TCEQ rules.

(RTC Response No. 7) This is an issue of fact. If it can be shown that this issue is factually accurate, 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 refer this case to SOAH, the ED recommends referring this issue.

9. Whether the application is complete and provides truthful information upon which the Commission can rely.

(RTC Response No. 12) This is an issue of fact. If it can be shown that this issue is factually accurate, 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 refer this case to SOAH, the ED recommends referring this issue.

10. Whether the permit's operator requirements comply with the TCEQ rules.

(RTC Response No. 8) This is an issue of fact. If it can be shown that this issue is factually accurate, that information would be relevant and material to a decision on the application. This is an issue of fact that is not relevant and material to a decision on the application. If the Applicant's operator does not have the requisite qualifications to operate the proposed facility, would be a permit violation as that is a term of the permit.

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

VII. REQUESTS FOR RECONSIDERATION

The ED received three Requests for Reconsideration (RFR) from San Marcos on this application that did not raise any new information for the ED to consider.

VIII. 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.

IX. EXECUTIVE DIRECTOR'S RECOMMENDATION

The ED recommends the following actions by the Commission:

1. Find that San Marcos is an Affected Person under 30 TAC § 55.203.
2. Grant the Requests of San Marcos.
3. Deny the Requests for Reconsideration filed by San Marcos.
4. Should the Commission decide to refer this case to SOAH:
 - a. refer the case to Alternative Dispute Resolution for a reasonable time, and
 - b. refer the identified issues above in section (C)(1)-(10) 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 ED OF THE TEXAS
COMMISSION ON ENVIRONMENTAL QUALITY

X. CERTIFICATE OF SERVICE

I certify that on September 12, 2022, true and correct copies of the Executive Director's Response to Hearing Requests on the application by Rattler Ridge, LLC for new TPDES Permit No. WQ0016049001, was filed with the TCEQ's Chief Clerk and a copy was served to all persons listed on the mailing list below via hand delivery, electronic delivery, inter-agency mail, or by deposit in the U.S. Mail.



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

XI. MAILING LIST

FOR THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

via electronic mail:

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Attachment A

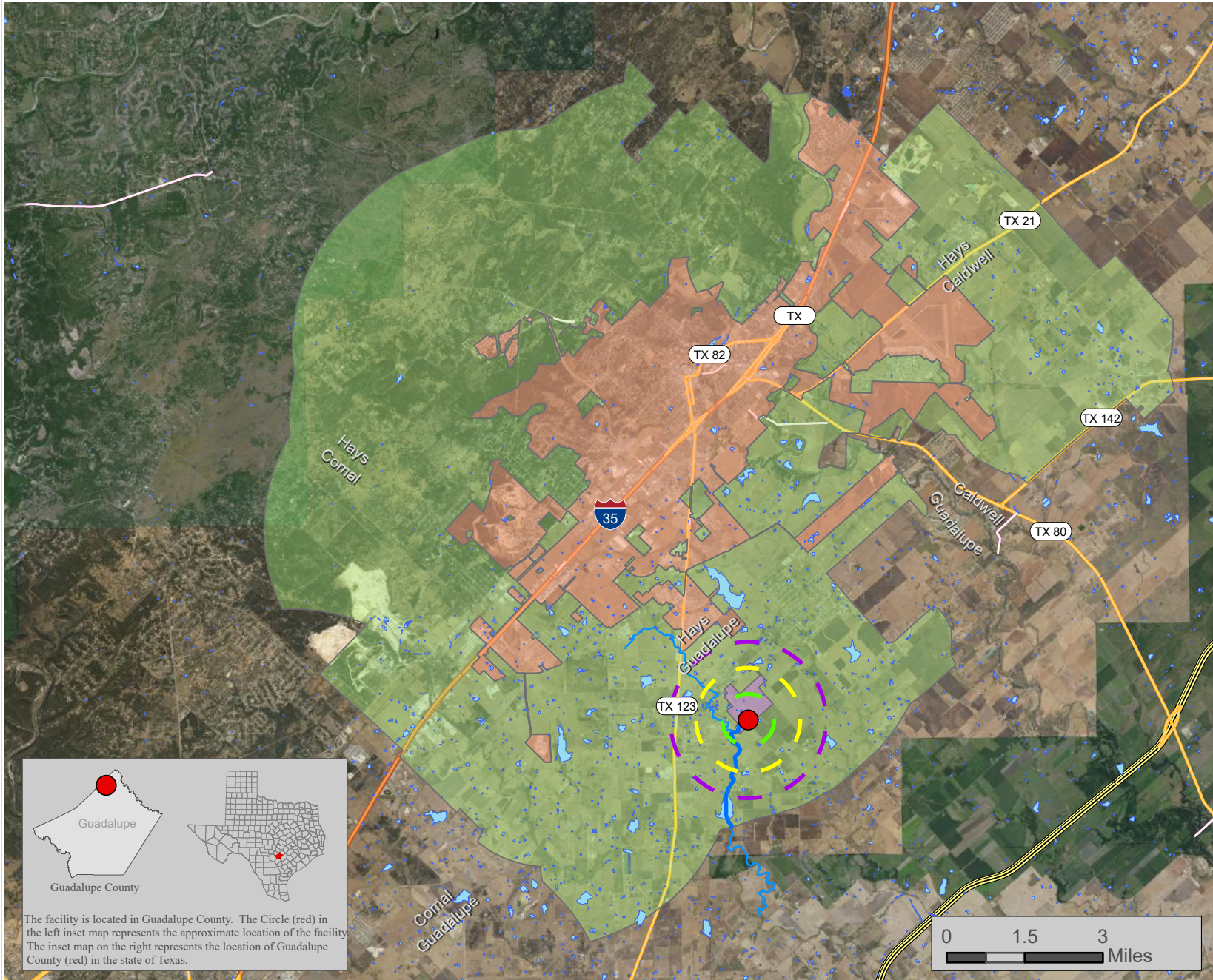
Rattler Ridge LLC

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

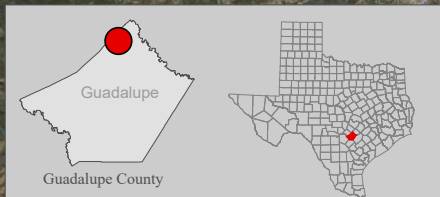


*Protecting Texas by
Reducing and
Preventing Pollution*

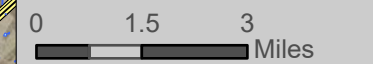
Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 8/31/2022
CRF 0076975
Cartographer: alortiz



- Facility and Outfall
- 0.5 Mile from Facility
- 1 Mile from Facility
- 1.5 Miles from Facility
- Facility Property
- San Marcos Municipality
- San Marcos ETJ
- Lake/Pond
- County Boundary
- 2 Miles Discharge Route
- Long Creek



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



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.

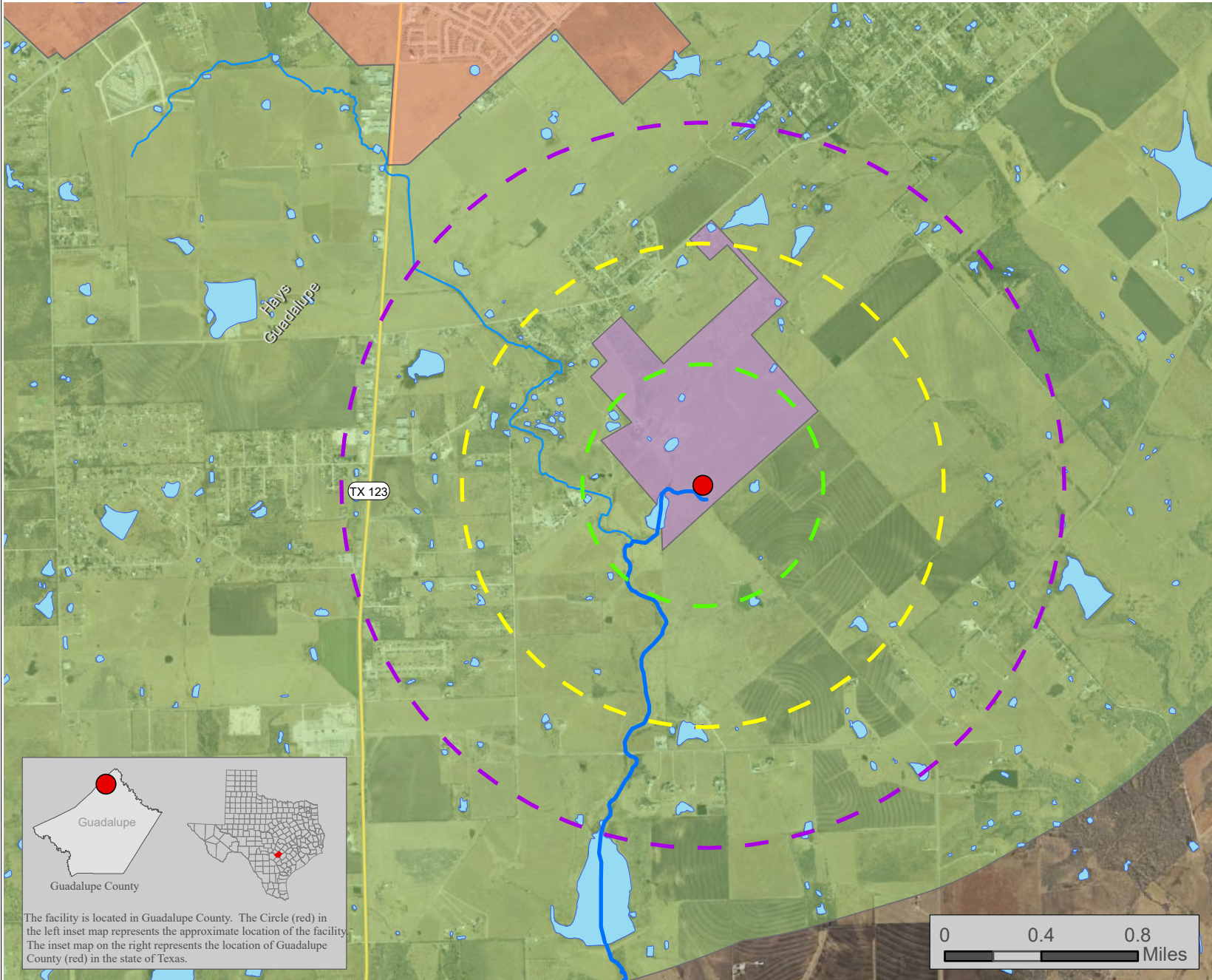
Rattler Ridge LLC

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

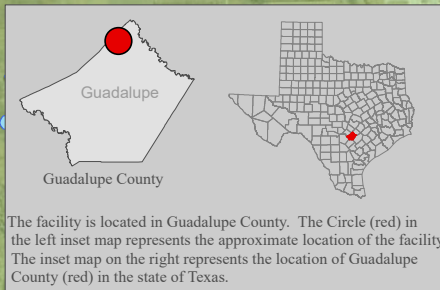


*Protecting Texas by
Reducing and
Preventing Pollution*

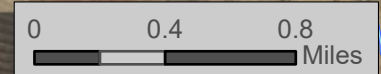
Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 8/31/2022
CRF 0076975
Cartographer: alortiz



- Facility and Outfall
- 0.5 Mile from Facility
- 1 Mile from Facility
- 1.5 Miles from Facility
- Facility Property
- San Marcos Municipality
- San Marcos ETJ
- Lake/Pond
- County Boundary
- 2 Miles Discharge Route
- Long Creek



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



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.

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Final Documents Team Leader
Chief Clerk's Office

DATE: September 16, 2022

From: Michael Parr
Staff Attorney
Environmental Law Division

Subject: Backup Documents Filed for Executive Director's Response to
Hearing Requests

Applicant:	Rattler Ridge LLC
Proposed Permit No.:	WQ0016049001
Program:	Water
Docket No.:	2022-1046-MWD

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

- Technical Summary & Proposed Permit
- The Compliance History Report

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

DESCRIPTION OF APPLICATION

Applicant: Rattler Ridge, LLC;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0016049001, EPA I.D. No. TX0141798

Regulated Activity: Domestic Wastewater Permit

Type of Application: New Permit

Request: New Permit

Authority: Federal Clean Water Act (CWA) § 402; Texas Water Code § 26.027; 30 Texas Administrative Code (TAC) Chapters 30, 305, 307, 309, 312, and 319; Commission policies; and United States Environmental Protection Agency (EPA) guidelines.

EXECUTIVE DIRECTOR RECOMMENDATION

The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The draft permit includes an expiration date of **five years from the date of issuance**.

REASON FOR PROJECT PROPOSED

The applicant has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.10 million gallons per day (MGD) in the Interim phase I, a daily average flow not to exceed 0.20 MGD in the Interim phase II, and a daily average flow not to exceed 0.40 MGD in the Final phase. The proposed wastewater treatment facility will serve the Rattler Ridge Subdivision that consists of single-family residential lots.

PROJECT DESCRIPTION AND LOCATION

The Rattler Ridge Wastewater Treatment Facility will be an activated sludge process plant operated in the extended aeration mode. The Interim phase I will have the following treatment units: a bar screen, an aeration basin, a final clarifier, an aerobic sludge digester, and a chlorine contact chamber; Interim phase II will have the following treatment units: one bar screen, one flow splitter, two aeration basins, two final clarifiers, two aerobic sludge digesters, and two chlorine contact chambers; and the Final phase will have the following treatment units: one bar screen, one flow splitter, three aeration basins, three final clarifiers, three aerobic sludge digesters, and three chlorine contact chambers. In addition, each phase will include tertiary filters. The facility has not been constructed.

Sludge generated from the treatment facility will be hauled by a registered transporter to City of Austin's Walnut Creek Wastewater Treatment Facility, Permit No. WQ0010543011, 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 plant site will be located approximately 7,656 feet southeast of the intersection of Farm-to-Market Road 1978 and State Highway 123, in Guadalupe County, Texas 78666.

Outfall Location:

Outfall Number	Latitude	Longitude
001	29.787290 N	97.923340 W

The treated effluent will be discharged to an onsite pond, thence to an unnamed tributary, thence to Long Creek, thence to an unnamed impoundment, thence to Long Creek, thence to York Creek, thence to the Lower San Marcos River in Segment No. 1808 of the Guadalupe River Basin. The unclassified receiving water uses are limited aquatic life use for the onsite pond, the unnamed tributary, and for Long Creek; and high aquatic life use for the unnamed reservoir. The designated uses for Segment No. 1808 are primary contact recreation, public water supply, and high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses.

In accordance with 30 Texas Administrative Code Section 307.5 and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in the unnamed reservoir, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

Effluent limitations for the conventional effluent parameters (i.e., Five-Day Biochemical Oxygen Demand or Five-Day Carbonaceous Biochemical Oxygen Demand, Ammonia Nitrogen, etc.) are based on stream standards and waste load allocations for water-quality limited streams as established in the Texas Surface Water Quality Standards (TSWQS) and the State of Texas Water Quality Management Plan (WQMP).

In a case such as this, end-of-pipe compliance with pH limits between 6.0 and 9.0 standard units reasonably assures instream compliance with the TSWQS for pH when the discharge authorized is from a minor facility. This technology-based approach reasonably assures instream compliance with TSWQS criteria due to the relatively smaller discharge volumes authorized by these permits. This conservative assumption is based on TCEQ sampling conducted throughout the state which indicates that instream buffering quickly restores pH levels to ambient conditions. Similarly, this approach has been historically applied within EPA issued NPDES general permits where technology-based pH limits were established to be protective of water quality criteria.

The effluent limitations in the draft permit have been reviewed for consistency with the WQMP. The proposed effluent limitations are not contained in the approved WQMP. However, these limits will be included in the next WQMP update.

The discharge from this permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat. This determination is based on the United States Fish and Wildlife Service's (USFWS's) biological opinion on the State of Texas authorization of the TPDES (September 14, 1998; October 21, 1998, update). To make this determination for TPDES permits, TCEQ and EPA only considered aquatic or aquatic-dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species.

Segment No. 1808 is not currently listed on the state's inventory of impaired and threatened waters (the 2020 CWA § 303(d) list).

SUMMARY OF EFFLUENT DATA

Self-reporting data is not available since the facility is not in operation.

DRAFT PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at an Interim phase I volume not to exceed a daily average flow of 0.10 MGD, an Interim phase II volume not to exceed a daily average flow of 0.20 MGD, and a Final volume not to exceed a daily average flow of 0.40 MGD.

The effluent limitations in the Interim phase I, Interim Phase II and the Final phase of the draft permit, based on a 30-day average, are 10 mg/l five-day carbonaceous biochemical oxygen demand (CBOD₅), 15 mg/l total suspended solids (TSS), 2 mg/l ammonia-nitrogen (NH₃-N), 0.5 mg/l total phosphorus (TP), 126 colony forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml, and 5.0 mg/l minimum dissolved oxygen (DO). The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 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 is hauled by a registered transporter to City of Austin's Walnut Creek Wastewater Treatment Facility, Permit No. WQ0010543011, 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 October 1, 2021, and additional information received on October 26, October 28, November 19, 2021; February 9, and 11, 2022.
2. The effluent limitations and conditions in the draft permit comply with EPA-approved portions of the 2018 Texas Surface Water Quality Standards (TSWQS), 30 TAC §§ 307.1 - 307.10, effective March 1, 2018; 2014 TSWQS, effective March 6, 2014; 2010 TSWQS, effective July 22, 2010; and 2000 TSWQS, effective July 26, 2000.
3. The effluent limitations in the draft permit meet the requirements for secondary treatment and the requirements for disinfection according to 30 TAC Chapter 309, Subchapter A: Effluent Limitations.
4. Interoffice memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division.
5. Consistency with the Coastal Management Plan: The facility is not located in the Coastal

Management Program boundary.

6. *Procedures to Implement the Texas Surface Water Quality Standards (IP)*, Texas Commission on Environmental Quality, June 2010, as approved by EPA, and the IP, January 2003, for portions of the 2010 IP not approved by EPA.
7. Texas 2020 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, March 25, 2020; approved by the U.S. Environmental Protection Agency on May 12, 2020.
8. Texas Natural Resource Conservation Commission, Guidance Document for Establishing Monitoring Frequencies for Domestic and Industrial Wastewater Discharge Permits, Document No. 98-001.000-OWR-WQ, May 1998.

PROCEDURES FOR FINAL DECISION

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

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

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 Hanne L. Nielsen at (512) 239-6524.

Hanne L. Nielsen

Hanne L. Nielsen
Municipal Permits Team
Wastewater Permitting Section (MC 148)

February 23, 2022

Date



TPDES PERMIT NO. WQ0016049001
[For TCEQ office use only - EPA I.D.
No. TX0141798]

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

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

Rattler Ridge, LLC

whose mailing address is

1067 Farm-to-Market Road 306, Suite 106
New Braunfels, Texas 78130

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

located approximately 7,656 feet southeast of the intersection of Farm-to-Market Road 1978 and State Highway 123, in Guadalupe County, Texas 78666

to an onsite pond, thence to an unnamed tributary, thence to Long Creek, thence to an unnamed impoundment, thence to Long Creek, thence to York Creek, thence to the Lower San Marcos River in Segment No. 1808 of the Guadalupe River Basin

only according to effluent limitations, monitoring requirements, and other conditions set forth in this permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight, **five years from the date of issuance.**

ISSUED DATE:

For the Commission

INTERIM I EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 0.20 million gallons per day (MGD) facility, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.10 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 278 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (8.3)	15	25	35	One/week	Grab
Total Suspended Solids	15 (13)	25	40	60	One/week	Grab
Ammonia Nitrogen	2 (1.7)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (0.42)	1	2	3	One/week	Grab
<i>E. coli</i> colony-forming units or most probable number per 100 ml	126	N/A	N/A	399	One/month	Grab

2. The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
6. The effluent shall contain a minimum dissolved oxygen of 5.0 mg/l and shall be monitored once per week by grab sample.

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 0.20 million gallons per day (MGD) facility and lasting through the completion of expansion to the 0.40 MGD facility, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.20 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 556 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (17)	15	25	35	One/week	Grab
Total Suspended Solids	15 (25)	25	40	60	One/week	Grab
Ammonia Nitrogen	2 (3.3)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (0.83)	1	2	3	One/week	Grab
<i>E. coli</i> colony-forming units or most probable number per 100 ml	126	N/A	N/A	399	One/month	Grab

2. The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week by grab sample at each chlorine contact chamber. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
6. The effluent shall contain a minimum dissolved oxygen of 5.0 mg/l and shall be monitored once per week by grab sample.

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

1. During the period beginning upon the completion of expansion to the 0.40 million gallons per day (MGD) facility and lasting through the date of expiration, the permittee is authorized to discharge subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.40 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,111 gallons per minute (gpm).

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Min. Self-Monitoring Requirements</u>	
	Daily Avg mg/l (lbs/day)	7-day Avg mg/l	Daily Max mg/l	Single Grab mg/l	Report Daily Avg. & Max. Single Grab Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	10 (33)	15	25	35	One/week	Grab
Total Suspended Solids	15 (50)	25	40	60	One/week	Grab
Ammonia Nitrogen	2 (6.7)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (1.7)	1	2	3	One/week	Grab
<i>E. coli</i> colony-forming units or most probable number per 100 ml	126	N/A	N/A	399	One/month	Grab

2. The effluent shall contain a total chlorine residual of at least 1.0 mg/l and shall not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and shall be monitored five times per week by grab sample at each chlorine contact chamber. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.
3. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per month by grab sample.
4. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
5. Effluent monitoring samples shall be taken at the following location(s): Following the final treatment unit.
6. The effluent shall contain a minimum dissolved oxygen of 5.0 mg/l and shall be monitored once per week by grab sample.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits. 30 TAC § 305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code (TWC) §§ 5.103 and 5.105, and the Texas Health and Safety Code (THSC) §§ 361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in TWC § 26.001 and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

- a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with one million gallons per day or greater permitted flow.
- b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.
- d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.
- e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.
- f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
 - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.

- ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.
- d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the sampling day.

The daily discharge determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily discharge determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

- e. Bacteria concentration (*E. coli* or Enterococci) - Colony Forming Units (CFU) or Most Probable Number (MPN) of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the n th root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or, computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substituted value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
 - f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as (Flow, MGD x Concentration, mg/l x 8.34).
 - g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.
3. Sample Type
- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).

- b. Grab sample - an individual sample collected in less than 15 minutes.
4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.
6. 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 AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§ 319.4 - 319.12. Unless otherwise specified, effluent monitoring data shall be submitted each month, to the Compliance Monitoring Team of the Enforcement Division (MC 224), by the 20th day of the following month for each discharge which is described by this permit whether or not a discharge is made for that month. Monitoring results must be submitted online using the NetDMR reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. Monitoring results must be signed and certified as required by Monitoring and Reporting Requirements No. 10.

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

2. Test Procedures

- a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§ 319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.
- b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC § 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to

be representative of the monitored activity.

- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use or biosolids and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR § 264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
 - i. date, time and place of sample or measurement;
 - ii. identity of individual who collected the sample or made the measurement.
 - iii. date and time of analysis;
 - iv. identity of the individual and laboratory who performed the analysis;
 - v. the technique or method of analysis; and
 - vi. the results of the analysis or measurement and quality assurance/quality control records.

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

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

5. Calibration of Instruments

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

6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final

requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office and the 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. For Publicly Owned Treatment Works (POTWs), effective December 21, 2025, the permittee must submit the written report for unauthorized discharges and unanticipated bypasses that exceed any effluent limit in the permit using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
 - b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:
 - i. Unauthorized discharges as defined in Permit Condition 2(g).
 - ii. Any unanticipated bypass that exceeds any effluent limitation in the permit.
 - iii. Violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.
 - c. In addition to the above, any effluent violation which deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the 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. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
8. In accordance with the procedures described in 30 TAC §§ 35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional

Office and the 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).

11. All POTWs must provide adequate notice to the Executive Director of the following:

- a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to CWA § 301 or § 306 if it were directly discharging those pollutants;
- b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
- c. For the purpose of this paragraph, adequate notice shall include information on:
 - i. The quality and quantity of effluent introduced into the POTW; and
 - ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

- a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.
- b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:
 - i. Violation of any terms or conditions of this permit;
 - ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
 - iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
- b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.
- c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.
- e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.
- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance

with 30 TAC §§ 305.62 and 305.66 and TWC§ 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.
- h. In accordance with 30 TAC § 305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility which does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
- i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under TWC §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§ 301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA § 402, or any requirement imposed in a pretreatment program approved under the CWA §§ 402 (a)(3) or 402 (b)(8).

3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC § 361.
- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, Commission contractor, or agent is refused the right to enter in or on public or private property under this authority, the Executive Director may invoke the remedies authorized in TWC § 7.002. The statement above, that Commission entry shall occur in accordance with an establishment's rules and regulations concerning safety, internal security, and fire protection, is not grounds for denial or restriction of entry to any part of the facility, but merely describes the Commission's duty to observe appropriate rules and regulations during an inspection.

4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
 - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in accordance with 30 TAC § 305.534 (relating to New Sources and New Dischargers); or
 - ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and Reporting Requirements No. 9; or
 - iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
- c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
- d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.
- e. In accordance with the TWC § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.
- f. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under CWA § 307(a) for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition. The permittee shall comply with effluent standards or prohibitions established under CWA § 307(a) for toxic pollutants within the time provided in the

regulations that established those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Permit Transfer

- a. Prior to any transfer of this permit, Commission approval must be obtained. The Commission shall be notified in writing of any change in control or ownership of facilities authorized by this permit. Such notification should be sent to the Applications Review and Processing Team (MC 148) of the Water Quality Division.
- b. A permit may be transferred only according to the provisions of 30 TAC § 305.64 (relating to Transfer of Permits) and 30 TAC § 50.133 (relating to Executive Director Action on Application or WQMP update).

6. Relationship to Hazardous Waste Activities

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

7. Relationship to Water Rights

Disposal of treated effluent by any means other than discharge directly to water in the state must be specifically authorized in this permit and may require a permit pursuant to TWC Chapter 11.

8. Property Rights

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

9. Permit Enforceability

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

10. Relationship to Permit Application

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

11. Notice of Bankruptcy

- a. Each permittee shall notify the Executive Director, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code (11 USC) by or against:
 - i. the permittee;
 - ii. an entity (as that term is defined in 11 USC, § 101(14)) controlling the permittee or listing the permit or permittee as property of the estate; or
 - iii. an affiliate (as that term is defined in 11 USC, § 101(2)) of the permittee.

- b. This notification must indicate:
 - i. the name of the permittee;
 - 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 TWC § 7.302(b)(6).

7. Documentation

For all written notifications to the Commission required of the permittee by this permit, the permittee shall keep and make available a copy of each such notification under the same conditions as self-monitoring data are required to be kept and made available. Except for information required for TPDES permit applications, effluent data, including effluent data in permits, draft permits and permit applications, and other information specified as not confidential in 30 TAC §§ 1.5(d), any information submitted pursuant to this permit may be claimed as confidential by the submitter. Any such claim must be asserted in the manner prescribed in the application form or by stamping the words confidential business information on each page containing such information. If no claim is made at the time of submission, information may be made available to the public without further notice. If the Commission or Executive Director agrees with the designation of confidentiality, the TCEQ will not provide the information for public inspection unless required by the Texas Attorney General or a court pursuant to an open records request. If the Executive Director does not agree with the designation of confidentiality, the person submitting the information will be notified.

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

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

If in the judgment of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 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. For Publicly Owned Treatment Works (POTWs), the 30-day average (or monthly average) percent removal for BOD and TSS shall not be less than 85%, unless otherwise authorized by this permit.
 11. Facilities that generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
 - a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
 - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
 - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the 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 Registration 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 § 335 and must include the following, as it pertains to wastewater treatment and discharge:
 - i. Volume of waste and date(s) generated from treatment process;
 - ii. Volume of waste disposed of on-site or shipped off-site;
 - iii. Date(s) of disposal;
 - iv. Identity of hauler or transporter;
 - v. Location of disposal site; and
 - vi. Method of final disposal.

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

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

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SLUDGE PROVISIONS

The permittee is authorized to dispose of sludge 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 supplies the sewage sludge to another person for land application use or to the owner or lease holder of the land, the permit holder shall provide necessary information to the parties who receive the sludge to assure compliance with these regulations.
3. The 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 13) 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 13) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year. Effective December 21, 2025, the permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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> <u>(Milligrams per kilogram)*</u>
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
PCBs	49
Selenium	100
Zinc	7500

* Dry weight basis

3. Pathogen Control

All sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site must be treated by one of the following methods to ensure that the sludge meets either the Class A, Class AB or Class B 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 on the land surface for 4 months or longer prior to incorporation into the soil.
- iii. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of 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. Biosolids shall be injected below the surface of the land.
 - ii. No significant amount of the biosolids shall be present on the land surface within one hour after the biosolids are 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 is incorporated into the soil is Class A or Class AB with respect to pathogens, the biosolids 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, or 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 biosolids enters a wetland or other waters in the State.
2. Bulk biosolids 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 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 biosolids 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 is applied to land in a State other than Texas, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk 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 treatment activities.
 - b. The location, by street address, and specific latitude and longitude, of each site on which biosolids is applied.
 - c. The number of acres in each site on which bulk biosolids are applied.
 - d. The date and time 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 biosolids applied to each site in dry tons.

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

F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 13) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year the following information. Effective December 21, 2025, the permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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 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 meets the requirements in 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.
- B. If the permittee generates sewage sludge 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 13) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and 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 13) 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 13) and Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year the following information. Effective December 21, 2025, the permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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 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 13) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year. Effective December 21, 2025, the permittee must submit this annual report using the online electronic reporting system available through the TCEQ website unless the permittee requests and obtains an electronic reporting waiver.

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.

OTHER REQUIREMENTS

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

This Category 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 that does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.

2. The facility is not located in the Coastal Management Program boundary.
3. 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).
4. The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.
5. In accordance with 30 TAC § 319.9, a permittee that has at least twelve months of uninterrupted compliance with its bacteria limit may notify the commission in writing of its compliance and request a less frequent measurement schedule. To request a less frequent schedule, the permittee shall submit a written request to the TCEQ Wastewater Permitting Section (MC 148) for each phase that includes a different monitoring frequency. The request must contain all of the reported bacteria values (Daily Avg. and Daily Max/Single Grab) for the twelve consecutive months immediately prior to the request. If the Executive Director finds that a less frequent measurement schedule is protective of human health and the environment, the permittee may be given a less frequent measurement schedule. For this permit, 1/month may be reduced to 1/quarter in Interim I, Interim II and in the Final phases. **A violation of any bacteria limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return to the standard frequency schedule and submit written notice to the TCEQ Wastewater Permitting Section (MC 148).** The permittee may not apply for another reduction in measurement frequency for at least 24 months from the date of the last violation. The Executive Director may establish a more frequent measurement schedule if necessary to protect human health or the environment.
6. Prior to construction of the treatment facility, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) a summary transmittal letter in accordance with the requirements in 30 TAC § 217.6(d). If requested by the Wastewater Permitting Section, the permittee shall submit plans and specifications and a final engineering design report which comply with 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 Pages 2, 2a, and 2b of this permit. A copy of the summary

transmittal letter shall be available at the plant site for inspection by authorized representatives of the TCEQ.

7. 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 from the facility described by this permit, whichever occurs first. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 13) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five days prior to plant startup or anticipated discharge, whichever occurs first, and prior to completion of each additional phase on Notification of Completion Form 20007.



Compliance History Report

Compliance History Report for CN605939511, RN111346813, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN605939511, Rattler Ridge, LLC	Classification:	NOT APPLICABLE	Rating:	N/A
Regulated Entity:	RN111346813, RATTLER RIDGE WWTP	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	LOCATED 1 MILE EAST OF INTERSECTION OF HWY 123 AND FM 1978 THE PROPERTY IS NORTH OF FM 1979 AND SOUTH OF 1978 EAST OF OLD SEGUIN RD AND WEST OF REDWOOD DR GUADALUPE, TX, GUADALUPE COUNTY				
TCEQ Region:	REGION 13 - SAN ANTONIO				
ID Number(s):					
WASTEWATER PERMIT	WQ0016049001	WASTEWATER EPA ID	TX0141798		
Compliance History Period:	September 01, 2016 to August 31, 2021	Rating Year:	2021	Rating Date:	09/01/2021
Date Compliance History Report Prepared:	February 04, 2022				
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.				
Component Period Selected:	October 01, 2016 to February 04, 2022				
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

TPDES PERMIT NO. WQ0016049001

APPLICATION BY
RATTLER RIDGE, LLC FOR
NEW TPDES PERMIT
NO. WQ0016049001

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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 Rattler Ridge, LLC (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016049001 (proposed permit), 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 York Creek Improvement District (the District), Guadalupe County Commissioner-Precinct 2, Drew Engelke, the City of San Marcos (the City), and Garland Powers III. 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 for the proposed permit, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 or 0.1 Million Gallons per Day (MGD) in the Interim I phase, at a daily average flow not to exceed 0.20 MGD in the Interim II phase, and at a daily average flow not to exceed 0.40 MGD in the Final phase.

Description of Facility and Receiving Streams

If this permit is ultimately issued, the Rattler Ridge Wastewater Treatment Facility (proposed facility) will serve the Rattler Ridge subdivision and will be located approximately 7,656 feet southeast of the intersection of Farm-to-Market Road 1978 and State Highway 123, in Guadalupe County, Texas 78666.

When constructed, the proposed facility will be an activated sludge process plant operated in the extended aeration mode. Treatment units common across all phases, include a bar screen and tertiary filters. Treatment units specific to the Interim I phase include an aeration basin, a final clarifier, an aerobic sludge digester, and a chlorine contact chamber. Treatment units specific to the Interim II phase include a flow splitter, two aeration basins, two final clarifiers, two aerobic sludge digesters, and two chlorine contact chambers. Treatment units specific to the Final phase include a flow splitter, three aeration basins, three final clarifiers, three aerobic sludge digesters, and three chlorine contact chambers.

The treated effluent will be discharged to an onsite pond where it will continue to an unnamed tributary, then to Long Creek, then to an unnamed impoundment, then back to Long Creek, then to York Creek, and finally to the Lower San Marcos River in Segment No. 1808 of the Guadalupe River Basin.

Because the discharge is directly to an unclassified water body, this permitting action was reviewed in conformity with the 2018 Texas Surface Water Quality Standards (TSWQS) (30 TAC §§ 307.4(h) and (l)) and the TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards-June 2010* (TCEQ IPs). Based on a receiving water assessment and/or other available information, a preliminary determination of the aquatic life uses in the area of the discharge's impact has been performed and the corresponding Dissolved Oxygen (DO) criterion assigned as stipulated in the TSWQS (30 TAC § 307.5) and the TCEQ IPs.

The unclassified receiving water uses are limited aquatic life use for the onsite pond, the unnamed tributary, and Long Creek (all 3.0 mg/L DO), and high aquatic life use for the unnamed reservoir (5.0 mg/L DO). The designated uses for Segment No. 1808 are primary contact recreation, public water supply, and high aquatic life use. Segment No. 1808 is not currently listed on the state's inventory of impaired and threatened waters (the 2020 CWA § 303(d) list).

Based on the total phosphorus screening, a 0.5 mg/L total phosphorus (TP) limit is recommended for all phases of the permit to preclude eutrophication in the instream pools within the unnamed tributary and Long Creek as well as the unnamed reservoir.

In accordance with the TSWQS (30 TAC § 307.5), and the TCEQ IPs, an antidegradation review of the receiving waters was performed. The Tier 1 antidegradation review preliminarily determined that existing water quality uses will not be impaired by this permitting action and that numerical and narrative criteria to protect existing uses will be maintained. The Tier 2 review preliminarily determined that no significant degradation of water quality is expected in the unnamed reservoir, which has been identified as having high aquatic life use, and that existing uses will be maintained and protected. However, if new information is received, these determinations can be reexamined or modified.

Additionally, the water quality-related effluent limitations (limits) in the proposed permit will maintain and protect the existing instream uses, and for the conventional effluent parameters such as Minimum Dissolved Oxygen (DO), Five-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), and Ammonia Nitrogen (NH₃-N), the limits are based on stream standards and waste load allocations for water quality-limited streams as established in the TSWQS and the State of Texas Water Quality Management Plan. The effluent limits and conditions in the proposed permit meet requirements for secondary treatment and disinfection according to 30 TAC Chapter 309 (Subchapter A: Effluent Limits) and comply with the TSWQS (30 TAC §§ 307.1-.10, *eff.* 7/22/2010), and the United States Environmental Protection Agency (USEPA)-approved portions of the TSWQS (*eff.* 3/6/2014). In a case such as this, end-of-pipe compliance with pH limits between 6.0 and 9.0 standard units reasonably assures instream compliance with the TSWQS for pH when the discharge authorized is from a minor facility and the unclassified waterbodies have minimal or limited aquatic life uses. This technology-based approach reasonably assures instream compliance with TSWQS criteria due to the relatively smaller discharge volumes authorized by these permits. This conservative assumption is based on TCEQ sampling conducted throughout the state that indicates that instream buffering quickly restores pH levels to ambient conditions.

Based on water quality modeling results from an "uncalibrated QUAL-TX" model, for all effluent flow phases (0.10, 0.20, and 0.40 MGD) an effluent limit set of 10.0 mg/L CBOD₅, 2.0 mg/L NH₃-N, and 5.0 mg/L DO is predicted to ensure that DO

will be maintained above the criterion established by the Standards Implementation Team within the ED's Water Quality Division (WQD staff) for the unnamed tributary and the on-site pond (both 3.0 mg/L DO). Coefficients and kinetics used in the model are a combination of site specific, standardized default, and estimated values. The results of this evaluation can be reexamined upon receipt of information that conflicts with the assumptions employed in this analysis.

Therefore, the entire set of water quality limits of the proposed permit, based on a 30-day average, are 10/15/2.0 mg/L, CBOD₅/TSS/NH₃-N, respectively, 0.5 mg/L TP, and a bacteria limit of 126 colony forming units (CFU) or most probable number (MPN) of *E. coli* per 100 ml. The proposed permit includes requirements that the Applicant use Chlorine for disinfection purposes. Specifically, the treated effluent must contain a total chlorine residual of at least 1.0 mg/l and must not exceed a total chlorine residual of 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow), and must be monitored five times per week by grab sample. An equivalent method of disinfection may be substituted only with prior approval of the ED.

The discharge authorized by the proposed permit action is not expected to have an effect on any federal endangered or threatened aquatic or aquatic-dependent species or proposed species or their critical habitat, as no priority watershed of critical concern has been identified in Segment 1808. This determination is based on the United States Fish and Wildlife Service's (USFWS) biological opinion on the State of Texas authorization for the Texas Pollutant Discharge Elimination System (September 14, 1998, October 21, 1998 update). To make this determination for TPDES permits, TCEQ and EPA only consider aquatic or aquatic dependent species occurring in watersheds of critical concern or high priority as listed in Appendix A of the USFWS biological opinion. The permit does not require EPA review with respect to the presence of endangered or threatened species. This determination is subject to reevaluation due to subsequent updates or amendments to the biological opinion.

Procedural Background

The TCEQ received the application on October 1, 2021, and declared it administratively complete on December 2, 2021. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in English in Guadalupe County, Texas in the *San Marcos Daily Record* on December 8, 2021, and in Spanish in *El Mundo* on December 9, 2021. The ED completed the technical review of the application on February 23, 2022, 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 English in Guadalupe County, Texas in the *San Marcos Daily Record* on March 31, 2022, and in Spanish in *El Mundo* on March 31, 2022. The public comment period ended on May 2, 2022. 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](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). Some documents located at the Office of the Chief Clerk may also be located in the TCEQ Commissioners’ Integrated Database at www.tceq.texas.gov/goto/cid. The permit application, ED’s preliminary decision, and draft permit are available for viewing and copying at the Seguin Public Library located at 313 West Nolte Street, Seguin, Tx 78155. The final permit application, proposed permit, statement of basis/technical summary, and the ED’s preliminary decision are now are available for viewing and copying at the same location since 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 Proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, you may contact the TCEQ Regional Office (Region 13) in San Antonio, TX at (210) 490-3096 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, 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 proposed facility is out of compliance, the proposed facility may be subject to enforcement actions.

COMMENTS AND RESPONSES

COMMENT 1:

Garland Powers III commented expressing concerns about flooding and erosion that will occur on his property. Mr. Powers questioned who will be paying for making repairs from washouts/erosion and removal of debris washed up on his property.

RESPONSE 1:

The ED encourages the participation of all individuals in the environmental permitting process. However, there are certain concerns of individuals that the TCEQ cannot address in the review of a wastewater discharge permit, as the scope of the ED’s jurisdiction in a TPDES application is limited to the issues set out by statute. While the Texas Legislature has given the TCEQ the responsibility to protect water quality and section 26.027 of the Texas Water Code (TWC) authorizes the TCEQ to

issue permits to control the discharge of wastes or pollutants into state waters and to protect the water quality of the state's rivers, lakes and coastal waters, the ED through his Water Quality Division (WQD) has no jurisdiction to address flooding or erosion issues in the wastewater permitting process, which is limited to controlling the discharge of pollutants into waters in the state and protecting the water quality of the state's waterbodies.

While the TCEQ does not have jurisdiction to regulate flooding in the context of a wastewater discharge permit, to the extent that a concern over flooding also involves water quality, the Applicant is always required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit, including during flooding conditions. Likewise, the proposed permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. According to the application, the proposed facility will be located above the 100-year flood plain. For additional protection, the proposed permit includes Other Requirement No. 4, which requires the Applicant to provide protection for the facility from a 100-year flood.

For any flooding concerns, members of the public may wish to contact the Guadalupe County Floodplain Manager's Office, run out of the Guadalupe County Environmental Health Department at (830) 303-8858 7:00 a.m. - 4:00 p.m., Monday through Friday. The TCEQ Resource Protection Team can be contacted for aid in identifying and contacting the appropriate county officials or offices, by calling (830) 303-4691. Additionally, the Federal Emergency Management Agency has programs designed to mitigate damage caused by flooding.

Finally, the issuance of a permit by the TCEQ does not authorize any injury to persons or property or an invasion of others property rights. In addition, the scope of TCEQ's regulatory jurisdiction does not, nor does the proposed permit, limit the ability of nearby landowners to seek relief from a court or use common law remedies in response to trespass, nuisance, other causes of action in response to activities that may or do interfere with the use and enjoyment of their property, or that may or do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property. If the Applicant's activities create any nuisance conditions, the TCEQ may be contacted to investigate whether a permit violation has occurred.

COMMENT 2:

The District commented questioning what the projected volume of discharge would likely be flowing into "Site 10," a dam owned by the District with the in-flow of the dam facing FM 1979 and located just off Dreibrodt Road at the frontage of the dam.

RESPONSE 2:

The ED's review of the permit application did not include assessments of flows downstream of the outfall. However, the proposed permit authorizes a discharge of a design flow of 0.4 MGD and a 2-hr peak flow of 1.6 MGD of treated effluent from the proposed facility.

COMMENT 3:

The District commented, requesting that it be added to the list of vested persons concerned about the safety and operation of Site 10 and other watershed sites within the district.

RESPONSE 3:

Any person, including entities, can be added as an “Interested Person” to a specific permit application to provide comments and/or to be placed on the mailing list. Interested Persons and entities are able to provide eComments through the TCEQ website, or by mailing a letter to TCEQ-Office of the Chief Clerk, MC 105, P.O. Box 13087, Austin, Texas 78711-3087.

COMMENT 4:

Guadalupe County Commissioner Engelke commented opposing the issuance of the proposed permit and expressing concern about the negative environmental impacts for the area and the watersheds affected by the discharge.

The City commented expressing concern about whether the proposed permit is protective of water quality and whether the water quality parameters of the permit are adequate to ensure that existing uses will not be impaired, as well if fish, livestock, wildlife and other environmental receptors will be adversely affected and whether the health of persons on nearby property will be affected.

Garland Powers III commented expressing concern about negative impacts on his livestock that drink and frequently get into a pond located along Long Creek and his family’s ability to enjoy outdoor recreational activities such as fishing canoeing, swimming, duck hunting.

RESPONSE 4:

The health concerns of residents, as well as those of the public, and the ability of the public to recreate in the waters of Texas, are considered in reviewing an application for a domestic wastewater discharge permit. The TCEQ takes the concerns and comments expressed by the public relating to water quality, human health, and protecting the State’s rivers and lakes into consideration in deciding whether to issue a wastewater discharge permit.

Similarly, the TCEQ oversees the protection of water quality with federal regulatory authority, such as the TPDES program, over discharges of pollutants into Texas surface waterbodies. The TCEQ has legislative authority to protect water quality in Texas and under 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.

Staff in the ED’s Water Quality Division (WQD staff) evaluated the application as an authorization to discharge treated wastewater into water in the State. Thus, the quality of the effluent and the method of achieving that quality must follow the TWC, the Federal Clean Water Act, and the TSWQS.

Chapter 26 of the TWC and TCEQ rules relating to water quality are geared towards the protection of public health, aquatic life, and the environment. Accordingly, the stated policy of both the Water Code and the TSWQS is:

to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.¹

Likewise, the TPDES program mandates that discharges of treated effluent into water in the state from facilities regulated by TPDES permits must meet the requirements of the TSWQS. The TSWQS is a primary mechanism for the TCEQ to protect surface water quality, groundwater quality, human health, aquatic life, the environment, and designated uses of the receiving waters. Development of the proposed permit was in accord with the TSWQS (30 TAC Chapter 307) to be protective of water quality, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements.

The TSWQS require that discharges may not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals, may not degrade receiving waters, and may not result in situations that impair existing, attainable, or designated uses. The effluent limits in the proposed permit are set to maintain and protect the receiving water's existing uses of primary contact recreation, public water supply, and high aquatic life use.

As specified in the methodologies outlined in the TCEQ IPs, TPDES permits issued by the TCEQ must maintain water in the state to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three. In addition, permits must prevent adverse toxic effects on aquatic life, terrestrial life, livestock, and domestic animals resulting from contact, consumption of aquatic organisms, consumption of water, or any combination of the three. The design of the proposed permit to ensure these quality standards would be supported.

The methodology outlined in the TCEQ IPs is also designed to ensure that no source will be allowed to discharge any wastewater that: 1) results in instream aquatic toxicity; 2) causes a violation of an applicable narrative or numerical state water quality standard; 3) results in the endangerment of a drinking water supply; or 4) results in aquatic bioaccumulation that threatens human health.

As part of the technical review within the application process, WQD Staff reviews all applications in accordance with the TSWQS. Staff from the Standards Implementation Team must determine the uses of the receiving waters, and the ED's staff in the Water Quality Assessment section must set effluent limits that are protective of those uses. To achieve the goal of maintaining a level of water quality sufficient to protect existing uses, the proposed permit contains several water quality specific parameters that limit the potential impact of the discharge on the receiving waters, such as the effluent limits in the proposed permit, which the ED's staff developed to maintain and protect the existing in-stream uses.

Additionally, staff in the ED's Water Quality Assessment section developed protective effluent limits by performing Dissolved Oxygen or DO modeling analyses. DO concentrations in a waterbody are critical for the waterbody's health and

¹ Texas Water Code § 26.003 and 30 TAC § 307.1.

protection of aquatic life. To evaluate the potential DO impact of the proposed discharge under the most conservative conditions, the ED's staff incorporates what are known as critical conditions into DO modeling analyses. In many cases, effluent discharges decrease DO levels in waterbodies; and to ensure that discharges do not lower DO levels below the criteria, DO modeling analyses are performed to evaluate whether the effluent limits in a discharge permit are predicted to be adequate to ensure the DO concentrations in the waterbodies of a discharge route will be maintained above the criteria established for those water bodies by the Standards Implementation Team.

DO modeling was performed during the technical review for the proposed facility. Based on the model results, the effluent set in the proposed permit in the Interim and Final phases, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS, 2.0 mg/l NH₃-N, 126 colony forming units or most probable number of *E. coli* per 100 ml; and the effluent must contain a minimum DO of 5.0 mg/l and must be monitored once per week by grab sample. The effluent must be free of visible oil and, other than in trace amounts, floating solids or visible foam. The effluent's pH must not be less than 6.0 standard units nor greater than 9.0 standard units and must be monitored once per day by grab sample. In a case such as this, end-of-pipe compliance with pH limits between 6.0 and 9.0 standard units reasonably assures instream compliance with the TSWQS for pH when the discharge authorized is from a minor facility. This conservative assumption is based on TCEQ sampling conducted throughout the state that indicates that instream buffering quickly restores pH levels to ambient conditions.

Additional protection of human health comes from the rule in 30 TAC § 309.3(g)(1) (Disinfection), which requires disinfection of domestic wastewater into water in the state in a manner conducive to the protection of both public health and aquatic life. The rules do not mandate a specific method of disinfection. A permittee may disinfect domestic wastewater through use of 1) chlorination, 2) ultra-violet light, or 3) an equivalent method of disinfection with prior approval from the ED. Whichever form is used, the design criteria for chemical disinfection by chlorine, including safety requirements, in 30 TAC Chapter 217, Subchapter K must be observed. Therefore, in accordance with the TCEQ rules (30 TAC § 309.3(g)(1)), the proposed permit requires the treated effluent to be disinfected prior to discharge in a manner conducive to protect both the public health and aquatic life.

For the proposed facility, the Applicant has chosen chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms. Chlorine is one of the most practical and effective means of disinfection because it can kill disease-causing bacteria and nuisance organisms and can eliminate certain noxious odors during disinfection.² The effluent from the proposed facility, disinfected with chlorine, must contain a chlorine residual of at least 1.0 mg/l and the permit limit for maximum total chlorine residual is 4.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and must be monitored five times per week by grab sample.³

Also protecting the water quality of the creeks and waterbodies of the discharge route is the aquatic life uses assigned, which governs what uses and criteria will apply to protect Segment No. 1808 of the Guadalupe River Basin and the creeks upstream of Segment No. 1808, their uses and the aquatic life that dwell in them, as well as consumption by terrestrial wildlife. The proposed facility is a minor municipal facility

² U.S. EPA *Wastewater Technology Fact Sheet- Chlorine Disinfection* (EPA 832-F-99-062)

³ Rattler Ridge Draft Permit, Effluent Limitations and Monitoring Requirements, page 2; *see also* 30 TEX. ADMIN. CODE § 309.3(g)(2)

that will discharge to an onsite pond, unnamed tributary, Long Creek, and York, all of which is unclassified and has a “limited aquatic life” use. However, the discharge also enters the unnamed reservoir and Segment No. 1808, both of which have a “high aquatic life” use; and waterbodies that support an exceptional and high aquatic life uses have associated criteria that protect the aquatic life that live in the waterbodies as well as terrestrial wildlife that use the waterbodies as a source of water or food. Additionally, Minor municipal facilities typically do not have industrial contributors, and therefore, do not have toxins in their effluent. The proposed facility’s discharge will have to meet a high DO criterion to support an aquatic community with exceptional and high-existing aquatic life uses.

WQD staff developed and designed the proposed permit to be protective of the uses of all water bodies that could be potentially affected by the proposed discharge. In addition, the discharge cannot cause significant degradation of water quality in any water bodies that exceed fishable/swimmable quality, such as Segment No. 1808 and Wilbarger Creek. Fishable/swimmable waters are defined as waters that have quality sufficient to support propagation of indigenous fish, shellfish, terrestrial life, and recreation in or on the water. To achieve the goal of supporting a level of water quality sufficient to protect existing water body uses, the proposed permit contains several water quality specific parameter requirements that limit the potential impact of the discharge on the receiving waters. It is the mission of WQD staff to provide appropriate effluent limitations to protect the uses of the receiving waterbody.

Because Waters in the State must be maintained to preclude adverse toxic effects on human health resulting from contact recreation, consumption of aquatic organisms, consumption of drinking water, or any combination of the three, the WQD Staff determined that the proposed permit includes provisions to ensure that the TSWQS will be maintained, which ensures that the effluent discharged is protective of aquatic life, human health, and the environment.

Furthermore, conventional domestic sewage does not typically contain toxic compounds in measurable quantities that might result in toxic effects in the receiving waterbodies, unless there are significant industrial users contributing to the waste stream. However, as stated in subsection C of the Background Information (Access to Rules, Laws, and Records), the proposed permit does not limit any landowner’s ability to seek private action against the Applicant.

COMMENT 5:

The City commented, questioning whether impacts on groundwater have been adequately addressed in the proposed permit.

RESPONSE 5:

The 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

⁴ Texas Water Code § 26.401(b)

⁵ Texas Water Code § 26.401(c)(2)

The Water Quality Division has determined that the proposed permit was drafted in accordance with the TSWQS, which ensures that the effluent discharge is protective of aquatic life, human health, and the environment. The review process for surface water quality is conducted by the Standards Implementation Team and Water Quality Assessment Team surface water modelers. The Water Quality Division has determined that if the surface water quality is protected, then the groundwater quality in the vicinity will not be impacted by the discharge. Therefore, the permit limits given in the draft permit intended to maintain the existing uses of the surface waters and preclude degradation will also protect groundwater.

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.

COMMENT 6:

The City commented, questioning whether the proposed design of the proposed facility is adequate to ensure that the required level of effluent will be achieved.

RESPONSE 6:

The proposed treatment process will be an activated sludge process plant operated in the extended aeration mode. The facility will be constructed in three phases and treatment units will include a bar screen, aeration basins, final clarifiers, aerobic digesters, and chlorine contact chambers. In addition, each phase will include tertiary filters. The TCEQ design criteria for a domestic wastewater system under 30 TAC Chapter 217 identify types of treatment technology that can achieve the treatment levels required in the proposed permit.

Other Requirement No. 6 in the proposed permit requires Rattler Ridge, LLC to submit a summary transmittal letter in accordance with the requirements in 30 TAC § 217.6(d). If requested by the Wastewater Permitting Section, the permittee must submit plans and specifications and a final engineering design report which comply with 30 TAC Chapter 217, relating to "Design Criteria for Domestic Wastewater Systems." The permittee must clearly show how the treatment system will meet the permitted effluent limitations required on Pages 2, 2a, and 2b of the draft permit.⁶ The ED's staff will ensure that the plant design can adequately treat the domestic wastewater in accordance with the effluent limits in the proposed permit during the review of the plans and specifications for the proposed facility.

COMMENT 7:

The City commented, questioning whether the proposed facility will create nuisance odor conditions.

RESPONSE 7:

To control and abate odors the TCEQ rules require facilities, such as the proposed facility, 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. Rattler

⁶ Rattler Ridge LLC Draft Permit, Other Requirements, Item 6, page 34

Ridge LLC 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 Rattler Ridge LLC; or 3) providing nuisance odor control.⁷

According to its application, Rattler Ridge LLC intends to comply with the requirement to abate and control nuisance of odor by locating the treatment units at least 150 feet from the nearest property line.⁸ This requirement is incorporated in the draft permit.⁹ Therefore, nuisance odor is not expected to occur as a result of the permitted activities at the facility if the permittee operates the facility in compliance with TCEQ's rules and the terms and conditions of the draft permit.

Further, Rattler Ridge LLC proposes in its application that the Rattler Ridge WWTP will be an activated sludge process plant operated in the extended aeration mode. The activated sludge process is the most frequently used biological wastewater treatment process for treating domestic wastewater, and the use of the extended aeration variation has been known to produce highly treated effluent with low biosolids production. When properly treated by the proposed wastewater treatment process, the effluent is not expected to have an offensive odor.

If anyone experiences nuisance odor conditions or any other suspected incidents of noncompliance with the permit or TCEQ rules, they may be reported to the TCEQ Regional Office (Region 13) in San Antonio, TX at (210) 490-3096 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, 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").

Moreover, the permit does not limit the ability of an individual to seek legal remedies against Rattler Ridge LLC regarding any potential trespass, nuisance, or other causes of action in response to activities that may result in injury to human health or property or that may interfere with the normal use and enjoyment of property.

COMMENT 8:

The City commented, questioning whether the Applicant is qualified to operate the proposed facility.

RESPONSE 9:

The TCEQ issues permits that describe the conditions under which the proposed facility must operate. All facilities must be designed, operated, and maintained consistent with applicable TCEQ rules. These provisions require that a facility is properly operated and maintained at all times. Specifically, Other Requirement No.1 of the proposed permit requires this Applicant to 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.

The proposed facility, a Category C facility, must be operated by a chief operator or an operator holding a Class C license or higher. The proposed facility must

⁷ 30 TEX. ADMIN. CODE § 309.13(e).

⁸ Rattler Ridge, LLC Permit Application, Administrative Report, 1.1, Item No. 2(b), page 2.

⁹ Rattler Ridge, LLC Draft Permit, Other Requirements, Item No. 3, page 34.

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 proposed is necessary, each shift that does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below Category C.

The TCEQ's Office of Compliance and Enforcement ensures compliance with applicable state and federal regulations. The Region 13 office is required to conduct a mandatory comprehensive compliance investigation (CCI) at minor facilities (facilities with permitted flow less than 1 million gpd) once every five fiscal years. Additional mandatory investigations can be required if the facility is categorized as significant noncompliance (SNC), which is determined by the Compliance Monitoring Section of the TCEQ and is based on self-reported effluent violations.

If the proposed facility or the Applicant is found to be out of compliance with the terms or conditions of the proposed permit, the Applicant may be subject to enforcement. If anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may be reported to the TCEQ Regional Office (Region 13) in San Antonio, TX at (210) 490-3096 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed by sending an e-mail to cmplaint@tceq.texas.gov, or online at: <https://www.tceq.texas.gov/compliance/complaints> (select "use our online form").

COMMENT 10:

The City commented, questioning whether the Applicant's compliance history raises issues regarding the ability to comply with the permit.

RESPONSE 10:

During the technical review of the application, the TCEQ reviewed Rattler Ridge's compliance history according to the rules in 30 TAC Chapter 60. The compliance history is reviewed for the company and site for the five-year period prior to the date the permit application was received by the Executive Director. The compliance history includes multimedia compliance-related components about the site under review. These components include the following: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance.

This permit application was received after September 1, 2002, and the company and site have been rated and classified pursuant to 30 TAC Chapter 60. A company and site may have one of the following classifications and ratings:

1. a ***high performer classification***, has a rating of fewer than 0.10 points and is considered to have an above-satisfactory compliance record;
2. a ***satisfactory performer classification***, has a rating between 0.10 points to 55 points and is considered to generally comply with environmental regulations; or

3. an ***unsatisfactory performer classification***, has a rating above 55 points and is considered to perform below minimal acceptable performance standards established by the commission.¹⁰

This site has a rating of N/A and a classification of NOT APPLICABLE because this is a new site. The company rating and classification, which is the average of the ratings for all sites the company owns, is also N/A and NOT APPLICABLE.

COMMENT 11:

The City commented, questioning whether the proposed facility violates the TCEQ's regionalization policy and if the permit complies with TWC § 26.0282.

RESPONSE 11:

TWC § 26.081 enumerates the state's regionalization policy. Section 26.081 states that the policy should "encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state." In furtherance of that policy TWC § 26.0282 authorizes the TCEQ, when considering the issuance of a permit to discharge waste, to deny or alter the terms and conditions of a proposed permit based on need and the availability of existing or proposed area-wide or regional waste collection, treatment, and disposal systems.

Domestic Technical Report 1.1 of the application requires information concerning regionalization of wastewater treatment plants.¹¹ Applicants requesting a new permit or certain major amendments are required to review a three-mile area surrounding the proposed facility to determine if there is a wastewater treatment plant or sewer collection lines within the area that the permittee can utilize. Applicants are required to contact those facilities to inquire if they currently have the capacity or are willing to expand to accept the volume of wastewater proposed. If an existing wastewater facility does have the capacity and is willing to accept the proposed wastewater, the applicant must submit an analysis of expenditures required to connect to a permitted wastewater treatment facility or collection system located within three miles versus the cost of the proposed facility or expansion. Finally, applicants are required to provide copies of all correspondence with the owners of existing plants within three miles of the proposed plant regarding regionalization with their system.

The City has a collection system within a three-mile radius of the proposed facility site location. The Applicant demonstrated that connecting to an existing wastewater collection system would be cost prohibitive compared to the proposed facility.

COMMENT 12:

The City commented, questioning whether the application provides truthful information upon which the TCEQ can rely.

¹⁰ 30 TEX. ADMIN. CODE § 60. 2 (Compliance History Classification).

¹¹ Domestic Technical Report 1.1 (TCEQ Form 10054), Section 1, Item B, page 21

RESPONSE 12:

The ED conducted both an administrative and a technical review of the application according to the Water Quality Division procedures. The application was determined administratively complete on December 2, 2021. The technical review was completed on February 23, 2022, when appendix I, design flows for each of the three phases, and appendix J, Sludge Management Plan were resubmitted. In addition, on November 30, 2021, the application was updated with a letter to TCEQ providing a copy of a service request letter, service request email response, and a cost analysis.

During its review of permit applications, the ED relies on the representations made in the application. Permit applicants are required to certify the accuracy of the information submitted and the application must be signed by a responsible party under penalty of law.

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

Charmaine Backens, Deputy Director
Environmental Law Division



Michael T. Parr II, Staff Attorney
Environmental Law Division
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REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on June 29, 2022, the Executive Director's Response to Public Comment for Permit No. WQ0016049001 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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 12, 2022

TO: Persons on the attached mailing list.

RE: Rattler Ridge, LLC
TPDES Permit No. WQ0016049001

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 Seguin Public Library, 313 West Nolte Street, Seguin, 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.

Sincerely,



Laurie Gharis
Chief Clerk

LG/mt

Enclosure

MAILING LIST
for
Rattler Ridge, LLC
TPDES Permit No. WQ0016049001

FOR THE APPLICANT

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INTERESTED PERSON(S)

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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