

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Office of Chief Clerk Date: April 28, 2023
From: Michael Parr, Staff Attorney, Environmental Law Division
Subject: Transmittal of Documents for Administrative Record

Applicant: Phau-Lockhart 450, LLC
Proposed Permit No.: WQ0016107001
Program: Water Quality Division
TCEQ Docket No.: 2022-1700-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 Comments
2. The Executive Director's Final Decision Letter
3. The Executive Director's Response to Hearing Request.
4. The Executive Director's Technical Backup materials (Fact Sheet, Draft Permit Preliminary Decision, and the Compliance History).

Sincerely,



Michael Parr II
Staff Attorney
Environmental Law Division

TPDES PERMIT NO. WQ0016107001

APPLICATION BY	§	BEFORE THE
PHAU-LOCKHART 450, LLC FOR NEW	§	TEXAS COMMISSION ON
TPDES PERMIT NO. WQ0016107001	§	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 Phau-Lockhart 450, LLC (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016107001, 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 Dana Garrett, Shalaina Walker, and the Guadalupe-Blanco River Authority (GBRA). This response addresses all timely public comments received, whether withdrawn or not.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 TPDES Permit No. WQ0016107001 (**proposed permit**), which authorizes the discharge of treated domestic wastewater at a daily average flow limit of 125,000 or 0.125 million gallons per day (**MGD**) in the Interim Phase I, at a daily average flow limit of 0.25 MGD in the Interim Phase II, and a Final Phase flow limit of 0.499 MGD from the Clear Fork Ranch Wastewater Treatment Facility (**proposed facility**). The proposed permit authorizes sludge generated at the proposed facility to be disposed of at any TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

Description of Facility

If this permit is ultimately issued, the proposed facility will be located approximately 0.75 miles southeast of the intersection of Clark Loop and State Highway 142, in Caldwell County, Texas 77845, serve the Clear Fork Ranch Development, and will be an activated sludge process plant, operated in the conventional mode. Treatment units in the Interim I phase will include a headworks screen, an aeration basin, a final clarifier, an aerobic digester, and a chlorine contact chamber. Treatment units in the Interim II phase will include a headworks screen, two aeration basins, a clarifier, an aerobic digester, and a chlorination chamber. Treatment units in the Final phase will include a headworks screen, four aeration basins, two clarifiers, two aerobic digesters, and two chlorination chambers. The proposed discharge route for the treated effluent is to Clear Fork Plum Creek, then to Plum Creek in Segment No. 1810 of the Guadalupe River Basin.

Technical Review

Staff in the ED's Water Quality Division, (**WQD staff**) performed multiple analyses for the Technical Review of the proposed permit, including but not limited to,

a Receiving Water Assessment performed by WQD staff on the Standards Implementation Team (**Standards Team**) and Water Quality Modeling runs by WQD staff in the Water Quality Assessment Section (**Modeling Team**) that used an “uncalibrated QUAL-TX” model. The Receiving Water Assessment, along with other available information, allowed the Standards Team to preliminarily determine the aquatic life uses in the area of the proposed discharge’s impact and assigned the corresponding Minimum Dissolved Oxygen (**DO**) criterion as stipulated in the Texas Surface Water Quality Standards (**TSWQS**) (30 TAC § 307.5) and the TCEQ’s *Implementation procedures for the Texas Surface Water Quality Standards-June 2010 (IPs)*. For every new discharge, the Standards Team performs antidegradation analysis of the proposed discharge. Because the proposed discharge is directly to an unclassified water body, the Standards Team reviewed this permitting action in conformity with 30 TAC §§ 307.4(h) and (l) of the TSWQS and determined that Clear Fork Plum Creek, an unclassified waterbody, uses are high aquatic life use with a corresponding DO criteria of 5.0 mg/L DO. As with all determinations, reviews, or analyses related to the Technical review of the proposed permit, the above and below can be reexamined and subsequently modified upon receipt of new information or information that conflicts with the bases or assumptions employed in the applicable review or analysis.

The designated uses for Segment No. 1810, as stated in the 2018 TSWQS-Appendix A (30 TAC § 307.10) are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The Standards Team, in accordance with the TSWQS and the TCEQ’s IPs, performed an Antidegradation Review of the receiving waters with the Tier 1 review preliminarily determining that existing water quality uses will not be impaired by the proposed discharge. The Tier 2 review preliminarily determined that no significant degradation of water quality is expected in Clear Fork Plum Creek, identified as having high aquatic life use. Numerical and narrative criteria protecting existing uses will be maintained with no significant degradation of water quality expected in waterbodies within the discharge route with exceptional, high, or intermediate aquatic life uses. Segment No. 1810 is not currently listed on the State’s inventory of impaired and threatened waters (the 2020 CWA § 303(d) list).

The proposed permit’s water quality-related effluent limitations (**limits**), established by WQD staff’s uncalibrated QUAL-TX modeling results, will maintain and protect the existing instream uses. Similarly, conventional effluent parameters such as DO, Five-day Carbonaceous Biochemical Oxygen Demand (**CBOD₅**), Total Suspended Solids (**TSS**), and Ammonia Nitrogen (**NH₃-N**), 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.

Based on the Modeling Team’s results, effluent limits for all flow phases of 10.0 mg/L CBOD₅, 3.0 mg/L NH₃-N, and 4.0 mg/L DO, based on a 30-day average, is predicted to ensure that DO will be maintained above the criterion established by the Standards Team for Clear Fork Plum Creek (5.0 mg/L DO). Coefficients and kinetics used in the model are a combination of site specific, standardized default, and estimated values.

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, effective 7/22/2010) and the EPA-approved portions of the TSWQS (effective 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 pH criteria in the TSWQS 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 due to relatively smaller discharge volumes authorized by these permits. TCEQ sampling conducted throughout Texas indicating instream buffering quickly restores pH levels to ambient conditions, informs this conservative approach.

The discharge from the proposed permit is not expected to impact 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) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (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. With respect to the presence of endangered or threatened species, the proposed permit does not require EPA's review.

Procedural Background

The TCEQ received the application on February 2, 2022, and declared it administratively complete on March 23, 2022. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Caldwell County, Texas in the *Lockhart Post Register* on April 7, 2022. The ED completed the technical review of the application on May 18, 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 Caldwell County, Texas in the *Lockhart Post Register* on June 23, 2022. The public comment period ended on July 25, 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
- Federal environmental laws: <http://www.epa.gov/lawsregs/>
- Environmental or citizen complaints may be filed electronically at: <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html> (select "use our online form") 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 has been available for viewing and copying at the at the Dr. Eugene Clark Library located at 217 South Main Street, Lockhart, Texas 78664, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision are now 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 11) in Austin, TX at (512) 339-2929 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described above in the third subsection of Background Information (Access to Rules, Laws, and Records). If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

COMMENTS AND RESPONSES

COMMENT 1:

Shalaina Walker commented in opposition to the proposed permit and facility, and specifically the proposed facility's location.

RESPONSE 1:

The ED acknowledges the opposition to the proposed permit, facility, and the proposed location of the proposed facility. Texas Water Code (TWC) § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the TWC and TCEQ regulations.

The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility.

Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect(s) of the treated wastewater on the uses of the receiving stream starting at the point of discharge. The ED must provide the proper effluent limitations to protect these uses.

If an Applicant were revise its application with a different location and discharge route for a treatment facility, the ED would reevaluate the new location and discharge route to make sure that the permit contains proper limits and conditions for the revised discharge route and location, which may require notice to additional landowners because of the new facility location and discharge route.

COMMENT 2:

Shalaina Walker commented expressing concerns about her and her family's health, as well as the health of wildlife in the area. Dana Garrett commented expressing concern about negative impact on human health, wildlife on her property, and the health of water-dependent species. GBRA commented that granting a discharge permit that does not protect water quality, adversely affects GBRA, and thwarts its legislative directive to preserve the water within its district.

RESPONSE 2:

The health concerns of residents, as well as those of the public, 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, and 309, including specific rules for wastewater treatment systems under Chapters 217 and 309.

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. Further, WQD Staff developed the proposed permit to preclude significant degradation of water quality in the waterbodies within the discharge route. The proposed permit includes effluent limitations and monitoring requirements designed to ensure protection of the receiving waters in accordance with TCEQ rules and procedures.

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 meet the requirements of

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

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 accordance with the TSWQS (30 TAC Chapter 307) and the TCEQ IPs 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 not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals, not degrade receiving waters, and not result in situations that impair existing, attainable, or designated uses.

The methodology outlined in the TCEQ IPs is 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 specified by 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 ensures these water quality standards will be supported.

To achieve the goal of maintaining a level of water quality sufficient to protect the existing uses of the receiving waters, during the Technical Review of the application process, WQD Staff review all applications in accordance with the TSWQS and the TCEQ IPs. 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 that were developed by WQD Staff on the Modeling Team to maintain and protect the existing uses of the receiving waters (primary contact recreation, public water supply, and high aquatic life), which were identified by WQD Staff on the Standards Team.

The Modeling Team 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 protection of aquatic life. In many cases, effluent discharges decrease DO levels in waterbodies. To ensure that discharges do not lower DO levels below criteria established for those water bodies by the Standards Team, DO modeling analyses are performed to evaluate whether the proposed permit's effluent limits are predicted to ensure the DO concentrations in the discharge route will be maintained above the criteria established by the Standards Team.

Based on the model results, the effluent set in the proposed permit in all phases, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS, 3.0 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 4.0 mg/l, which 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.

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, as 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. 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), which 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 are the assigned aquatic life uses themselves, which govern what uses and criteria will apply to protect Segment No. 1810 of the Guadalupe River Basin and the creeks upstream of Segment No. 1810, 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 that will discharge to first to Clear Fork Plum Creek, which is unclassified and has a “high aquatic life” use. Waterbodies that support exceptional and high aquatic life uses have associated criteria that protect both the aquatic life that live in the waterbodies and terrestrial wildlife that use the waterbodies as a source of water or food. Additionally, Minor municipal facilities with conventional domestic sewage do 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 wastewater. However, the proposed facility does not, and the proposed discharge will have to meet a high DO criterion to support an aquatic community with exceptional and high-existing aquatic life uses. The proposed permit’s limits will protect the uses and quality of the receiving waters of the discharge route for the benefit of the aquatic life and terrestrial wildlife that depend on it.

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 is prohibited from causing significant degradation of water quality in any water bodies that exceed fishable/swimmable quality, such as Segment No. 1810. 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

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

³ Phau-Lockhart 450, LLC Draft Permit, Effluent Limitations and Monitoring Requirements, page 2; *see also* 30 TEX. ADMIN. CODE § 309.3(g)(2)

organisms, consumption of drinking water, or any combination of the three, the WQD Staff wrote the proposed permit with provisions to ensure that the TSWQS will be maintained, ensuring the proposed discharge is protective of aquatic life, human health, and the environment.

COMMENT 3:

Dana Garrett commented that the 499,000 gallons per day of wastewater will be detrimental to the flora and fauna of the pristine Clear Fork Creek. GBRA is concerned that the proposed permit effluent limitations are not sufficiently protective. GBRA commented that the proposed permit is inconsistent with the goals of the Plum Creek Watershed Protection Plan (WPP), as well as the recommendations and best management practices established by the plan to reduce nutrient loading in the watershed.

RESPONSE 3:

Consistent with TCEQ's IPs (June 2010), a nutrient screening was performed for the proposed discharge. The result of the screening indicated that site-specific conditions in the receiving waters may be conducive to algal growth. Therefore, a nutrient limit of 0.5 mg/L of total phosphorus was added to the permit to reduce nutrient loading. The 0.5 mg/L limit is lower than the Plum Creek WPP recommendations of 1 mg/L. Based on model results, the proposed effluent limits of 10 mg/l CBOD₅, 3 mg/L NH₃-N, and 4.0 mg/L dissolved oxygen were predicted to be adequate to maintain the numeric criteria for dissolved oxygen levels of 5.0 mg/L for Clear Fork of Plum Creek as stipulated in the Texas Surface Water Quality Standard's (TSWQS) 30 TAC Chapter 307. The increased level of effluent treatment for WWTFs suggested by the Plum Creek WPP is voluntary and non-regulatory, and the effluent limitations in the proposed permit are based on and consistent with TCEQ modeling procedures.

COMMENT 4:

Shalaina Walker commented expressing concern about pest attraction and her and her family's quality of life.

RESPONSE 4:

According to the TCEQ rules, the plans and specifications of the plant design must comply with 30 TAC Chapter 217, relating to "Design Criteria for Domestic Wastewater Systems." The Applicant is required at all times to ensure that the proposed facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Consequently, health impacts from pests should not occur. Nearby residents' quality of life is protected by the fact that the Applicant is only authorized to discharge according to the limitations, monitoring requirements, and other conditions listed in the draft permit. The draft permit does not grant the permittee the right to use private or public property for conveyance of wastewater along the discharge route.

Additionally, the proposed permit does not limit any landowner's ability to seek private action against the applicant regarding any potential trespass, nuisance, or other cause of action in response to the proposed facility's activities that may result in injury to human health or property or interference with the normal use and enjoyment of property. If anyone experiences any suspected incidents of noncompliance with the

permit or TCEQ rules, they may reported to the TCEQ by calling the toll-free number, 1-888-777-3186, or the TCEQ Regional Office (Region 11) in Austin, TX at (512) 339-2929. Complaints may be filed electronically by using the methods described in the third subsection of Background Information (Access to Rules, Laws, and Records). If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

COMMENT 5:

Shalaina Walker commented expressing concerns about foul odors from the proposed facility.

RESPONSE 5:

Instances of foul odors from a discharge of treated wastewater can exist when there are insufficient levels of dissolved oxygen (DO) present in the effluent; and therefore, all wastewater treatment facilities (WWTF) have the potential to generate odors. To prevent odors from occurring, the number of oxygen-demanding constituents must be controlled. The proposed effluent limitations, specifically the minimum dissolved oxygen limit, restrict the amount of oxygen-demanding constituents and are set at levels to significantly reduce the odors in the effluent being discharged and prevent degradation of the receiving waters. Additionally, nuisance-odor controls have been incorporated into the proposed permit.

To control and abate odors, the TCEQ rules require domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides options for applicants to satisfy the nuisance odor abatement and control requirements. The options are: 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 the Applicant; or 3) providing nuisance odor control.

According to the application, the proposed facility intends to comply with the requirement to abate and control nuisance odors by locating the treatment units at least 150 feet from the nearest property line and by legal restrictions prohibiting residences within the buffer zone. These requirements and legal restrictions are incorporated in the proposed permit. Therefore, nuisance odors are not expected to occur because of the permitted activities at the proposed facility if the Applicant operates the proposed facility in compliance with TCEQ's rules and the terms and conditions of the proposed permit.

The proposed permit does not limit a landowner's ability to seek private action against the Applicant; and if anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may reported to the TCEQ by calling the toll-free number, 1-888-777-3186, or the TCEQ Regional Office (Region 11) in Austin, TX at (512) 339-2929. Complaints may be filed electronically by using the methods described in the third subsection of Background Information (Access to Rules, Laws, and Records). If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

COMMENT 6:

Shalaina Walker commented on the proposed facility's adverse impact to her property value of her family's home.

RESPONSE 6:

The ED acknowledges the significance of this concern; however, the TCEQ does not have the authority to address property values as part of the wastewater permitting process. While the ED encourages the participation of all citizens in the environmental permitting process, there are certain concerns of citizens 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. The Texas Legislature has given the TCEQ the responsibility to protect water quality, and section 26.027 of the Texas Water Code 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. As discussed above the proposed permit protects water quality according to the TCEQ rules and the Texas Water Code. However, the ED, through his Water Quality Division, has no jurisdiction to address fluctuations in property values or the conservation efforts of a River Authority 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.

Alternatively, nothing in the proposed permit limits the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property.

Nor does the proposed permit limit the ability of a nearby landowner to seek relief from a court in response to activities that may or do interfere with the use and enjoyment of their property. If the Applicant's activities create any nuisance conditions, the TCEQ may be contacted to investigate whether a permit violation has occurred. Potential permit violations may be reported to the TCEQ Regional Office (Region 11) in Austin, TX at (512) 339-2929, or by calling the statewide toll-free number at 1-888-777-3186. Complaints may be filed electronically by using the methods described above in the third subsection of Background Information (Access to Rules, Laws, and Records).

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.

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
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REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on September 23, 2022, the Executive Director's Response to Public Comment for Permit No. WQ0016107001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 30, 2022

TO: All interested persons.

RE: Phau-Lockhart 450, LLC
TPDES Permit No. WQ0016107001

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 are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Dr. Eugene Clark Library, 217 South Main Street, Lockhart, 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/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Phau-Lockhart 450, LLC
TPDES Permit No. WQ0016107001

The Executive Director has made the Response to Public Comment (RTC) for the application by Phau-Lockhart 450, LLC for TPDES Permit No. WQ0016107001 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

<https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (WQ0016107001) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Dr. Eugene Clark Library, 217 South Main Street, Lockhart, Texas.

MAILING LIST
for
Phau-Lockhart 450, LLC
TPDES Permit No. WQ0016107001

FOR THE APPLICANT:

Nick McIntyre, VP Land
Phau-Lockhart 450, LLC
9000 Gulf Freeway
Houston, Texas 77017

Ian Clements, P.E.
Kimley-Horn
5301 Southwest Parkway, Building 3,
Suite 100
Austin, Texas 78735

INTERESTED PERSONS:

Dana Garrett
1893 Borchert Loop
Lockhart, Texas 78644

Courtney Kerr-Moore
Guadalupe Blanco River Authority
933 East Court Street
Seguin, Texas 78155

Shalaina Walker
3575 Borchert Loop
Lockhart, Texas 78644

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Michael Parr, Staff Attorney
Texas Commission on Environmental
Quality
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Gordon Cooper, Technical Staff
Texas Commission on Environmental
Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

Laurie Gharis, Chief Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

TPDES PERMIT NO. WQ0016107001

APPLICATION BY	§	BEFORE THE
PHAU-LOCKHART 450, LLC FOR NEW	§	TEXAS COMMISSION ON
TPDES PERMIT NO. WQ0016107001	§	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 Phau-Lockhart 450, LLC (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016107001, 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 Dana Garrett, Shalaina Walker, and the Guadalupe-Blanco River Authority (GBRA). 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 TPDES Permit No. WQ0016107001 (**proposed permit**), which authorizes the discharge of treated domestic wastewater at a daily average flow limit of 125,000 or 0.125 million gallons per day (**MGD**) in the Interim Phase I, at a daily average flow limit of 0.25 MGD in the Interim Phase II, and a Final Phase flow limit of 0.499 MGD from the Clear Fork Ranch Wastewater Treatment Facility (**proposed facility**). The proposed permit authorizes sludge generated at the proposed facility to be disposed of at any TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

Description of Facility

If this permit is ultimately issued, the proposed facility will be located approximately 0.75 miles southeast of the intersection of Clark Loop and State Highway 142, in Caldwell County, Texas 77845, serve the Clear Fork Ranch Development, and will be an activated sludge process plant, operated in the conventional mode. Treatment units in the Interim I phase will include a headworks screen, an aeration basin, a final clarifier, an aerobic digester, and a chlorine contact chamber. Treatment units in the Interim II phase will include a headworks screen, two aeration basins, a clarifier, an aerobic digester, and a chlorination chamber. Treatment units in the Final phase will include a headworks screen, four aeration basins, two clarifiers, two aerobic digesters, and two chlorination chambers. The proposed discharge route for the treated effluent is to Clear Fork Plum Creek, then to Plum Creek in Segment No. 1810 of the Guadalupe River Basin.

Technical Review

Staff in the ED's Water Quality Division, (**WQD staff**) performed multiple analyses for the Technical Review of the proposed permit, including but not limited to,

a Receiving Water Assessment performed by WQD staff on the Standards Implementation Team (**Standards Team**) and Water Quality Modeling runs by WQD staff in the Water Quality Assessment Section (**Modeling Team**) that used an “uncalibrated QUAL-TX” model. The Receiving Water Assessment, along with other available information, allowed the Standards Team to preliminarily determine the aquatic life uses in the area of the proposed discharge’s impact and assigned the corresponding Minimum Dissolved Oxygen (**DO**) criterion as stipulated in the Texas Surface Water Quality Standards (**TSWQS**) (30 TAC § 307.5) and the TCEQ’s *Implementation procedures for the Texas Surface Water Quality Standards-June 2010 (IPs)*. For every new discharge, the Standards Team performs antidegradation analysis of the proposed discharge. Because the proposed discharge is directly to an unclassified water body, the Standards Team reviewed this permitting action in conformity with 30 TAC §§ 307.4(h) and (l) of the TSWQS and determined that Clear Fork Plum Creek, an unclassified waterbody, uses are high aquatic life use with a corresponding DO criteria of 5.0 mg/L DO. As with all determinations, reviews, or analyses related to the Technical review of the proposed permit, the above and below can be reexamined and subsequently modified upon receipt of new information or information that conflicts with the bases or assumptions employed in the applicable review or analysis.

The designated uses for Segment No. 1810, as stated in the 2018 TSWQS-Appendix A (30 TAC § 307.10) are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The Standards Team, in accordance with the TSWQS and the TCEQ’s IPs, performed an Antidegradation Review of the receiving waters with the Tier 1 review preliminarily determining that existing water quality uses will not be impaired by the proposed discharge. The Tier 2 review preliminarily determined that no significant degradation of water quality is expected in Clear Fork Plum Creek, identified as having high aquatic life use. Numerical and narrative criteria protecting existing uses will be maintained with no significant degradation of water quality expected in waterbodies within the discharge route with exceptional, high, or intermediate aquatic life uses. Segment No. 1810 is not currently listed on the State’s inventory of impaired and threatened waters (the 2020 CWA § 303(d) list).

The proposed permit’s water quality-related effluent limitations (**limits**), established by WQD staff’s uncalibrated QUAL-TX modeling results, will maintain and protect the existing instream uses. Similarly, conventional effluent parameters such as DO, Five-day Carbonaceous Biochemical Oxygen Demand (**CBOD₅**), Total Suspended Solids (**TSS**), and Ammonia Nitrogen (**NH₃-N**), 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.

Based on the Modeling Team’s results, effluent limits for all flow phases of 10.0 mg/L CBOD₅, 3.0 mg/L NH₃-N, and 4.0 mg/L DO, based on a 30-day average, is predicted to ensure that DO will be maintained above the criterion established by the Standards Team for Clear Fork Plum Creek (5.0 mg/L DO). Coefficients and kinetics used in the model are a combination of site specific, standardized default, and estimated values.

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, effective 7/22/2010) and the EPA-approved portions of the TSWQS (effective 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 pH criteria in the TSWQS 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 due to relatively smaller discharge volumes authorized by these permits. TCEQ sampling conducted throughout Texas indicating instream buffering quickly restores pH levels to ambient conditions, informs this conservative approach.

The discharge from the proposed permit is not expected to impact 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) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (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. With respect to the presence of endangered or threatened species, the proposed permit does not require EPA's review.

Procedural Background

The TCEQ received the application on February 2, 2022, and declared it administratively complete on March 23, 2022. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Caldwell County, Texas in the *Lockhart Post Register* on April 7, 2022. The ED completed the technical review of the application on May 18, 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 Caldwell County, Texas in the *Lockhart Post Register* on June 23, 2022. The public comment period ended on July 25, 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
- Federal environmental laws: <http://www.epa.gov/lawsregs/>
- Environmental or citizen complaints may be filed electronically at: <https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html> (select "use our online form") 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 has been available for viewing and copying at the at the Dr. Eugene Clark Library located at 217 South Main Street, Lockhart, Texas 78664, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision are now 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 11) in Austin, TX at (512) 339-2929 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described above in the third subsection of Background Information (Access to Rules, Laws, and Records). If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

COMMENTS AND RESPONSES

COMMENT 1:

Shalaina Walker commented in opposition to the proposed permit and facility, and specifically the proposed facility's location.

RESPONSE 1:

The ED acknowledges the opposition to the proposed permit, facility, and the proposed location of the proposed facility. Texas Water Code (TWC) § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state. The ED evaluates applications for wastewater treatment plants based on the information provided in the application. The ED can recommend issuance or denial of an application based on whether the application complies with the TWC and TCEQ regulations.

The Applicant is the entity that proposes the location of the facility, point of discharge, and the discharge route rather than the ED. The ED's review evaluates the impact of the discharge on the receiving waters; however, the TCEQ's permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to "Unsuitable Site Characteristics" for a treatment facility.

Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations and the effect(s) of the treated wastewater on the uses of the receiving stream starting at the point of discharge. The ED must provide the proper effluent limitations to protect these uses.

If an Applicant were revise its application with a different location and discharge route for a treatment facility, the ED would reevaluate the new location and discharge route to make sure that the permit contains proper limits and conditions for the revised discharge route and location, which may require notice to additional landowners because of the new facility location and discharge route.

COMMENT 2:

Shalaina Walker commented expressing concerns about her and her family's health, as well as the health of wildlife in the area. Dana Garrett commented expressing concern about negative impact on human health, wildlife on her property, and the health of water-dependent species. GBRA commented that granting a discharge permit that does not protect water quality, adversely affects GBRA, and thwarts its legislative directive to preserve the water within its district.

RESPONSE 2:

The health concerns of residents, as well as those of the public, 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, and 309, including specific rules for wastewater treatment systems under Chapters 217 and 309.

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. Further, WQD Staff developed the proposed permit to preclude significant degradation of water quality in the waterbodies within the discharge route. The proposed permit includes effluent limitations and monitoring requirements designed to ensure protection of the receiving waters in accordance with TCEQ rules and procedures.

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 meet the requirements of

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

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 accordance with the TSWQS (30 TAC Chapter 307) and the TCEQ IPs 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 not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals, not degrade receiving waters, and not result in situations that impair existing, attainable, or designated uses.

The methodology outlined in the TCEQ IPs is 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 specified by 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 ensures these water quality standards will be supported.

To achieve the goal of maintaining a level of water quality sufficient to protect the existing uses of the receiving waters, during the Technical Review of the application process, WQD Staff review all applications in accordance with the TSWQS and the TCEQ IPs. 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 that were developed by WQD Staff on the Modeling Team to maintain and protect the existing uses of the receiving waters (primary contact recreation, public water supply, and high aquatic life), which were identified by WQD Staff on the Standards Team.

The Modeling Team 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 protection of aquatic life. In many cases, effluent discharges decrease DO levels in waterbodies. To ensure that discharges do not lower DO levels below criteria established for those water bodies by the Standards Team, DO modeling analyses are performed to evaluate whether the proposed permit's effluent limits are predicted to ensure the DO concentrations in the discharge route will be maintained above the criteria established by the Standards Team.

Based on the model results, the effluent set in the proposed permit in all phases, based on a 30-day average, are 10 mg/l BOD₅, 15 mg/l TSS, 3.0 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 4.0 mg/l, which 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.

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, as 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. 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), which 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 are the assigned aquatic life uses themselves, which govern what uses and criteria will apply to protect Segment No. 1810 of the Guadalupe River Basin and the creeks upstream of Segment No. 1810, 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 that will discharge to first to Clear Fork Plum Creek, which is unclassified and has a “high aquatic life” use. Waterbodies that support exceptional and high aquatic life uses have associated criteria that protect both the aquatic life that live in the waterbodies and terrestrial wildlife that use the waterbodies as a source of water or food. Additionally, Minor municipal facilities with conventional domestic sewage do 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 wastewater. However, the proposed facility does not, and the proposed discharge will have to meet a high DO criterion to support an aquatic community with exceptional and high-existing aquatic life uses. The proposed permit’s limits will protect the uses and quality of the receiving waters of the discharge route for the benefit of the aquatic life and terrestrial wildlife that depend on it.

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 is prohibited from causing significant degradation of water quality in any water bodies that exceed fishable/swimmable quality, such as Segment No. 1810. 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

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

³ Phau-Lockhart 450, LLC Draft Permit, Effluent Limitations and Monitoring Requirements, page 2; *see also* 30 TEX. ADMIN. CODE § 309.3(g)(2)

organisms, consumption of drinking water, or any combination of the three, the WQD Staff wrote the proposed permit with provisions to ensure that the TSWQS will be maintained, ensuring the proposed discharge is protective of aquatic life, human health, and the environment.

COMMENT 3:

Dana Garrett commented that the 499,000 gallons per day of wastewater will be detrimental to the flora and fauna of the pristine Clear Fork Creek. GBRA is concerned that the proposed permit effluent limitations are not sufficiently protective. GBRA commented that the proposed permit is inconsistent with the goals of the Plum Creek Watershed Protection Plan (WPP), as well as the recommendations and best management practices established by the plan to reduce nutrient loading in the watershed.

RESPONSE 3:

Consistent with TCEQ's IPs (June 2010), a nutrient screening was performed for the proposed discharge. The result of the screening indicated that site-specific conditions in the receiving waters may be conducive to algal growth. Therefore, a nutrient limit of 0.5 mg/L of total phosphorus was added to the permit to reduce nutrient loading. The 0.5 mg/L limit is lower than the Plum Creek WPP recommendations of 1 mg/L. Based on model results, the proposed effluent limits of 10 mg/l CBOD₅, 3 mg/L NH₃-N, and 4.0 mg/L dissolved oxygen were predicted to be adequate to maintain the numeric criteria for dissolved oxygen levels of 5.0 mg/L for Clear Fork of Plum Creek as stipulated in the Texas Surface Water Quality Standard's (TSWQS) 30 TAC Chapter 307. The increased level of effluent treatment for WWTFs suggested by the Plum Creek WPP is voluntary and non-regulatory, and the effluent limitations in the proposed permit are based on and consistent with TCEQ modeling procedures.

COMMENT 4:

Shalaina Walker commented expressing concern about pest attraction and her and her family's quality of life.

RESPONSE 4:

According to the TCEQ rules, the plans and specifications of the plant design must comply with 30 TAC Chapter 217, relating to "Design Criteria for Domestic Wastewater Systems." The Applicant is required at all times to ensure that the proposed facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Consequently, health impacts from pests should not occur. Nearby residents' quality of life is protected by the fact that the Applicant is only authorized to discharge according to the limitations, monitoring requirements, and other conditions listed in the draft permit. The draft permit does not grant the permittee the right to use private or public property for conveyance of wastewater along the discharge route.

Additionally, the proposed permit does not limit any landowner's ability to seek private action against the applicant regarding any potential trespass, nuisance, or other cause of action in response to the proposed facility's activities that may result in injury to human health or property or interference with the normal use and enjoyment of property. If anyone experiences any suspected incidents of noncompliance with the

permit or TCEQ rules, they may reported to the TCEQ by calling the toll-free number, 1-888-777-3186, or the TCEQ Regional Office (Region 11) in Austin, TX at (512) 339-2929. Complaints may be filed electronically by using the methods described in the third subsection of Background Information (Access to Rules, Laws, and Records). If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

COMMENT 5:

Shalaina Walker commented expressing concerns about foul odors from the proposed facility.

RESPONSE 5:

Instances of foul odors from a discharge of treated wastewater can exist when there are insufficient levels of dissolved oxygen (DO) present in the effluent; and therefore, all wastewater treatment facilities (WWTF) have the potential to generate odors. To prevent odors from occurring, the number of oxygen-demanding constituents must be controlled. The proposed effluent limitations, specifically the minimum dissolved oxygen limit, restrict the amount of oxygen-demanding constituents and are set at levels to significantly reduce the odors in the effluent being discharged and prevent degradation of the receiving waters. Additionally, nuisance-odor controls have been incorporated into the proposed permit.

To control and abate odors, the TCEQ rules require domestic WWTFs to meet buffer zone requirements for the abatement and control of nuisance odor according to 30 TAC § 309.13(e), which provides options for applicants to satisfy the nuisance odor abatement and control requirements. The options are: 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 the Applicant; or 3) providing nuisance odor control.

According to the application, the proposed facility intends to comply with the requirement to abate and control nuisance odors by locating the treatment units at least 150 feet from the nearest property line and by legal restrictions prohibiting residences within the buffer zone. These requirements and legal restrictions are incorporated in the proposed permit. Therefore, nuisance odors are not expected to occur because of the permitted activities at the proposed facility if the Applicant operates the proposed facility in compliance with TCEQ's rules and the terms and conditions of the proposed permit.

The proposed permit does not limit a landowner's ability to seek private action against the Applicant; and if anyone experiences any suspected incidents of noncompliance with the permit or TCEQ rules, they may reported to the TCEQ by calling the toll-free number, 1-888-777-3186, or the TCEQ Regional Office (Region 11) in Austin, TX at (512) 339-2929. Complaints may be filed electronically by using the methods described in the third subsection of Background Information (Access to Rules, Laws, and Records). If an inspection by the Regional Office finds that the Applicant is not complying with all the requirements of the permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

COMMENT 6:

Shalaina Walker commented on the proposed facility's adverse impact to her property value of her family's home.

RESPONSE 6:

The ED acknowledges the significance of this concern; however, the TCEQ does not have the authority to address property values as part of the wastewater permitting process. While the ED encourages the participation of all citizens in the environmental permitting process, there are certain concerns of citizens 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. The Texas Legislature has given the TCEQ the responsibility to protect water quality, and section 26.027 of the Texas Water Code 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. As discussed above the proposed permit protects water quality according to the TCEQ rules and the Texas Water Code. However, the ED, through his Water Quality Division, has no jurisdiction to address fluctuations in property values or the conservation efforts of a River Authority 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.

Alternatively, nothing in the proposed permit limits the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property.

Nor does the proposed permit limit the ability of a nearby landowner to seek relief from a court in response to activities that may or do interfere with the use and enjoyment of their property. If the Applicant's activities create any nuisance conditions, the TCEQ may be contacted to investigate whether a permit violation has occurred. Potential permit violations may be reported to the TCEQ Regional Office (Region 11) in Austin, TX at (512) 339-2929, or by calling the statewide toll-free number at 1-888-777-3186. Complaints may be filed electronically by using the methods described above in the third subsection of Background Information (Access to Rules, Laws, and Records).

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.

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



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REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on September 23, 2022, the Executive Director's Response to Public Comment for Permit No. WQ0016107001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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

TCEQ DOCKET NUMBER 2022-1700-MWD

APPLICATION BY	§	BEFORE THE
PHAU-LOCKHART 450, LLC FOR NEW	§	TEXAS COMMISSION ON
TPDES PERMIT NO. WQ0016107001	§	ENVIRONMENTAL
	§	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 Phau-Lockhart 450, LLC (Applicant) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016107001 (the permit), authorizing the discharge of treated domestic wastewater at a daily average flow limit of 0.125/ 0.25/ 0.499 million gallons per day (MGD) in the Interim I/ Interim II/ Final phases, respectively, from the Clear Fork Ranch Wastewater Treatment Facility (proposed facility). Dana Garrett and Shalaina Walker filed timely Contested Case Hearing requests (Request).

II. ATTACHMENTS FOR COMMISSION CONSIDERATION

- Attachment A - ED's GIS Map

III. DESCRIPTION OF FACILITY, RECEIVING STREAMS AND THE TECHNICAL REVIEW OF THE ED

TCEQ Staff in the ED’s Water Quality Division, (WQD staff) performed multiple analyses for the Technical Review of the proposed permit, including but not limited to, a Receiving Water Assessment performed by WQD staff on the Standards Implementation Team (Standards Team) and Water Quality Modeling runs by WQD staff in the Water Quality Assessment Section (Modeling Team) that used an “uncalibrated QUAL-TX” model. The Receiving Water Assessment, along with other available information, allowed the Standards Team to preliminarily determine the aquatic life uses in the area of the proposed discharge’s impact and assigned the corresponding Minimum Dissolved Oxygen (DO) criterion as stipulated in the Texas Surface Water Quality Standards (TSWQS) (30 TAC § 307.5) and the TCEQ’s *Implementation procedures for the Texas Surface Water Quality Standards-June 2010* (IPs).

For every new discharge, the Standards Team performs antidegradation analysis of the proposed discharge. Because the proposed discharge is directly to an unclassified water body, the Standards Team reviewed this permitting action in conformity with 30 TAC §§ 307.4(h) and (l) of the TSWQS and determined that Clear Fork Plum Creek, an unclassified waterbody, uses are high aquatic life use with a corresponding DO criterion of 5.0 mg/L DO. As with all determinations, reviews, or analyses related to the Technical review of the proposed permit, the above and below can be reexamined and subsequently modified upon receipt of new information or information that conflicts with the bases or assumptions employed in the applicable review, or analysis.

The designated uses for Segment No. 1810, as stated in the 2018 TSWQS-Appendix A (30 TAC § 307.10) are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. The Standards Team, in accordance with the

TSWQS and the TCEQ's IPs, performed an Antidegradation Review of the receiving waters with the Tier 1 review preliminarily determining that existing water quality uses will not be impaired by the proposed discharge. The Tier 2 review preliminarily determined that no significant degradation of water quality is expected in Clear Fork Plum Creek, identified as having high aquatic life use. Numerical and narrative criteria protecting existing uses will be maintained with no significant degradation of water quality expected in waterbodies within the discharge route with exceptional, high, or intermediate aquatic life uses. Segment No. 1810 is not currently listed on the State's inventory of impaired and threatened waters (the 2020 CWA § 303(d) list).

The proposed permit's water quality-related effluent limitations (limits), established by WQD staff's uncalibrated QUAL-TX modeling results, will maintain and protect the existing instream uses. Similarly, conventional effluent parameters such as DO, Five-day Carbonaceous Biochemical Oxygen Demand (CBOD₅), Total Suspended Solids (TSS), and Ammonia Nitrogen (NH₃-N), are based on stream standards and waste load allocations for water quality-limited streams as found in the TSWQS and the State of Texas Water Quality Management Plan.

Based on the Modeling Team's results, limits for all flow phases of 10.0 mg/L CBOD₅, 3.0 mg/L NH₃-N, and 4.0 mg/L DO, based on a 30-day average, is predicted to ensure that DO will be maintained above the criterion established by the Standards Team for Clear Fork Plum Creek (5.0 mg/L DO). Coefficients and kinetics used in the model are a combination of site specific, standardized default, and estimated values.

The 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, effective 7/22/2010), and the EPA-approved portions of the TSWQS (effective 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 pH criteria in the TSWQS 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 due to relatively smaller discharge volumes authorized by these permits. TCEQ sampling conducted throughout Texas indicating instream buffering quickly restores pH levels to ambient conditions, informs this conservative approach.

The discharge from the proposed permit is not expected to impact 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) biological opinion on the State of Texas authorization of the Texas Pollutant Discharge Elimination System (TPDES; September 14, 1998; October 21, 1998 updates). 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. With respect to the presence of endangered or threatened species, the proposed permit does not require EPA's review.

IV. PROCEDURAL BACKGROUND

The TCEQ received the application on February 2, 2022, and declared it administratively complete on March 23, 2022. The Applicant published the Notice of

Receipt and Intent to Obtain a Water Quality Permit (NORI) in Caldwell County, Texas in the *Lockhart Post Register* on April 7, 2022. The ED completed the technical review of the application on May 18, 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 Caldwell County, Texas in the *Lockhart Post Register* on June 23, 2022. The public comment period ended on July 25, 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 March 23, 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 solely in a public 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.

¹ 30 TAC § 55.209(d).

² *Id.* at § 55.209(e).

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 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;

³ 30 TAC § 55.201(c).

⁴ *Id.* at § 55.201(d).

- (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
- (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 July 25, 2022, and the period for filing a Request for Reconsideration or a Request ended on October 31, 2022. The ED's analyses determined whether the Requests followed TCEQ rules, if Dana Garrett and Shalaina Walker qualify as affected persons, what issues may be referred for a possible hearing, and the length of that hearing.

⁵ 30 TAC § 55.203(a)-(c).

⁶ *Id.* at § 55.203(d).

⁷ 30 TAC § 50.115(b).

⁸ *Id.* at § 50.115(c).

A. Whether the Request Complied with 30 TAC §§ 55.201(c) and (d).

1. **Dana Garrett** filed a timely, written Request that provided the requisite contact information, raised issues that form the basis of her Request in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Ms. Garrett's Request complied with 30 TAC §§ 55.201(c), and (d) because it effectively identified a personal justiciable interest in a written explanation plainly describing why she believes she will be affected by the application in a way not common to the public. Ms. Garrett's Request stated she lives in proximity to the proposed facility and raised concerns about the possible adverse effects from the proposed facility and its discharge on water quality within the proposed discharge route, human health and wildlife, which are relevant issues to a decision on the application.

The ED recommends finding that Dana Garrett's Request substantially complied with 30 TAC §§ 55.201(c) and (d).

2. **Shalaina Walker** filed a timely, written Request that provided the requisite contact information, raised issues that form the basis of her Request in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Ms. Walker's Request complied with 30 TAC §§ 55.201(c), and (d) because it effectively identified a personal justiciable interest in a written explanation plainly describing why she believes she will be affected by the application in a way not common to the public. Ms. Walker's Request stated she lives in proximity to the proposed facility and raised concerns about the possible adverse effects from the proposed facility on human health, and foul odors and an increase in pests from the proposed facility, which relevant issues to a decision on the application.

The ED recommends finding that Shalaina Walker's Request substantially complied with 30 TAC §§ 55.201(c) and (d).

B. Whether Requestor is an Affected Person under 30 TAC § 55.203.

1. **Dana Garrett** filed a Request that effectively identified a personal, justiciable interest affected by the application.

Ms. Garrett's Request stated that the proposed facility will be in proximity to her home, which according to the GIS map prepared by the ED's staff is only 0.51 linear miles from the proposed facility and is along the proposed discharge route within one stream-mile. This increases the likelihood that Ms. Garrett will be affected in a way not common to the general public. Ms. Garrett's Request raised relevant issues to a decision on the application, including whether the proposed facility and its discharge will adversely affect children that recreate in her spring creek and flora and fauna within the route of the proposed discharge, specifically the Whistling and Wood Ducks, Pileated Woodpeckers, Peacocks, Guineas, and Canadian and Egyptian Geese that use her property as a wildlife habitat.

Ms. Garrett's proximity, which was explained briefly and specifically, in plain language in her Request, and her concerns related to possible adverse effects on human health, surface and groundwater quality and flora and fauna from the proposed facility and its discharge, are issues related to the interests of the requestor, demonstrating a reasonable relationship exists between the interests

claimed and the activity regulated, which increases the likelihood Ms. Garrett will be personally affected in a way not common to the general public.

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

2. **Shalaina Walker** filed a Request that effectively identified a personal, justiciable interest affected by the application. Her Request stated that the proposed facility will be in proximity to her home, which according to the GIS map prepared by the ED's staff is only 0.89 miles from the proposed facility. This increases the likelihood that Ms. Walker will be affected in a way not common to the general public. Ms. Walker's Request raised relevant issues to a decision on the application, including whether the proposed facility and its discharge will adversely affect human health, specifically her daughter's health, who is asthmatic, and whether the proposed facility will cause nuisance odors and an increase in pests.

Ms. Walker's proximity, which was explained briefly and specifically, in plain language in her Request, and her concerns related to odors from the proposed facility negatively affecting her daughter who has asthma and a possible increase in the amount of pests from the proposed facility, are issues related to the interests of the requestor, demonstrating a reasonable relationship exists between the interests claimed and the activity regulated, which increases the likelihood Ms. Walker will be personally affected in a way not common to the general public.

The ED recommends that the Commission find that Shalaina Walker 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

Issues raised in the Hearing Request:

The following issues were raised in Ms. Garrett's and Ms. Walker's Requests:

1. **Whether the draft permit will protect human health and the environment.**

(RTC Response No. 2) These are issues of fact. If it can be shown that these issues are factually accurate, that information would be relevant and material to a decision on the application.

The ED concludes these issues are relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer these issues.

2. **Whether the draft permit will protect aquatic life and flora and fauna within the route of the proposed discharge.**

⁹ Tx. Gov't Code § 2003.047(e-1); 30 TAC § 55.211 (c)(2)(A)(ii).

(RTC Response Nos. 2 and 3) These are issues of fact. If it can be shown that these issues are factually accurate, that information would be relevant and material to a decision on the application.

The ED concludes these issues are relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer these issues.

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

(RTC Response Nos. 2 and 3) These are issues of fact. If it can be shown that these issues are factually accurate, that information would be relevant and material to a decision on the application.

The ED concludes these issues are relevant and material, and if this case is referred to SOAH, the ED recommends the Commission refer these issues.

4. Whether the draft permit will prevent the impairment of the existing uses of the waterbodies within the route of the proposed discharge.

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

5. Whether the draft permit's nuisance controls comply with TCEQ rules.

(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 if this case is referred to SOAH, the ED recommends the Commission refer this issue.

6. Whether proposed facility will adversely affect property values.

(RTC Response No. 6) This is an issue of fact that is not relevant or material to a decision on the application, as the ED has no authority to address property values in her review of a wastewater permit application.

The ED concludes this issue is not relevant and material, and if this case is referred to SOAH, the ED recommends the Commission not refer this issue.

VII. CONTESTED CASE HEARING DURATION

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

VIII. EXECUTIVE DIRECTOR'S RECOMMENDATION

The ED recommends the following actions by the Commission:

1. Find that Dana Garrett and Shalaina Walker are Affected Persons under 30 TAC § 55.203.
2. Grant the Requests of Dana Garrett and Shalaina Walker.
3. 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)-(5) to SOAH for a contested case hearing.

Respectfully submitted,

Texas Commission on Environmental Quality

Erin Chancellor
Interim Executive Director

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

CERTIFICATE OF SERVICE

I certify that on January 12, 2023, true and correct copies of the Executive Director's Response to Hearing Requests on the application by Phau-Lockhart 450, LLC for new TPDES Permit No. WQ0016107001, was filed with the TCEQ's Chief Clerk and a copy was served to all persons listed on the attached mailing list via hand delivery, electronic delivery, inter-agency mail, or by deposit in the U.S. Mail.



Michael T. Parr II, *Staff Attorney*
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DOCKET NO. 2022-1700-MWD; PERMIT NO. WQ0016107001

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REQUESTER(S)/INTERESTED PERSON(S):
See attached list

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Shalaina Walker
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WITHDRAW OF REQUEST(S):

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Seguin, Texas 78155-5819

Courtney Kerr-Moore
Guadalupe Blanco River Authority
933 East Court Street
Seguin, Texas 78155-5819

Attachment A

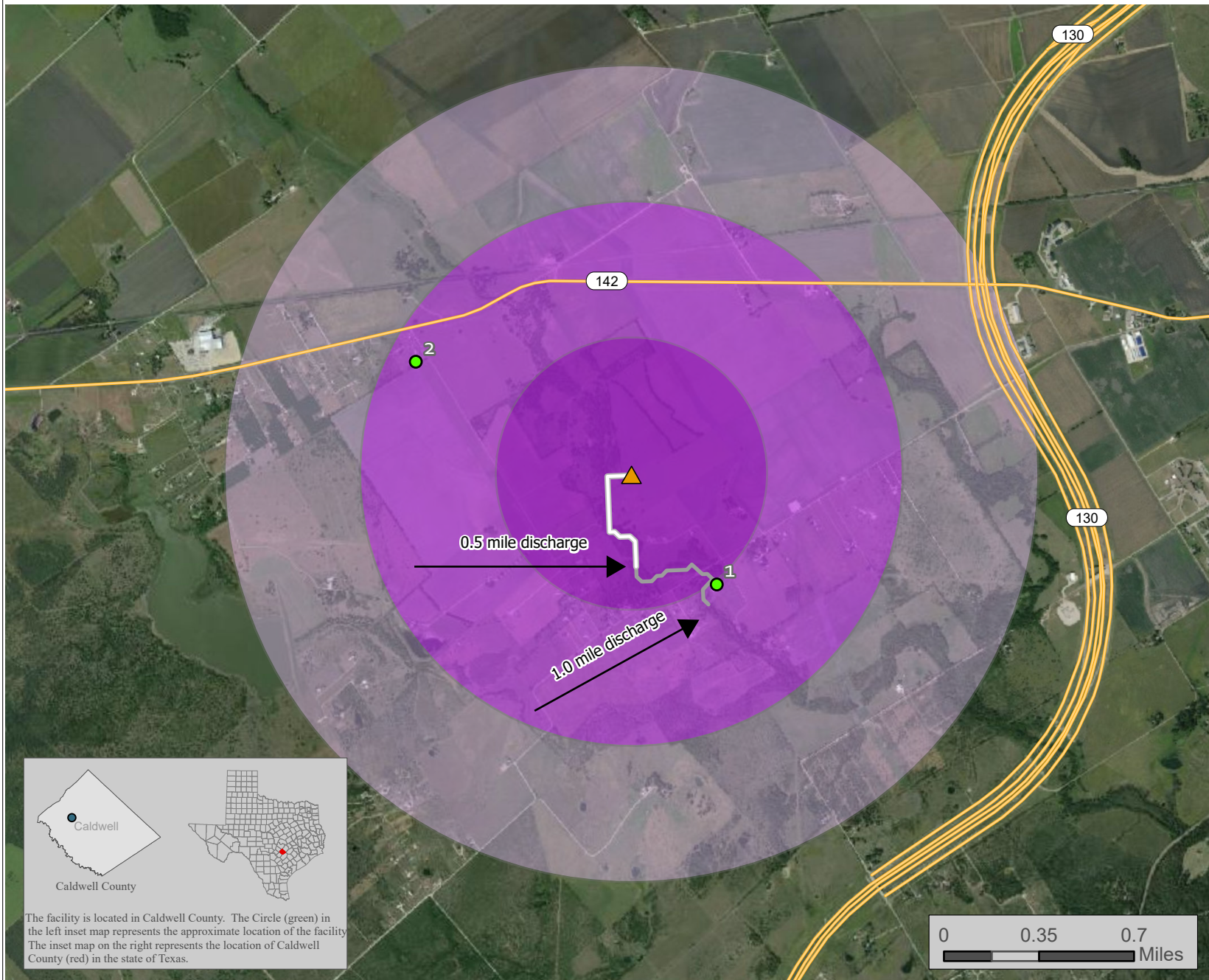
PhauLockhart 450

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: 1/4/2023
CRF 0080853
Cartographer: jbartlin



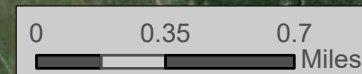
- Facility
- Requestors
- 0.5 Mile Radius
- 1.0 Mile Radius
- 1.5 Mile Radius
- 0.5 Mile Discharge
- 1.0 Mile Discharge

.51 miles from the facility to
Dana Garrett (1)

.89 miles from the facility to
Shalaina Walker (2)



The facility is located in Caldwell County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Caldwell 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: February 3, 2023

From: Michael Parr
Staff Attorney
Environmental Law Division

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

Applicant: Phau-Lockhart 450 LLC
Proposed Permit No.: WQ0016107001
Program: Water
Docket No.: 2022-1700-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: Phau-Lockhart 450 LLC;
Texas Pollutant Discharge Elimination System (TPDES) Permit No.
WQ0016107001, EPA I.D. No. TX0142409

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 0.125 million gallons per day (MGD) in the Interim I phase, a daily average flow not to exceed 0.25 MGD in the Interim II phase, and a daily average flow not to exceed 0.499 MGD in the Final phase. The proposed wastewater treatment facility will serve the Clear Fork Ranch Development.

PROJECT DESCRIPTION AND LOCATION

The Clear Fork Ranch Wastewater Treatment Facility will be an activated sludge process plant operated in the conventional mode. Treatment units in Interim I phase will include the headworks screen, an aeration basin, a final clarifier, an aerobic digester, and a chlorine contact chamber. Treatment units in Interim II phase will include the headworks screen, two aeration basins, a clarifier, an aerobic digester, and a chlorination chamber. Treatment units in the Final phase will include the headworks screen, four aeration basins, two clarifiers, two aerobic digesters, and two chlorination chambers. The facility has not been constructed.

The draft permit 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 0.75 miles southeast of the intersection of Clark Loop and State Highway 142, in Caldwell County, Texas 78644.

Outfall Location:

Outfall Number	Latitude	Longitude
001	29.876663 N	97.737002 W

The treated effluent will be discharged to Clear Fork Plum Creek, thence to Plum Creek in Segment No. 1810 of the Guadalupe River Basin. The unclassified receiving water use is high aquatic life use for Clear Fork Plum Creek. The designated uses for Segment No. 1810 are primary contact recreation, aquifer protection, and high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 TAC § 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 Clear Fork Plum Creek, 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. 1810 is not currently listed on the state's inventory of impaired and threatened waters (the 2020 CWA § 303(d) list).

DRAFT PERMIT CONDITIONS

The draft permit authorizes a discharge of treated domestic wastewater at an Interim I volume not to exceed a daily average flow of 0.125 MGD, an Interim II volume not to exceed a daily average flow of 0.25 MGD, and a Final volume not to exceed a daily average flow of 0.499 MGD.

The effluent limitations in all three phases (Interim I, Interim II, and the Final phases) of the draft permit, based on a 30-day average, are 10 mg/l five-day carbonaceous biochemical oxygen demand, 15 mg/l total suspended solids, 3 mg/l ammonia-nitrogen, 0.5 mg/l total phosphorus (TP), 126 colony forming units or most probable number of *Escherichia coli* per 100 ml, and 4.0 mg/l minimum dissolved oxygen. 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.

In the draft permit the buffer zone requirements are: 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. The draft permit 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

The applicant requested no TP limits in the application, however a TP limit of 0.5 mg/l was added to all phases of the draft permit to help ensure that no significant degradation of water quality will occur based on the review from the Standards Implementation Team.

BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received on February 2, 2022, and additional information received on February 8, March 1, 14, 24, and 25, 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 EPA 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.

Phau-Lockhart 450 LLC
TPDES Permit No. WQ0016107001
Statement of Basis/Technical Summary and Executive Director's Preliminary Decision

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)

5/18/2022

Date



TPDES PERMIT NO. WQ0016107001
[For TCEQ office use only - EPA I.D.
No. TX0142409]

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

Phau-Lockhart 450 LLC

whose mailing address is

9000 Gulf Freeway
Houston, Texas 77017

is authorized to treat and discharge wastes from the Clear Fork Ranch Wastewater Treatment Facility, SIC Code 4952

located approximately 0.75 miles southeast of the intersection of Clark Loop and State Highway 142, in Caldwell County, Texas 78644

to Clear Fork Plum Creek, thence to Plum Creek in Segment No. 1810 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 REQUIREMENTSOutfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 0.25 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 0.125 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 347 gallons per minute.

<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)	5 (5.2)	10	20	30	One/week	Grab
Total Suspended Solids	5 (5.2)	20	40	60	One/week	Grab
Ammonia Nitrogen	2 (2.1)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (0.5)	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 4.0 mg/l and shall be monitored once per week by grab sample.

INTERIM II EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTSOutfall Number 001

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 0.25 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 0.25 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 694 gallons per minute.

<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. Measurement Frequency	Sample Type
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (10)	10	20	30	One/week	Grab
Total Suspended Solids	5 (10)	20	40	60	One/week	Grab
Ammonia Nitrogen	2 (4.2)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (1.0)	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 4.0 mg/l and shall be monitored once per week by grab sample.

FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTSOutfall Number 001

1. During the period beginning upon the completion of expansion to the 0.499 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 0.499 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,386 gallons per minute.

<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)	5 (21)	10	20	30	One/week	Grab
Total Suspended Solids	5 (21)	20	40	60	One/week	Grab
Ammonia Nitrogen	2 (8.3)	5	10	15	One/week	Grab
Total Phosphorus	0.5 (2.1)	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 4.0 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 11) 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 11) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year. 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 11) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year the following information. 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 11) 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 11) 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 11) and Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year the following information. 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 11) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year. 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 all three 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 11) and the Applications Review and Processing Team (MC 148) of the Water Quality Division, in writing 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 CN605982743, RN111427118, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605982743, PHAU - Lockhart 450, LLC **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN111427118, CLEAR FORK RANCH WWTP **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 08 - Sewage Treatment Facilities

Location: LOCATED APPROX 0.63 MILES NORTH OF INTERSECTION OF BORCHERT LOOP AND BLACK ANKLE RD 0.68 MILES SOUTH OF TX 142 AND 0.97 MILES SOUTHEAST OF CORNER OF TX 142 AND BORCHERT LOOP CALDWELL, TX, CALDWELL COUNTY

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):
WASTEWATER PERMIT WQ0016107001 **WASTEWATER EPA ID** TX0142409

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: April 07, 2022

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

Component Period Selected: February 02, 2017 to April 07, 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