#### Texas Commission on Environmental Quality

#### INTEROFFICE MEMORANDUM

To: Office of Chief Clerk

Date: November 20, 2024

From: Michael Parr II, Staff Attorney, Environmental Law Division

Subject: Transmittal of Documents for Administrative Record

Applicant:	LVTP Holdings, LLC
Proposed Permit No.:	WQ0015964001
Program:	Water Quality Division
TCEQ Docket No.:	2023-1558-MWD

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

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

Indicated below are the documents included with this transmittal:

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

Sincerely,

Michael Parr II Staff Attorney Environmental Law Division

#### TCEQ DOCKET NO. 2023-1558-MWD

APPLICATION BY LVTP Holdings,	§	<b>BEFORE THE</b>
LLC FOR NEW TPDES PERMIT NO.	§	TEXAS COMMISSION ON
WQ0015964001	§	ENVIRONMENTAL QUALITY

#### EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Request (Response) on the application by LVTP Holdings, LLC (Applicant or LVTP) seeking a new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015964001 and the Executive Director's preliminary decision. The Office of the Chief Clerk received contested case hearing requests from the City of Waxahachie (City), Ellis County (County), and Clay and Sheila Allison.

Attached for Commission consideration are the following:

Attachment A- Executive Director's Satellite Map.

#### I. EXECUTIVE SUMMARY

The Executive Director received three hearing requests on this application, from the City of Waxahachie, Ellis County, and from Clay and Sheila Allison. After evaluating the hearing requests, the Executive Director determined that the City of Waxahachie and Ellis County have demonstrated that they have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application that is not common to members of the general public. The proposed treatment facility is in the City's extraterritorial jurisdiction and therefore, the City has statutory authority over issues relevant to the application. Ellis County stated that the proposed facility and discharge route is located in the County, thereby illustrating its authority and interest over issues raised in the application. The hearing requests raised the following relevant issues: whether the draft permit should be denied or altered in consideration of the need for the facility in accordance with Texas Water Code § 26.0282, Consideration of Need and Regional Treatment Options; and whether the draft permit is protective of water quality in the receiving waters in accordance with the Texas Surface Water Quality Standards.

The Executive Director recommends referring the following issues to the State Office of Administrative Hearings:

*Issue 1:* Whether the draft permit should be denied or altered in consideration of the need for the facility in accordance with Texas Water Code § 26.0282, Consideration of Need and Regional Treatment Options. *(RTC Response 5)* 

*Issue 2:* Whether the draft permit is protective of water quality in the receiving waters in accordance with the Texas Surface Water Quality Standards. (*RTC Response No. 1*)

# II. DESCRIPTION OF FACILITY

The applicant has applied to TCEQ for a new TPDES Permit No. WQ0015964001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 1,200,000 gallons per day.

The wastewater treatment facility (WWTF) facility will be located approximately 2.0 miles northeast of the intersection of Rex Odom Drive and West U.S. Highway 287, in Ellis County, Texas 75165. The treated effluent will be discharged to an unnamed tributary of Long Branch, thence to an unnamed impoundment on Long Branch, thence to Long Branch, thence to an unnamed impoundment on Long Branch, thence to Long Branch, thence to Rex Odom Drive and Reservoir in Segment No. 0815 of the Trinity River Basin.

The Lakeview MUD WWTF will be an activated sludge process plant operated in the extended aeration mode. Treatment units in the Interim phase will include a bar screen, an aeration chamber, a final clarifier, a sludge digester, a chlorine contact chamber, and a dechlorination chamber. Treatment units in the Final phase will include an additional aeration chamber, a final clarifier, a sludge digester, a chlorine contact chamber, and a dechlorination chamber. The facility has not been constructed.

The effluent limitations in the Interim phase of the draft permit, based on a 30-day average, are 5 mg/l five-day carbonaceous biochemical oxygen demand (CBOD<sub>5</sub>), 5 mg/l total suspended solids (TSS), 1.2 mg/l ammonia-nitrogen (NH<sub>3</sub>-N), 1 mg/l Total Phosphorus (TP), 126 colony forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 ml, and 6.0 mg/l minimum dissolved oxygen (DO). The effluent limitations in the Final phase of the draft permit, based on a 30-day average,

are 5 mg/l CBOD<sub>5</sub>, 5 mg/l TSS, 1.1 mg/l NH<sub>3</sub>-N, 1 mg/l TP, 126 CFU or MPN of *E. coli* per 100 ml, and 6.0 mg/l DO.

For both phases, the effluent shall contain a total chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and shall be monitored daily by grab sample. The permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/l total chlorine residual and shall monitor total chlorine residual daily by grab sample after the dechlorination process.

# III. PROCEDURAL HISTORY

The TCEQ received the permit application on February 11, 2021, and declared administratively complete on May 5, 2021. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in English in *The Dallas Morning News* on May 13, 2021, and in Spanish in the *TexMex News* on May 13, 2021. The ED completed the technical review of the application on June 13, 2022. A Combined NORI and Notice of Application and Preliminary Decision (NAPD) was published in English in *The Dallas Morning News* on July 26, 2022, and in Spanish in the *La Presna Comunidad* on July 26, 2022. The public comment period ended on August 25, 2022. The period to request a contested case hearing ended on September 20, 2023.

This application was filed on or after September 1, 2015; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill (HB) 801, 76th Legislature (1999), and Senate Bill (SB) 709, 84th Legislature (2015), both implemented by the Commission in its rules in 30 TAC Chapters 39, 50, and 55. This application is subject to those changes in the law.

# IV. The Evaluation Process for 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. Senate Bill 709 revised the requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

# **Response to Requests**

The ED, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

- 1) whether the requester is an affected person;
- 2) whether issues raised in the hearing request are disputed;
- 3) whether the dispute involves questions of fact or of law;
- 4) whether the issues were raised during the public comment period;
- 5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the ED's RTC;
- 6) whether the issues are relevant and material to the decision on the application; and
- 7) a maximum expected duration for the contested case hearing.
- 30 TAC § 55.209(e)

# **Hearing Request Requirements**

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements:

Affected persons may request a contested case hearing. The request must be made in writing and timely filed with the chief clerk. The request must be based only on the requestor's timely comments, and may not be based on an issue that was raised solely in a public comment that was withdrawn by the requester prior to the filing of the ED's RTC. 30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

1) give the time, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;

- 2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- 3) request a contested case hearing;
- 4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the Commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law; and
- 5) provide any other information specified in the public notice of application.

30 TAC § 55.201(d)

# Requirement that Requestor be an Affected Person/ "Affected Person" Status

In order to grant a contested case hearing, the Commission must determine that a requestor is an "affected" person. 30 TAC § 55.203 sets out who may be considered an affected person.

- a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- b) Except as provided by 30 TAC § 55.103, governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
- c) In determining whether a person is an affected person, all factors shall be

considered, including, but not limited to, the following:

- 1) whether the interest claimed is one protected by the law under which the application will be considered;
- 2) distance restrictions or other limitations imposed by law on the affected interest;
- 3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- 4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- 5) likely impact of the regulated activity on use of the impacted natural resource by the person;
- 6) whether the requestor 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.
- d) In making affected person determinations, the Commission may also consider, to the extent consistent with case law:
  - the merits of the underlying application and supporting documentation in the Commission's administrative record, including whether the application meets the requirements for permit issuance;
  - 2) the analysis and opinions of the executive director; and
  - 3) any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.

30 TAC § 55.203

# Referral to the State Office of Administrative Hearings (SOAH)

"When the Commission grants a request for a contested case hearing, the Commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing." 30 TAC § 50.115(b). 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 whose hearing request is granted; and
- 3) is relevant and material to the decision on the application.
- 30 TAC § 50.115(c).

# IV. Analysis of the Requests

The Executive Director has analyzed the hearing request to determine whether it complies with Commission rules, if the requestor qualifies as an affected person, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

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

The TCEQ received three timely hearing requests, one from Ms. Emily Rogers on behalf of the City of Waxahachie, one from Ms. Emily Rogers on behalf of Ellis County, and one from Clay and Sheila Allison. All of the hearing requests were timely submitted and raised issues during the public comment period that have not been withdrawn. They provided their names, addresses, email addresses, and requested a public hearing. They identified themselves as persons and entities with what they believed to be personal justiciable interests affected by the application, or that they have statutory authority over issues relevant to the application, all of which will be discussed in further detail below.

<u>Therefore, the Executive Director recommends the commission find that the</u> <u>hearing requests of the City of Waxahachie, Ellis County, and Clay and Sheila Allison</u> <u>substantially comply with the requirements of 30 TAC § 55.201 (c) and (d).</u>

# B. Whether individual requestor meets affected person requirements

# 1. The City of Waxahachie

The Executive Director reviewed the factors found in 30 TAC § 55.203 for determining if a person is an affected person and recommends the Commission find that the City of Waxahachie is an affected person.

The City demonstrated that it is an affected person and has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application that is not common to members of the general public. 30 TAC § 55.203(b) provides that governmental authorities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons. According to the address of the proposed treatment facility provided by the Applicant in the permit application, the proposed treatment facility will be located in the extraterritorial jurisdiction of the City of Waxahachie and therefore, the City has statutory authority over issues relevant to the application. The City has authority to protect the public health and safety within its extraterritorial jurisdiction and to regulate development within its extraterritorial jurisdiction under TEX. LOC. GOV'T CODE §§ 42.001, 212.044. All of the issues raised by the City in its hearing request were raised during the public comment period. Specifically, the City's hearing request raised the following issues: whether the draft permit is protective of water quality in the receiving waters in accordance with the Texas Surface Water Quality Standards; and whether the draft permit should be denied or altered in consideration of the need for the facility in accordance with Texas Water Code § 26.0282, Consideration of Need and Regional Treatment Options.

The City of Waxahachie raised issues that are relevant and material to the application and has identified a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application in a way that is not common to members of the general public.

<u>Therefore, the Executive Director recommends that the Commission find that</u> <u>the City of Waxahachie is an affected person and grant its hearing request.</u>

# 2. Ellis County

The Executive Director reviewed the factors found in 30 TAC § 55.203 for determining if a person is an affected person and recommends the Commission find that Ellis County is an affected person.

Ellis County demonstrated that it is an affected person and has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application that is not common to members of the general public. 30 TAC § 55.203(b) provides that governmental authorities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons. According to the address for the proposed treatment facility provided by the Applicant in the permit application, the proposed treatment facility and discharge route are located in the County therefore, the County has statutory authority over issues relevant to the application. The County has statutory authority to inspect the public water in its area to assess whether the quality of the water meets water quality standards, and to determine whether wastewater dischargers are discharging in compliance with the requirements of a TCEQ-issued permit under Texas Water Code § 26.171. The County also has authority to enter property and make inspections and investigations of conditions relating to water quality within its territorial jurisdiction. Texas Water Code § 26.173. All of the issues raised by the County in its hearing request were raised during the public comment period. Specifically, the County's hearing request raised the following issues: whether the draft permit is protective of water quality in the receiving waters in accordance with the Texas Surface Water Quality Standards; whether the draft permit should be denied or altered in consideration of the need for the facility in accordance with Texas Water Code § 26.0282, Consideration of Need and Regional Treatment Options; and issues with the applicant's experience in constructing and managing treatment facilities.

Ellis County raised issues that are relevant and material to the application and has identified a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application in a way that is not common to members of the general public. <u>Therefore, the Executive Director recommends that the Commission find that</u> <u>Ellis County is an affected person and grant its hearing request.</u>

# 3. Clay and Sheila Allison

The Executive Director reviewed the factors found in 30 TAC § 55.203 for determining if a person is an affected person and recommends the Commission find that Clay and Sheila Allison are not affected persons and to deny their hearing request.

The Allisons failed to demonstrate that they are an affected person with a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application that is not common to members of the general public. According to the address provided in their hearing request, the Allisons reside 0.64 mile from the facility. The Allisons hearing request raised the following issues: traffic, overcrowding of schools, flooding, property values, and unsupervised children roaming the streets alone which will overwhelm the local fire and police departments. None of the issues raised by the Allisons fall under the jurisdiction of the TCEQ. The Allisons failed to illustrate a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application that is not common to members of the general public as required by 30 TAC § 55.203.

<u>Therefore, the Executive Director recommends that the Commission find that</u> <u>Clay and Sheila Allison are not an affected person and deny their hearing request.</u>

# C. Whether Issues Raised are Referrable to SOAH for a Contested Case

*Issue 1:* Whether the draft permit should be denied or altered in consideration of the need for the facility in accordance with Texas Water Code § 26.0282, Consideration of Need and Regional Treatment Options. (RTC Response No. 5)

The issue involves a disputed question of fact and law, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit does not comply with the regionalization policy of TWC § 26.0282, that information would be relevant and material to a decision on the application. <u>The Executive Director recommends referring this issue to SOAH.</u>

*Issue 2:* Whether the draft permit is protective of water quality in the receiving waters in accordance with the Texas Surface Water Quality Standards. (RTC Response No. 1)

The issue involves a disputed question of fact, was raised during the comment period, was not withdrawn, and is relevant and material to the issuance of the draft permit. If it can be shown the draft permit does not protect water quality in the receiving waters, that information would be relevant and material to a decision on the application. <u>The Executive Director recommends referring this issue to SOAH.</u>

*Issue 3:* Whether the applicant has the appropriate level of experience and managerial competence to effectively construct and manage the treatment facility. (RTC Response No. 8)

The issue involves a question of fact, was raised during the comment period, was not withdrawn; however, it is not relevant and material to a decision on the application. The applicant is a new applicant with an unclassified compliance history, and no demonstration has been made that the applicant is unqualified to construct and manage the facility. <u>The Executive Director does not recommend referring this issue to SOAH.</u>

*Issue 4:* Whether the facility will result in overcrowding, increases in traffic, and overwhelm local police and fire departments. (RTC Response No. 3)

The issue involves a question of fact, was raised during the comment period, was not withdrawn; however, it is not relevant and material to a decision on the application and is beyond the jurisdiction of the TCEQ in the context of a wastewater discharge permit. <u>The Executive Director does not recommend referring this issue to SOAH.</u>

*Issue 5:* Whether the facility will contribute to increased flooding in the area. (RTC Response No. 4)

The issue involves a question of fact, was raised during the comment period, and was not withdrawn. However, it is not relevant and material to a decision on the application as the TCEQ does not have jurisdiction to regulate flooding in the context of a wastewater discharge permit. <u>The Executive Director does not recommend</u> <u>referring this issue to SOAH.</u>

# V. Contested Case Hearing Duration

If there is a contested case hearing on this application, the Executive Director recommends the duration of the hearing be 180 days from the preliminary hearing to the presentation of a proposal for decision to the Commission.

# VI. Conclusion

The Executive Director recommends the following actions by the Commission:

- 1. The Executive Director recommends that the Commission find that the City of Waxahachie and Ellis County are affected persons and grant their hearing requests.
- 2. The Executive Director recommends that the Commission deny all other hearing requests.
- 3. If referred to SOAH, first refer the matter to the TCEQ's Alternative Dispute Resolution program for a reasonable period.
- 4. The Executive Director recommends referring the following relevant and material issues that were included in their hearing requests and timely raised during the comment period to SOAH:

Issue 1: Whether the draft permit should be denied or altered in consideration of the need for the facility in accordance with Texas Water Code § 26.0282, Consideration of Need and Regional Treatment Options. (RTC Response No. 5)

*Issue 2:* Whether the draft permit is protective of water quality in the receiving waters in accordance with the Texas Surface Water Quality Standards. (RTC Response No. 1)

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Interim Executive Director

Charmaine Backens, Deputy Director Environmental Law Division

Bobby Salehi, Staff Attorney Environmental Law Division State Bar No. 24103912 P.O. Box 13087, MC 173 Austin, Texas 78711-3087 Phone: (512) 239-5930 Fax: (512) 239-0626

REPRESENTING THE EXECUTIVE DIRECTOR OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

### **CERTIFICATE OF SERVICE**

I certify that on November 20, 2023, the original of the "Executive Director's Response to Hearing Request" for TPDES Permit No. WQ0015964001 for LVTP Holdings, LLC was filed with the TCEQ's Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.

Bobby Salehi, Staff Attorney Environmental Law Division State Bar No. 24103912

#### MAILING LIST LVTP HOLDINGS, LLC TCEQ Docket No. 2023-1558-MWD; TPDES Permit No. WQ0015964001

#### FOR THE APPLICANT:

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Brian Finch LVTP HOLDINGS, LLC 4173 Lomita Lane Dallas, Texas 75220

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Nathan Thompson, P.E., Associate Principal Peloton Land Solutions 11000 Frisco Street, Suite 400 Frisco, Texas 7503

FOR THE EXECUTIVE DIRECTOR via electronic mail:

Bobby Salehi, Staff Attorney Texas Commission on Environmental Quality Environmental Law Division, MC-173 P.O. Box 13087 Austin, Texas 78711

Venkata Kancharla, Technical Staff Texas Commission on Environmental Quality Water Quality Division, MC-148 P.O. Box 13087 Austin, Texas 78711

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

#### <u>FOR PUBLIC INTEREST COUNSEL</u> via electronic mail:

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

<u>FOR ALTERNATIVE DISPUTE RESOLUTION</u> via electronic mail:

Kyle Lucas Texas Commission on Environmental Quality Alternative Dispute Resolution, MC-222 P.O. Box 13087 Austin, Texas 78711

FOR THE CHIEF CLERK via eFilings:

Docket Clerk Texas Commission on Environmental Quality Office of Chief Clerk, MC-105 P.O. Box 13087 Austin, Texas 78711 www.tceq.texas.gov/goto/efilings

<u>REQUESTER(S):</u> Clay & Sheila Allison 1425 Black Champ Road Waxahachie, Texas 75167

Todd Little 101 West Main Street Waxahachie, Texas 75165

Tommy Ludwig City of Waxahachie 401 South Rogers Street Waxahachie, Texas 75165 Emily W Rogers Bickerstaff Heath Delgado Acosta LLP 3711 South Mopac Expressway Building 1, Suite 300 Austin, Texas 78746

Michael Scott City of Waxahachie P.O. Box 757 Waxahachie, Texas 75168

INTERESTED PERSON(S): Gayle Tuma 943 East Highland Road Oak Leaf, Texas 75154

# Attachment A



# Texas Commission on Environmental Quality INTEROFFICE MEMORANDUM

**To:** Office of Chief Clerk

DATE: November 20, 2023

- From: Bobby Salehi Staff Attorney Environmental Law Division
- **Subject:** Backup Documents Filed for Consideration of Hearing Requests at Agenda

Applicant:	LVTP Holdings LLC
Proposed Permit No.:	WQ0015964001
Program:	Water
Docket No.:	TCEQ Docket No. 2023-1558-MWD

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

- Draft permit
- Statement of Basis/Technical Summary and ED's preliminary decision
- Compliance history report



TPDES PERMIT NO. WQ0015964001 [For TCEQ office use only - EPA I.D. No. TX0141046]

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

#### <u>PERMIT TO DISCHARGE WASTES</u> under provisions of Section 402 of the Clean Water Act and Chapter 26 of the Texas Water Code

LVTP Holdings, LLC

whose mailing address is

4173 Lomita Lane Dallas, Texas 75220

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

located approximately 2.0 miles northeast of the intersection of Rex Odom Drive and West U.S Highway 287 in Ellis County, Texas 75165

to an unnamed tributary of Long Branch, thence to an unnamed impoundment on Long Branch, thence to Long Branch, thence to an unnamed impoundment on Long Branch, thence to Long Branch, thence to Waxahachie Creek, thence to Bardwell Reservoir in Segment No. 0815 of the Trinity 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 EFFLUENT LIMITATIONS AND MONITORING REOUIREMENTS

1. During the period beginning upon the date of issuance and lasting through the completion of expansion to the 1.2 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 0.55 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,528 gallons per minute (gpm).

Effluent Characteristic	Discharge Limitations			Min. Self-Monitoring Requirements			
	Daily Avg	7-day Avg	Daily Max	Single Grab	Report Daily Avg. & Daily Max.		
	mg/l (lbs/day)	mg/l	mg/l	mg/l	Measurement Frequency	Sample Type	
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter	
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (23)	10	20	30	One/week	Composite	
Total Suspended Solids	5 (23)	10	20	30	One/week	Composite	
Ammonia Nitrogen	1.2 (5.5)	2.4	4.8	8	One/week	Composite	
Total Phosphorus	1 (4.6)	2	4	6	One/week	Composite	
<i>E. coli</i> , colony-forming units or most probable number per 100 ml	126	N/A	399	N/A	Two/month	Grab	

- 2. The effluent shall contain a total chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and shall be monitored daily by grab sample. The permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/l total chlorine residual and shall monitor total chlorine residual daily by grab sample after the dechlorination process. 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 twice 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 6.0 mg/l and shall be monitored once per week by grab sample.

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Outfall Number 001

#### FINAL EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning upon the completion of expansion to the 1.2 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 annual average flow of effluent shall not exceed 1.2 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 3,333 gallons per minute (gpm).

Effluent Characteristic	Discharge Limitations			Min. Self-Monitoring Requirements			
	Daily Avg	7-day Avg	Daily Max	Single Grab	Report Daily Avg. & Daily Max.		
	mg/l (lbs/day)	mg/l	mg/l	mg/l	Measurement Frequency	Sample Type	
Flow, MGD	Report	N/A	Report	N/A	Continuous	Totalizing Meter	
Carbonaceous Biochemical Oxygen Demand (5-day)	5 (50)	10	20	30	Two/week	Composite	
Total Suspended Solids	5 (50)	10	20	30	Two/week	Composite	
Ammonia Nitrogen	1.1 (11)	2.2	4.4	7.3	Two/week	Composite	
Total Phosphorus	1 (10)	2	4	6	Two/week	Composite	
<i>E. coli</i> , colony-forming units or most probable number per	126	N/A	399	N/A	One/week	Grab	

- 2. The effluent shall contain a total chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and shall be monitored daily by grab sample at each chlorine contact chamber. The permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/l total chlorine residual and shall monitor total chlorine residual daily by grab sample after the dechlorination process. 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 week 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 6.0 mg/l and shall be monitored twice per week by grab sample.
- 7. The annual average flow and maximum 2-hour peak flow shall be reported monthly.

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# <u>Outfall Number 0</u>01

#### 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 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 24hour 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 nth 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 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 or biosolids use 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  $\mu$ g/L);
  - ii. Two hundred micrograms per liter (200  $\mu$ g/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500  $\mu$ g/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  $\mu$ g/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 upon the effective 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.

TCEQ Revision 06/2020
# SLUDGE PROVISIONS

The permittee is authorized to dispose of sludge 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 the Interim phase and annually in the Final phase 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 TCEO 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 4) 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 4) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30<sup>th</sup> 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.

<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

#### TABLE 1

\* 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:

<u>Alternative 1</u> - 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:

<u>Alternative 2</u> - 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

<u>Alternative 3</u> - 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)(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

<u>Alternative 4</u> - 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.

### <u>Alternative 1</u>

- 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).

<u>Alternative 2</u> - 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.

<u>Alternative 3</u> - 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.

- <u>Alternative 1</u> The mass of volatile solids in the sewage sludge shall be reduced by a minimum of 38%.
- <u>Alternative 2</u> 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.
- <u>Alternative 3</u> 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.
- <u>Alternative 4</u> 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.
- <u>Alternative 5</u> 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.
- <u>Alternative 6</u> 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.
- <u>Alternative 7</u> 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.

<u> Alternative 8</u> -	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.

- <u>Alternative 9</u> 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.
- <u>Alternative 10-</u> i. Biosolids applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land.
  - ii. When biosolids that are incorporated into the soil is Class A or Class AB with respect to pathogens, the 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	- once during the term of this permit in the
(TCLP) Test	Interim phase and annually in the Final
	phase
PCBs	- once during the term of this permit in the
	Interim phase and annually in the Final
	phase

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

Amount of biosolids (*) <u>metric tons per 365-day period</u>	Monitoring Frequency
o 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 OR BIOSOLIDS FOR APPLICATION TO THE LAND MEETING CLASS** A, CLASS AB or B PATHOGEN REDUCTION AND THE **CUMULATIVE LOADING RATES IN TABLE 2, OR CLASS B** PATHOGEN REDUCTION AND THE POLLUTANT **CONCENTRATIONS IN TABLE 3**

For those permittees meeting Class A, 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	
Pollutant Arsenic Cadmium Chromium Copper Lead Mercury Molybdenum Nickel Selenium Zinc	Cumulative Pollutant Loading Rate ( <u>pounds per acre</u> )* 36 35 2677 1339 268 15 Report Only 375 89 2500
Table 3	
<u>Pollutant</u> Arsenic Cadmium Chromium Copper Lead Mercury	Monthly Average Concentration ( <u>milligrams per kilogram</u> )* 41 39 1200 1500 300 17

420

2800

36

Report Only

**B.** Pathogen Control

Molvbdenum

Nickel

Zinc

Selenium

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.

\*Dry weight basis

# **C.** Management Practices

- 1. Bulk biosolids shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge enters a wetland or other waters in the State.
- 2. Bulk biosolids not meeting Class A 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 are applied to land in a State other than Texas, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk biosolids are proposed to be applied. The notice shall include:
  - a. The location, by street address, and specific latitude and longitude, of each land application site.
  - b. The approximate time period bulk biosolids will be applied to the site.
  - c. The name, address, telephone number, and National Pollutant Discharge Elimination System permit number (if appropriate) for the person who will apply the bulk biosolids.
- 2. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the biosolids disposal practice.

## E. Record Keeping Requirements

The documents will be retained at the facility site and/or shall be readily available for review by a TCEQ representative. The person who prepares bulk sewage sludge or a biosolids material shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative for a period of <u>five years</u>. 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), <u>or</u> 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 <u>indefinitely</u>. 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 are 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 4) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30<sup>th</sup> 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 meets the requirements in 30 TAC § 330 concerning the quality of the sludge or biosolids disposed in a municipal solid waste landfill.
- B. If the permittee generates sewage sludge 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 the Interim phase and annually in the Final phase 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 4) 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 4) 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 4) and Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30<sup>th</sup> 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. 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 transported by an approved pipeline, the permittee must maintain records of the following:
  - a. the amount of sludge or biosolids transported;
  - b. the date of transport;
  - c. the name and TCEQ permit number of the receiving facility or facilities;
  - d. the location of the receiving facility or facilities;
  - e. the name and TCEQ permit number of the facility that generated the waste; and
  - f. copy of the written agreement between the permittee and the receiving facility to accept sludge or biosolids.
- 2. For sludge or biosolids transported by a registered transporter, the permittee must maintain records of the completed trip tickets in accordance with 30 TAC § 312.145(a)(1)-(7) and amount of sludge or biosolids transported.
- 3. The above records shall be maintained on-site on a monthly basis and shall be made available to the TCEQ upon request. These records shall be retained for at least five years.

# **C. Reporting Requirements**

The permittee shall report the following information annually to the TCEQ Regional Office (MC Region 4) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30<sup>th</sup> 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.

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# **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 in the Interim phase, and Category B facility in the Final phase must be operated by a chief operator or an operator holding a Class C license or higher in the Interim phase, and a Class B license or higher in the Final phase. 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. There is no mixing zone established for this discharge to an intermittent stream. Acute toxic criteria apply at the point of discharge.
- 4. 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).
- 5. The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.
- 6. 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 TCEO 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, 2/month may be reduced to 1/month in the Interim phase and 1/week may be reduced to 2/month in the Final phase. 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.

- 7. Prior to construction of the treatment facilities, 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, 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 effluent limitations required on Page 2 and 2a 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.
- 8. Within 120 days from the start-up of the facility, the permittee shall complete Attachment A with the analytical results for Outfall 001. The completed tables with the results of these analysis and laboratory reports shall be submitted to the Municipal Permits Team, Wastewater Permitting Section MC 148, TCEQ Water Quality Division. Based on a technical review of the submitted analytical results, an amendment may be initiated by TCEQ staff to include additional effluent limitations and/or monitoring requirements. Test methods utilized to complete the tables shall be according to the test procedures specified in the Definitions and Standard Permit Conditions section of this permit and sensitive enough to detect the parameters listed in Attachment A at the minimum analytical level (MAL).
- 9. 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 4) 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.

# **BIOMONITORING REQUIREMENTS**

#### CHRONIC BIOMONITORING REQUIREMENTS: FRESHWATER

The provisions of this section apply to Outfall 001 for whole effluent toxicity (WET) testing.

- 1. <u>Scope, Frequency, and Methodology</u>
  - a. The permittee shall test the effluent for toxicity in accordance with the provisions below. Such testing will determine if an appropriately dilute effluent sample adversely affects the survival, reproduction, or growth of the test organisms.
  - b. The permittee shall conduct the following toxicity tests using the test organisms, procedures, and quality assurance requirements specified in this part of this permit and in accordance with "Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms," fourth edition (EPA-821-R-02-013) or its most recent update:
    - 1) Chronic static renewal survival and reproduction test using the water flea (*Ceriodaphnia dubia*) (Method 1002.0).This test should be terminated when 60% of the surviving adults in the control produce three broods or at the end of eight days, whichever occurs first. This test shall be conducted once per quarter.
    - 2) Chronic static renewal 7-day larval survival and growth test using the fathead minnow (*Pimephales promelas*) (Method 1000.0). A minimum of five replicates with eight organisms per replicate shall be used in the control and in each dilution. This test shall be conducted occurs per quarter.

The permittee must perform and report a valid test for each test species during the prescribed reporting period. An invalid test must be repeated during the same reporting period. An invalid test is defined as any test failing to satisfy the test acceptability criteria, procedures, and quality assurance requirements specified in the test methods and permit.

- c. The permittee shall use five effluent dilution concentrations and a control in each toxicity test. These effluent dilution concentrations are 32%, 42%, 56%, 75%, and 100% effluent. The critical dilution, defined as 100% effluent, is the effluent concentration representative of the proportion of effluent in the receiving water during critical low flow or critical mixing conditions.
- d. This permit may be amended to require a WET limit, chemical-specific effluent limits, a best management practice, or other appropriate actions to address toxicity. The permittee may be required to conduct a toxicity reduction evaluation (TRE) after multiple toxic events.
- e. Testing Frequency Reduction
  - 1) If none of the first four consecutive quarterly tests demonstrates significant toxicity, the permittee may submit this information in writing

and, upon approval, reduce the testing frequency to once per six months for the invertebrate test species and once per year for the vertebrate test species.

2) If one or more of the first four consecutive quarterly tests demonstrates significant toxicity, the permittee shall continue quarterly testing for that species until this permit is reissued. If a testing frequency reduction had been previously granted and a subsequent test demonstrates significant toxicity, the permittee will resume a quarterly testing frequency for that species until this permit is reissued.

### 2. <u>Required Toxicity Testing Conditions</u>

- a. Test Acceptance The permittee shall repeat any toxicity test, including the control and all effluent dilutions, which fail to meet the following criteria:
  - 1) a control mean survival of 80% or greater;
  - 2) a control mean number of water flea neonates per surviving adult of 15 or greater;
  - 3) a control mean dry weight of surviving fathead minnow larvae of 0.25 mg or greater;
  - 4) a control coefficient of variation percent (CV%) of 40 or less between replicates for the young of surviving females in the water flea test; and the growth and survival endpoints in the fathead minnow test;
  - 5) a critical dilution CV% of 40 or less for the young of surviving females in the water flea test; and the growth and survival endpoints for the fathead minnow test. However, if statistically significant lethal or nonlethal effects are exhibited at the critical dilution, a CV% greater than 40 shall not invalidate the test;
  - 6) a percent minimum significant difference of 47 or less for water flea reproduction; and
  - 7) a percent minimum significant difference of 30 or less for fathead minnow growth.
- b. Statistical Interpretation
  - 1) For the water flea survival test, the statistical analyses used to determine if there is a significant difference between the control and an effluent dilution shall be the Fisher's exact test as described in the manual referenced in Part 1.b.
  - 2) For the water flea reproduction test and the fathead minnow larval survival and growth tests, the statistical analyses used to determine if there is a significant difference between the control and an effluent dilution shall be in accordance with the manual referenced in Part 1.b.

- 3) The permittee is responsible for reviewing test concentration-response relationships to ensure that calculated test-results are interpreted and reported correctly. The document entitled "Method Guidance and Recommendation for Whole Effluent Toxicity (WET) Testing (40 CFR Part 136)" (EPA 821-B-00-004) provides guidance on determining the validity of test results.
- 4) If significant lethality is demonstrated (that is, there is a statistically significant difference in survival at the critical dilution when compared to the survival in the control), the conditions of test acceptability are met, and the survival of the test organisms are equal to or greater than 80% in the critical dilution and all dilutions below that, then the permittee shall report a survival No Observed Effect Concentration (NOEC) of not less than the critical dilution for the reporting requirements.
- 5) The NOEC is defined as the greatest effluent dilution at which no significant effect is demonstrated. The Lowest Observed Effect Concentration (LOEC) is defined as the lowest effluent dilution at which a significant effect is demonstrated. A significant effect is defined as a statistically significant difference between the survival, reproduction, or growth of the test organism in a specified effluent dilution compared to the survival, reproduction, or growth of the test organism in the control (0% effluent).
- 6) The use of NOECs and LOECs assumes either a monotonic (continuous) concentration-response relationship or a threshold model of the concentration-response relationship. For any test result that demonstrates a non-monotonic (non-continuous) response, the NOEC should be determined based on the guidance manual referenced in Item 3.
- 7) Pursuant to the responsibility assigned to the permittee in Part 2.b.3), test results that demonstrate a non-monotonic (non-continuous) concentration-response relationship may be submitted, prior to the due date, for technical review. The guidance manual referenced in Item 3 will be used when making a determination of test acceptability.
- 8) TCEQ staff will review test results for consistency with rules, procedures, and permit requirements.
- c. Dilution Water
  - 1) Dilution water used in the toxicity tests must be the receiving water collected as close as possible to the point of discharge into the lake but unaffected by the discharge.
  - 2) Where the receiving water proves unsatisfactory as a result of pre-existing instream toxicity (i.e. fails to fulfill the test acceptance criteria of Part 2.a.), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:

- a) a synthetic lab water control was performed (in addition to the receiving water control) which fulfilled the test acceptance requirements of Part 2.a;
- b) the test indicating receiving water toxicity was carried out to completion (i.e., 7 days); and
- c) the permittee submitted all test results indicating receiving water toxicity with the reports and information required in Part 3.
- 3) The synthetic dilution water shall consist of standard, moderately hard, reconstituted water. Upon approval, the permittee may substitute other appropriate dilution water with chemical and physical characteristics similar to that of the receiving water.
- d. Samples and Composites
  - 1) The permittee shall collect a minimum of three composite samples from Outfall 001. The second and third composite samples will be used for the renewal of the dilution concentrations for each toxicity test.
  - 2) The permittee shall collect the composite samples such that the samples are representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance being discharged on an intermittent basis.
  - 3) The permittee shall initiate the toxicity tests within 36 hours after collection of the last portion of the first composite sample. The holding time for any subsequent composite sample shall not exceed 72 hours. Samples shall be maintained at a temperature of 0-6 degrees Centigrade during collection, shipping, and storage.
  - 4) If Outfall 001 ceases discharging during the collection of effluent samples, the requirements for the minimum number of effluent sample holding time are waived during that sampling period. However, the permittee must have collected an effluent composite sample volume sufficient to complete the required toxicity tests with renewal of the effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report.
  - 5) The effluent samples shall not be dechlorinated after sample collection.
- 3. <u>Reporting</u>

All reports, tables, plans, summaries, and related correspondence required in this section shall be submitted to the attention of the Standards Implementation Team (MC 150) of the Water Quality Division.

- a. The permittee shall prepare a full report of the results of all tests conducted in accordance with the manual referenced in Part 1.b. for every valid and invalid toxicity test initiated whether carried to completion or not.
- b. The permittee shall routinely report the results of each biomonitoring test on the Table 1 forms provided with this permit.
  - 1) Annual biomonitoring test results are due on or before January 20th for biomonitoring conducted during the previous 12-month period.
  - 2) Semiannual biomonitoring test results are due on or before July 20th and January 20th for biomonitoring conducted during the previous 6-month period.
  - 3) Quarterly biomonitoring test results are due on or before April 20th, July 20th, October 20th, and January 20th for biomonitoring conducted during the previous calendar quarter.
  - 4) Monthly biomonitoring test results are due on or before the 20th day of the month following sampling.
- c. Enter the following codes for the appropriate parameters for valid tests only:
  - 1) For the water flea, Parameter TLP3B, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."
  - 2) For the water flea, Parameter TOP3B, report the NOEC for survival.
  - 3) For the water flea, Parameter TXP3B, report the LOEC for survival.
  - 4) For the water flea, Parameter TWP3B, enter a "1" if the NOEC for reproduction is less than the critical dilution; otherwise, enter a "0."
  - 5) For the water flea, Parameter TPP3B, report the NOEC for reproduction.
  - 6) For the water flea, Parameter TYP3B, report the LOEC for reproduction.
  - 7) For the fathead minnow, Parameter TLP6C, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."
  - 8) For the fathead minnow, Parameter TOP6C, report the NOEC for survival.
  - 9) For the fathead minnow, Parameter TXP6C, report the LOEC for survival.
  - 10) For the fathead minnow, Parameter TWP6C, enter a "1" if the NOEC for growth is less than the critical dilution; otherwise, enter a "0."
  - 11) For the fathead minnow, Parameter TPP6C, report the NOEC for growth.
  - 12) For the fathead minnow, Parameter TYP6C, report the LOEC for growth.

- d. Enter the following codes for retests only:
  - 1) For retest number 1, Parameter 22415, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."
  - 2) For retest number 2, Parameter 22416, enter a "1" if the NOEC for survival is less than the critical dilution; otherwise, enter a "0."
- 4. <u>Persistent Toxicity</u>

The requirements of this part apply only when a test demonstrates a significant effect at the critical dilution. Significant effect and significant lethality were defined in Part 2.b. Significant sublethality is defined as a statistically significant difference in growth/reproduction at the critical dilution when compared to the growth/reproduction of the test organism in the control.

- a. The permittee shall conduct a total of 2 additional tests (retests) for any species that demonstrates a significant effect (lethal or sublethal) at the critical dilution. The two retests shall be conducted monthly during the next two consecutive months. The permittee shall not substitute either of the two retests in lieu of routine toxicity testing. All reports shall be submitted within 20 days of test completion. Test completion is defined as the last day of the test.
- b. If the retests are performed due to a demonstration of significant lethality, and one or both of the two retests specified in Part 4.a. demonstrates significant lethality, the permittee shall initiate the TRE requirements as specified in Part 5. The provisions of Part 4.a. are suspended upon completion of the two retests and submittal of the TRE action plan and schedule defined in Part 5.

If neither test demonstrates significant lethality and the permittee is testing under the reduced testing frequency provision of Part 1.e., the permittee shall return to a quarterly testing frequency for that species.

- c. If the two retests are performed due to a demonstration of significant sublethality, and one or both of the two retests specified in Part 4.a. demonstrates significant lethality, the permittee shall again perform two retests as stipulated in Part 4.a.
- d. If the two retests are performed due to a demonstration of significant sublethality, and neither test demonstrates significant lethality, the permittee shall continue testing at the quarterly frequency.
- e. Regardless of whether retesting for lethal or sublethal effects, or a combination of the two, no more than one retest per month is required for a species.
- 5. <u>Toxicity Reduction Evaluation</u>
  - a. Within 45 days of the retest that demonstrates significant lethality, or within 45 days of being so instructed due to multiple toxic events, the permittee shall submit a general outline for initiating a TRE. The outline shall include, but not be limited to, a description of project personnel, a schedule for obtaining

consultants (if needed), a discussion of influent and effluent data available for review, a sampling and analytical schedule, and a proposed TRE initiation date.

- b. Within 90 days of the retest that demonstrates significant lethality, or within 90 days of being so instructed due to multiple toxic events, the permittee shall submit a TRE action plan and schedule for conducting a TRE. The plan shall specify the approach and methodology to be used in performing the TRE. A TRE is a step-wise investigation combining toxicity testing with physical and chemical analysis to determine actions necessary to eliminate or reduce effluent toxicity to a level not effecting significant lethality at the critical dilution. The TRE action plan shall describe an approach for the reduction or elimination of lethality for both test species defined in Part 1.b. As a minimum, the TRE action plan shall include the following:
  - 1) Specific Activities - The TRE action plan shall specify the approach the permittee intends to utilize in conducting the TRE, including toxicity characterizations, identifications, confirmations, source evaluations, treatability studies, and alternative approaches. When conducting characterization analyses, the permittee shall perform multiple characterizations and follow the procedures specified in the document entitled "Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I" (EPA/600/6-91/005F) or alternate procedures. The permittee shall perform multiple identifications and follow the methods specified in the documents entitled "Methods for Aquatic Toxicity Identification Evaluations: Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identification Evaluations: Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081). All characterization, identification, and confirmation tests shall be conducted in an orderly and logical progression;
  - 2) Sampling Plan The TRE action plan should describe sampling locations, methods, holding times, chain of custody, and preservation techniques. The effluent sample volume collected for all tests shall be adequate to perform the toxicity characterization/identification/confirmation procedures and chemical-specific analyses when the toxicity tests show significant lethality. Where the permittee has identified or suspects a specific pollutant and source of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical-specific analyses for the identified and suspected pollutant and source of effluent toxicity;
  - 3) Quality Assurance Plan The TRE action plan should address record keeping and data evaluation, calibration and standardization, baseline tests, system blanks, controls, duplicates, spikes, toxicity persistence in the samples, randomization, reference toxicant control charts, and mechanisms to detect artifactual toxicity; and
  - 4) Project Organization The TRE action plan should describe the project staff, project manager, consulting engineering services (where applicable), consulting analytical and toxicological services, etc.

- c. Within 30 days of submittal of the TRE action plan and schedule, the permittee shall implement the TRE.
- d. The permittee shall submit quarterly TRE activities reports concerning the progress of the TRE. The quarterly reports are due on or before April 20th, July 20th, October 20th, and January 20th. The report shall detail information regarding the TRE activities including:
  - 1) results and interpretation of any chemical-specific analyses for the identified and suspected pollutant performed during the quarter;
  - 2) results and interpretation of any characterization, identification, and confirmation tests performed during the quarter;
  - 3) any data and substantiating documentation which identifies the pollutant(s) and source of effluent toxicity;
  - 4) results of any studies/evaluations concerning the treatability of the facility's effluent toxicity;
  - 5) any data that identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant lethality at the critical dilution; and
  - 6) any changes to the initial TRE plan and schedule that are believed necessary as a result of the TRE findings.
- e. During the TRE, the permittee shall perform, at a minimum, quarterly testing using the more sensitive species. Testing for the less sensitive species shall continue at the frequency specified in Part 1.b.
- f. If the effluent ceases to effect significant lethality, i.e., there is a cessation of lethality, the permittee may end the TRE. A cessation of lethality is defined as no significant lethality for a period of 12 consecutive months with at least monthly testing. At the end of the 12 months, the permittee shall submit a statement of intent to cease the TRE and may then resume the testing frequency specified in Part 1.b.

This provision accommodates situations where operational errors and upsets, spills, or sampling errors triggered the TRE, in contrast to a situation where a single toxicant or group of toxicants cause lethality. This provision does not apply as a result of corrective actions taken by the permittee. Corrective actions are defined as proactive efforts that eliminate or reduce effluent toxicity. These include, but are not limited to, source reduction or elimination, improved housekeeping, changes in chemical usage, and modifications of influent streams and effluent treatment.

The permittee may only apply this cessation of lethality provision once. If the effluent again demonstrates significant lethality to the same species, the permit will be amended to add a WET limit with a compliance period, if appropriate. However, prior to the effective date of the WET limit, the permittee may apply for

a permit amendment removing and replacing the WET limit with an alternate toxicity control measure by identifying and confirming the toxicant and an appropriate control measure.

- g. The permittee shall complete the TRE and submit a final report on the TRE activities no later than 28 months from the last test day of the retest that confirmed significant lethal effects at the critical dilution. The permittee may petition the Executive Director (in writing) for an extension of the 28-month limit. However, to warrant an extension the permittee must have demonstrated due diligence in its pursuit of the toxicity identification evaluation/TRE and must prove that circumstances beyond its control stalled the toxicity identification evaluation/TRE. The report shall provide information pertaining to the specific control mechanism selected that will, when implemented, result in the reduction of effluent toxicity to no significant lethality at the critical dilution. The report shall also provide a specific corrective action schedule for implementing the selected control mechanism.
- h. Based on the results of the TRE and proposed corrective actions, this permit may be amended to modify the biomonitoring requirements, where necessary, to require a compliance schedule for implementation of corrective actions, specify a WET limit, specify a best management practice, and a specify chemical-specific limit.
- i. Copies of any and all required TRE plans and reports shall also be submitted to the U.S. EPA Region 6 office, 6WQ-PO.

# TABLE 1 (SHEET 1 OF 4)

### **BIOMONITORING REPORTING**

## CERIODAPHNIA DUBIA SURVIVAL AND REPRODUCTION

Dates and Tim Composites Collected Test initiated: Dilution water	nes No. 1 No. 2 No. 3 	FROM: FROM: FROM: FROM: Receivir	Date Time am/p ng Water PRODUCED I	Da TO: TO: m Synth PER ADULT A	ate Time etic Dilution V	date date Vater
			Percent ef	fluent (%)		
REP	0%	32%	42%	56%	75%	100%
A						
В						
С						
D						
E						
F						
G						
Н						
Ι						
J						
Survival Mean						
Total Mean						
CV%*						
PMSD						

\*Coefficient of Variation = standard deviation x 100/mean (calculation based on young of the surviving adults) Designate males (M), and dead females (D), along with number of neonates (x) released prior to death.

# TABLE 1 (SHEET 2 OF 4)

### CERIODAPHNIA DUBIA SURVIVAL AND REPRODUCTION TEST

1. Dunnett's Procedure or Steel's Many-One Rank Test or Wilcoxon Rank Sum Test (with Bonferroni adjustment) or t-test (with Bonferroni adjustment) as appropriate:

Is the mean number of young produced per adult significantly less than the number of young per adult in the control for the % effluent corresponding to significant nonlethal effects?

CRITICAL DILUTION (100%): \_\_\_\_\_ YES \_\_\_\_\_ NO

Percent effluent

Time of Reading
0%
32%
42%
56%
75%
100%

24h
Image: Constraint of the state of the stat

PERCENT SURVIVAL

2. Fisher's Exact Test:

Is the mean survival at test end significantly less than the control survival for the % effluent corresponding to lethality?

CRITICAL DILUTION (100%): \_\_\_\_\_ YES \_\_\_\_\_ NO

3. Enter percent effluent corresponding to each NOEC/LOEC below:

a.) NOEC survival = \_\_\_\_% effluent

b.) LOEC survival = \_\_\_\_% effluent

- c.) NOEC reproduction = \_\_\_\_% effluent
- d.) LOEC reproduction = \_\_\_\_% effluent

# TABLE 1(SHEET 3 OF 4)

### **BIOMONITORING REPORTING**

# FATHEAD MINNOW LARVAE GROWTH AND SURVIVAL

Dates and Times	No. 1 FROM:	Date Time	Date Time TO:	
Composites Collected	No. 2 FROM:		то:	
	No. 3 FROM:		ТО:	
Test initiated:		am/pm		date
Dilution water used:	Receiving	Water	Synthetic Dilution W	'ater

# FATHEAD MINNOW GROWTH DATA

Effluent	Av	verage Dry in rep	Mean Dry				
Concentration	А	В	C	D	E	Weight	CV%*
0%							
32%							
42%							
56%							
75%							
100%							
PMSD							

\* Coefficient of Variation = standard deviation x 100/mean

1. Dunnett's Procedure or Steel's Many-One Rank Test or Wilcoxon Rank Sum Test (with Bonferroni adjustment) or t-test (with Bonferroni adjustment) as appropriate:

Is the mean dry weight (growth) at 7 days significantly less than the control's dry weight (growth) for the % effluent corresponding to significant nonlethal effects?

CRITICAL DILUTION (100%): \_\_\_\_\_YES \_\_\_\_NO

# TABLE 1(SHEET 4 OF 4)

# **BIOMONITORING REPORTING**

# FATHEAD MINNOW GROWTH AND SURVIVAL TEST

# FATHEAD MINNOW SURVIVAL DATA

Effluent	Percent Survival in replicate chambers				Mean percent survival			CV%*	
Concentration	Α	В	C	D	E	24h	48h	7 day	
0%									
32%									
42%									
56%									
75%									
100%									

\* Coefficient of Variation = standard deviation x 100/mean

2. Dunnett's Procedure or Steel's Many-One Rank Test or Wilcoxon Rank Sum Test (with Bonferroni adjustment) or t-test (with Bonferroni adjustment) as appropriate:

Is the mean survival at 7 days significantly less (p=0.05) than the control survival for the % effluent corresponding to lethality?

CRITICAL DILUTION (100%): \_\_\_\_\_ YES \_\_\_\_\_ NO

- 3. Enter percent effluent corresponding to each NOEC/LOEC below:
  - a.) NOEC survival = \_\_\_\_% effluent
  - b.) LOEC survival = \_\_\_\_% effluent

c.) NOEC growth = \_\_\_\_% effluent

d.) LOEC growth = \_\_\_\_% effluent

### 24-HOUR ACUTE BIOMONITORING REQUIREMENTS: FRESHWATER

The provisions of this section apply to Outfall 001 for whole effluent toxicity (WET) testing.

- 1. <u>Scope, Frequency, and Methodology</u>
  - a. The permittee shall test the effluent for lethality in accordance with the provisions in this section. Such testing will determine compliance with Texas Surface Water Quality Standard 30 TAC § 307.6(e)(2)(B), which requires greater than 50% survival of the appropriate test organisms in 100% effluent for a 24-hour period.
  - b. The toxicity tests specified shall be conducted once per six months. The permittee shall conduct the following toxicity tests using the test organisms, procedures, and quality assurance requirements specified in this section of the permit and in accordance with "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms," fifth edition (EPA-821-R-02-012) or its most recent update:
    - 1) Acute 24-hour static toxicity test using the water flea (*Daphnia pulex* or *Ceriodaphnia dubia*). A minimum of five replicates with eight organisms per replicate shall be used in the control and each dilution.
    - 2) Acute 24-hour static toxicity test using the fathead minnow (*Pimephales promelas*). A minimum of five replicates with eight organisms per replicate shall be used in the control and each dilution.

The permittee must perform and report a valid test for each test species during the prescribed reporting period. An invalid test must be repeated during the same reporting period. An invalid test is defined as any test failing to satisfy the test acceptability criteria, procedures, and quality assurance requirements specified in the test methods and permit. All test results, valid or invalid, must be submitted as described below.

- c. In addition to an appropriate control, a 100% effluent concentration shall be used in the toxicity tests. The control and dilution water shall consist of standard, synthetic, moderately hard, reconstituted water.
- d. This permit may be amended to require a WET limit, a best management practice, a chemical-specific limit, or other appropriate actions to address toxicity. The permittee may be required to conduct a toxicity reduction evaluation (TRE) after multiple toxic events.

## 2. <u>Required Toxicity Testing Conditions</u>

- a. Test Acceptance The permittee shall repeat any toxicity test, including the control, if the control fails to meet a mean survival equal to or greater than 90%.
- b. Dilution Water In accordance with Part 1.c., the control and dilution water shall consist of standard, synthetic, moderately hard, reconstituted water.

- c. Samples and Composites
  - 1) The permittee shall collect one composite sample from Outfall 001.
  - 2) The permittee shall collect the composite sample such that the sample is representative of any periodic episode of chlorination, biocide usage, or other potentially toxic substance being discharged on an intermittent basis.
  - 3) The permittee shall initiate the toxicity tests within 36 hours after collection of the last portion of the composite sample. Samples shall be maintained at a temperature of 0-6 degrees Centigrade during collection, shipping, and storage.
  - 4) If Outfall 001 ceases discharging during the collection of the effluent composite sample, the requirements for the minimum number of effluent portions are waived. However, the permittee must have collected a composite sample volume sufficient for completion of the required test. The abbreviated sample collection, duration, and methodology must be documented in the full report.
  - 5) The effluent sample shall not be dechlorinated after sample collection.

## 3. <u>Reporting</u>

All reports, tables, plans, summaries, and related correspondence required in this section shall be submitted to the attention of the Standards Implementation Team (MC 150) of the Water Quality Division.

- a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this permit in accordance with the manual referenced in Part 1.b. for every valid and invalid toxicity test initiated.
- b. The permittee shall routinely report the results of each biomonitoring test on the Table 2 forms provided with this permit.
  - 1) Semiannual biomonitoring test results are due on or before July 20th and January 20th for biomonitoring conducted during the previous 6-month period.
  - 2) Quarterly biomonitoring test results are due on or before April 20th, July 20th, and October 20th, and January 20th for biomonitoring conducted during the previous calendar quarter.
- c. Enter the following codes for the appropriate parameters for valid tests only:
  - 1) For the water flea, Parameter TIE3D, enter a "0" if the mean survival at 24 hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter "1."
  - 2) For the fathead minnow, Parameter TIE6C, enter a "0" if the mean

survival at 24 hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter "1."

- d. Enter the following codes for retests only:
  - 1) For retest number 1, Parameter 22415, enter a "0" if the mean survival at 24 hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter "1."
  - 2) For retest number 2, Parameter 22416, enter a "0" if the mean survival at 24 hours is greater than 50% in the 100% effluent dilution; if the mean survival is less than or equal to 50%, enter "1."
- 4. <u>Persistent Mortality</u>

The requirements of this part apply when a toxicity test demonstrates significant lethality, which is defined as a mean mortality of 50% or greater of organisms exposed to the 100% effluent concentration after 24 hours.

- a. The permittee shall conduct 2 additional tests (retests) for each species that demonstrates significant lethality. The two retests shall be conducted once per week for 2 weeks. Five effluent dilution concentrations in addition to an appropriate control shall be used in the retests. These effluent concentrations are 6%, 13%, 25%, 50% and 100% effluent. The first retest shall be conducted within 15 days of the laboratory determination of significant lethality. All test results shall be submitted within 20 days of test completion of the second retest. Test completion is defined as the 24th hour.
- b. If one or both of the two retests specified in Part 4.a. demonstrates significant lethality, the permittee shall initiate the TRE requirements as specified in Part 5.

## 5. <u>Toxicity Reduction Evaluation</u>

- a. Within 45 days of the retest that demonstrates significant lethality, the permittee shall submit a general outline for initiating a TRE. The outline shall include, but not be limited to, a description of project personnel, a schedule for obtaining consultants (if needed), a discussion of influent and effluent data available for review, a sampling and analytical schedule, and a proposed TRE initiation date.
- b. Within 90 days of the retest that demonstrates significant lethality, the permittee shall submit a TRE action plan and schedule for conducting a TRE. The plan shall specify the approach and methodology to be used in performing the TRE. A TRE is a step-wise investigation combining toxicity testing with physical and chemical analyses to determine actions necessary to eliminate or reduce effluent toxicity to a level not effecting significant lethality at the critical dilution. The TRE action plan shall lead to the successful elimination of significant lethality for both test species defined in item 1.b. As a minimum, the TRE action plan shall include the following:
  - 1) Specific Activities The TRE action plan shall specify the approach the permittee intends to utilize in conducting the TRE, including toxicity

characterizations, identifications, confirmations, source evaluations, treatability studies, and alternative approaches. When conducting characterization analyses, the permittee shall perform multiple characterizations and follow the procedures specified in the document entitled "Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures" (EPA/600/6-91/003) or alternate procedures. The permittee shall perform multiple identifications and follow the methods specified in the documents entitled "Methods for Aquatic Toxicity Identification Evaluations: Phase II Toxicity Identification Evaluations: Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/080) and "Methods for Aquatic Toxicity Identifications: Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity" (EPA/600/R-92/081). All characterization, identification, and confirmation tests shall be conducted in an orderly and logical progression;

- 2) Sampling Plan The TRE action plan should describe sampling locations, methods, holding times, chain of custody, and preservation techniques. The effluent sample volume collected for all tests shall be adequate to perform the toxicity characterization/identification/confirmation procedures, and chemical-specific analyses when the toxicity tests show significant lethality. Where the permittee has identified or suspects specific pollutant and source of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical-specific analyses for the identified and suspected pollutant and source of effluent toxicity;
- 3) Quality Assurance Plan The TRE action plan should address record keeping and data evaluation, calibration and standardization, baseline tests, system blanks, controls, duplicates, spikes, toxicity persistence in the samples, randomization, reference toxicant control charts, and mechanisms to detect artifactual toxicity; and
- 4) Project Organization The TRE action plan should describe the project staff, manager, consulting engineering services (where applicable), consulting analytical and toxicological services, etc.
- c. Within 30 days of submittal of the TRE action plan and schedule, the permittee shall implement the TRE.
- d. The permittee shall submit quarterly TRE activities reports concerning the progress of the TRE. The quarterly TRE Activities Reports are due on or before April 20th, July 20th, October 20th, and January 20th. The report shall detail information regarding the TRE activities including:
  - 1) results and interpretation of any chemical-specific analyses for the identified and suspected pollutant performed during the quarter;
  - 2) results and interpretation of any characterization, identification, and confirmation tests performed during the quarter;
- 3) any data and substantiating documentation that identifies the pollutant and source of effluent toxicity;
- 4) results of any studies/evaluations concerning the treatability of the facility's effluent toxicity;
- 5) any data that identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to eliminate significant lethality; and
- 6) any changes to the initial TRE plan and schedule that are believed necessary as a result of the TRE findings.
- e. During the TRE, the permittee shall perform, at a minimum, quarterly testing using the more sensitive species. Testing for the less sensitive species shall continue at the frequency specified in Part 1.b.
- f. If the effluent ceases to effect significant lethality, i.e., there is a cessation of lethality, the permittee may end the TRE. A cessation of lethality is defined as no significant lethality for a period of 12 consecutive weeks with at least weekly testing. At the end of the 12 weeks, the permittee shall submit a statement of intent to cease the TRE and may then resume the testing frequency specified in Part 1.b.

This provision accommodates situations where operational errors and upsets, spills, or sampling errors triggered the TRE, in contrast to a situation where a single toxicant or group of toxicants cause lethality. This provision does not apply as a result of corrective actions taken by the permittee. Corrective actions are defined as proactive efforts that eliminate or reduce effluent toxicity. These include, but are not limited to, source reduction or elimination, improved housekeeping, changes in chemical usage, and modifications of influent streams and effluent treatment.

The permittee may only apply this cessation of lethality provision once. If the effluent again demonstrates significant lethality to the same species, the permit will be amended to add a WET limit with a compliance period, if appropriate. However, prior to the effective date of the WET limit, the permittee may apply for a permit amendment removing and replacing the WET limit with an alternate toxicity control measure by identifying and confirming the toxicant and an appropriate control measure.

g. The permittee shall complete the TRE and submit a final report on the TRE activities no later than 18 months from the last test day of the retest that demonstrates significant lethality. The permittee may petition the Executive Director (in writing) for an extension of the 18-month limit. However, to warrant an extension the permittee must have demonstrated due diligence in its pursuit of the toxicity identification evaluation/TRE and must prove that circumstances beyond its control stalled the toxicity identification evaluation/TRE. The report shall specify the control mechanism that will, when implemented, reduce effluent toxicity as specified in Part 5.h. The report shall also specify a corrective action schedule for implementing the selected control mechanism.

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h. Within 3 years of the last day of the test confirming toxicity, the permittee shall comply with 30 TAC § 307.6(e)(2)(B), which requires greater than 50% survival of the test organism in 100% effluent at the end of 24-hours. The permittee may petition the Executive Director (in writing) for an extension of the 3-year limit. However, to warrant an extension the permittee must have demonstrated due diligence in its pursuit of the toxicity identification evaluation/TRE and must prove that circumstances beyond its control stalled the toxicity identification evaluation/TRE.

The permittee may be exempted from complying with 30 TAC § 307.6(e)(2)(B) upon proving that toxicity is caused by an excess, imbalance, or deficiency of dissolved salts. This exemption excludes instances where individually toxic components (e.g., metals) form a salt compound. Following the exemption, this permit may be amended to include an ion-adjustment protocol, alternate species testing, or single species testing.

- i. Based upon the results of the TRE and proposed corrective actions, this permit may be amended to modify the biomonitoring requirements where necessary, require a compliance schedule for implementing corrective actions, specify a WET limit, specify a best management practice, and specify a chemical-specific limit.
- j. Copies of any and all required TRE plans and reports shall also be submitted to the U.S. EPA Region 6 office, 6WQ-PO.

### TABLE 2 (SHEET 1 OF 2)

#### WATER FLEA SURVIVAL

#### GENERAL INFORMATION

Composite Sample Collected	
Test Initiated	

#### PERCENT SURVIVAL

		Percent effluent					
Time	Rep	0%	6%	13%	25%	50%	100%
	А						
	В						
	С						
24h	D						
	Е						
	MEAN*						

Enter percent effluent corresponding to the LC50 below:

24 hour LC50 = \_\_\_\_% effluent

### TABLE 2 (SHEET 2 OF 2)

#### FATHEAD MINNOW SURVIVAL

#### GENERAL INFORMATION

Composite Sample Collected	
Test Initiated	

### PERCENT SURVIVAL

Timo	Pop	Percent effluent					
Time	кер	0%	6%	13%	25%	50%	100%
	A						
	В						
1	C						
2411	D						
	E						
	MEAN						

Enter percent effluent corresponding to the LC50 below:

24 hour LC50 = \_\_\_\_% effluent

### **DOMESTIC WORKSHEET 4.0**

### **POLLUTANT ANALYSES REQUIREMENTS\***

#### Section 1. Toxic Pollutants

For pollutants identified in Table 4.0(1), indicate type of sample. Grab  $\Box$  Composite  $\Box$ 

Date and time sample(s) collected:

Table 4.0(1) – Toxics Analysis

Pollutant	AVG Effluent Conc. (μg/l)	MAX Effluent Conc. (µg/l)	Number of Samples	MAL (µg/l)
Acrylonitrile				50
Aldrin				0.01
Aluminum				2.5
Anthracene				10
Antimony				5
Arsenic				0.5
Barium				3
Benzene				10
Benzidine				50
Benzo(a)anthracene				5
Benzo(a)pyrene				5
Bis(2-chloroethyl)ether				10
Bis(2-ethylhexyl)phthalate				10
Bromodichloromethane				10
Bromoform				10
Cadmium				1
Carbon Tetrachloride				2
Carbaryl				5
Chlordane*				0.2

Pollutant	AVG Effluent Conc. (µg/l)	MAX Effluent Conc. (µg/l)	Number of Samples	MAL (µg/l)
Chlorobenzene				10
Chlorodibromomethane				10
Chloroform				10
Chlorpyrifos				0.05
Chromium (Total)				3
Chromium (Tri) (*1)				N/A
Chromium (Hex)				3
Copper				2
Chrysene				5
p-Chloro-m-Cresol				10
4,6-Dinitro-o-Cresol				50
p-Cresol				10
Cyanide (*2)				10
4,4'- DDD				0.1
4,4'- DDE				0.1
4,4'- DDT				0.02
2,4-D				0.7
Demeton (O and S)				0.20
Diazinon				0.5/0.1
1,2-Dibromoethane				10
m-Dichlorobenzene				10
o-Dichlorobenzene				10
p-Dichlorobenzene				10
3,3'-Dichlorobenzidine				5
1,2-Dichloroethane				10

Pollutant	AVG Effluent Conc. (µg/l)	MAX Effluent Conc. (µg/l)	Number of Samples	MAL (µg/l)
1,1-Dichloroethylene				10
Dichloromethane				20
1,2-Dichloropropane				10
1,3-Dichloropropene				10
Dicofol				1
Dieldrin				0.02
2,4-Dimethylphenol				10
Di-n-Butyl Phthalate				10
Diuron				0.09
Endosulfan I (alpha)				0.01
Endosulfan II (beta)				0.02
Endosulfan Sulfate				0.1
Endrin				0.02
Ethylbenzene				10
Fluoride				500
Guthion				0.1
Heptachlor				0.01
Heptachlor Epoxide				0.01
Hexachlorobenzene				5
Hexachlorobutadiene				10
Hexachlorocyclohexane (alpha)				0.05
Hexachlorocyclohexane (beta)				0.05
gamma-Hexachlorocyclohexane				0.05
(Lindane)				
Hexachlorocyclopentadiene				10

Pollutant	AVG Effluent Conc. (ug/l)	MAX Effluent Conc. (ug/l)	Number of Samples	MAL (µg/l)
Hexachloroethane				20
Hexachlorophene				10
Lead				0.5
Malathion				0.1
Mercury				0.005
Methoxychlor				2
Methyl Ethyl Ketone				50
Mirex				0.02
Nickel				2
Nitrate-Nitrogen				100
Nitrobenzene				10
N-Nitrosodiethylamine				20
N-Nitroso-di-n-Butylamine				20
Nonylphenol				333
Parathion (ethyl)				0.1
Pentachlorobenzene				20
Pentachlorophenol				5
Phenanthrene				10
Polychlorinated Biphenyls (PCB's) (*3)				0.2
Pyridine				20
Selenium				5
Silver				0.5
1,2,4,5-Tetrachlorobenzene				20
1,1,2,2-Tetrachloroethane				10

Pollutant	AVG Effluent Conc. (µg/l)	MAX Effluent Conc. (µg/l)	Number of Samples	MAL (µg/l)
Tetrachloroethylene				10
Thallium				0.5
Toluene				10
Toxaphene				0.3
2,4,5-TP (Silvex)				0.3
Tributyltin (see instructions for				0.01
explanation)				
1,1,1-Trichloroethane				10
1,1,2-Trichloroethane				10
Trichloroethylene				10
2,4,5-Trichlorophenol				50
TTHM (Total Trihalomethanes)				10
Vinyl Chloride				10
Zinc				5

(\*1) Determined by subtracting hexavalent Cr from total Cr.

(\*2) Cyanide, amenable to chlorination or weak-acid dissociable.

(\*3) The sum of seven PCB congeners 1242, 1254, 1221, 1232, 1248, 1260, and 1016.

### Section 2. Priority Pollutants

For pollutants identified in Tables 4.0(2)A-E, indicate type of sample. Grab Composite D Date and time sample(s) collected:

### Table 4.0(2)A – Metals, Cyanide, Phenols

Pollutant	AVG Effluent Conc. (μg/l)	MAX Effluent Conc. (μg/l)	Number of Samples	MAL (µg/l)
Antimony				5
Arsenic				0.5
Beryllium				0.5
Cadmium				1
Chromium (Total)				3
Chromium (Hex)				3
Chromium (Tri) (*1)				N/A
Copper				2
Lead				0.5
Mercury				0.005
Nickel				2
Selenium				5
Silver				0.5
Thallium				0.5
Zinc				5
Cyanide (*2)				10
Phenols, Total				10

(\*1) Determined by subtracting hexavalent Cr from total Cr.

(\*2) Cyanide, amenable to chlorination or weak-acid dissociable

Pollutant	AVG Effluen t Conc. (μg/l)	MAX Effluen t Conc. (μg/l)	Number of Sample s	MAL (µg/l )
Acrolein				50
Acrylonitrile				50
Benzene				10
Bromoform				10
Carbon Tetrachloride				2
Chlorobenzene				10
Chlorodibromomethane				10
Chloroethane				50
2-Chloroethylvinyl Ether				10
Chloroform				10
Dichlorobromomethane				10
1,1-Dichloroethane				10
1,2-Dichloroethane				10
1,1-Dichloroethylene				10
1,2-Dichloropropane				10
1,3-Dichloropropylene [1,3-Dichloropropene]				10
1,2-Trans-Dichloroethylene				10
Ethylbenzene				10
Methyl Bromide				50
Methyl Chloride				50
Methylene Chloride				20
1,1,2,2-Tetrachloroethane				10
Tetrachloroethylene				10
Toluene				10
1,1,1-Trichloroethane				10
1,1,2-Trichloroethane				10
Trichloroethylene				10
Vinyl Chloride				10

# Table 4.0(2)B – Volatile Compounds

Pollutant	AVG Effluent Conc. (μg/l)	MAX Effluent Conc. (μg/l)	Number of Samples	MAL (µg/l)
2-Chlorophenol				10
2,4-Dichlorophenol				10
2,4-Dimethylphenol				10
4,6-Dinitro-o-Cresol				50
2,4-Dinitrophenol				50
2-Nitrophenol				20
4-Nitrophenol				50
P-Chloro-m-Cresol				10
Pentalchlorophenol				5
Phenol				10
2,4,6-Trichlorophenol				10

# Table 4.0(2)C – Acid Compounds

Pollutant	AVG Effluent Conc. (μg/l)	MAX Effluent Conc. (μg/l)	Number of Samples	MAL (µg/l)
Acenaphthene				10
Acenaphthylene				10
Anthracene				10
Benzidine				50
Benzo(a)Anthracene				5
Benzo(a)Pyrene				5
3,4-Benzofluoranthene				10
Benzo(ghi)Perylene				20
Benzo(k)Fluoranthene				5
Bis(2-Chloroethoxy)Methane				10
Bis(2-Chloroethyl)Ether				10
Bis(2-Chloroisopropyl)Ether				10
Bis(2-Ethylhexyl)Phthalate				10
4-Bromophenyl Phenyl Ether				10
Butyl benzyl Phthalate				10
2-Chloronaphthalene				10
4-Chlorophenyl phenyl ether				10
Chrysene				5
Dibenzo(a,h)Anthracene				5
1,2-(o)Dichlorobenzene				10
1,3-(m)Dichlorobenzene				10
1,4-(p)Dichlorobenzene				10
3,3-Dichlorobenzidine				5
Diethyl Phthalate				10
Dimethyl Phthalate				10
Di-n-Butyl Phthalate				10
2,4-Dinitrotoluene				10
2,6-Dinitrotoluene				10
Di-n-Octyl Phthalate				10
1,2-Diphenylhydrazine (as Azo-benzene)				20
Fluoranthene				10
Fluorene				10
Hexachlorobenzene				5
Hexachlorobutadiene				10

Table 4.0(2)D – Base/Neutral Compounds

Pollutant	AVG Effluent Conc. (μg/l)	MAX Effluent Conc. (μg/l)	Number of Samples	MAL (µg/l)
Hexachlorocyclo-pentadiene				10
Hexachloroethane				20
Indeno(1,2,3-cd)pyrene				5
Isophorone				10
Naphthalene				10
Nitrobenzene				10
N-Nitrosodimethylamine				50
N-Nitrosodi-n-Propylamine				20
N-Nitrosodiphenylamine				20
Phenanthrene				10
Pyrene				10
1,2,4-Trichlorobenzene				10

Pollutant	AVG Effluent Conc. (μg/l)	MAX Effluent Conc. (μg/l)	Number of Samples	MAL (µg/l)
Aldrin				0.01
alpha-BHC (Hexachlorocyclohexane)				0.05
beta-BHC (Hexachlorocyclohexane)				0.05
gamma-BHC (Hexachlorocyclohexane)				0.05
delta-BHC (Hexachlorocyclohexane)				0.05
Chlordane				0.2
4,4-DDT				0.02
4,4-DDE				0.1
4,4,-DDD				0.1
Dieldrin				0.02
Endosulfan I (alpha)				0.01
Endosulfan II (beta)				0.02
Endosulfan Sulfate				0.1
Endrin				0.02
Endrin Aldehyde				0.1
Heptachlor				0.01
Heptachlor Epoxide				0.01
PCB-1242				0.2
PCB-1254				0.2
PCB-1221				0.2
PCB-1232				0.2
PCB-1248				0.2
PCB-1260				0.2
PCB-1016				0.2
Toxaphene				0.3

Table 4.0(2)E - Pesticides

# Section 3. Dioxin/Furan Compounds

**A.** Are any of the following compounds used by a contributing industrial user or significant industrial user that is part of the collection system for the facility that you have reason to believe are present in the influent to the WWTP?

es		No

If **yes**, identify which compound(s) are potentially sent to the facility.

2,4,5-trichlorophenoxy acetic acid Common Name 2,4,5-T, CASRN 93-76-5
2-(2,4,5-trichlorophenoxy) propanoic acid

2-(2,4,5-trichlorophenoxy) propanoic acid Common Name Silvex or 2,4,5-TP, CASRN 93-72-1

- 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate
   Common Name Erbon, CASRN 136-25-4
- 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate
   Common Name Ronnel, CASRN 299-84-3
- 2,4,5-trichlorophenol
   Common Name TCP, CASRN 95-95-4
  - hexachlorophene Common Name HCP, CASRN 70-30-4

For each compound identified, provide a brief description of the conditions of its/their presence at the facility.

**B.** Do you know or have any reason to believe that 2,3,7,8 Tetrachlorodibenzo-P-Dioxin (TCDD) or any congeners of TCDD may be present in your effluent?

Yes 🗆 🛛 No 🗆

If yes, provide a brief description of the conditions for its presence.

If you responded **yes** to either Subsection A or B, complete Table 4.0(2)F.

For pollutants identified in Table 4.0(2)F, indicate type of sample.

Grab 🗆	Composite 🗆
Date and time sample(s)	collected:

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Compound	Toxic Equivalency Factors	Wastewater Concentration (ppq)	Wastewater Equivalents (ppq)	Sludge Concentration (ppt)	Sludge Equivalents (ppt)	MAL (ppq)
2,3,7,8 TCDD	1					10
1,2,3,7,8 PeCDD	0.5					50
2,3,7,8 HxCDDs	0.1					50
1,2,3,4,6,7,8 HpCDD	0.01					50
2,3,7,8 TCDF	0.1					10
1,2,3,7,8 PeCDF	0.05					50
2,3,4,7,8 PeCDF	0.5					50
2,3,7,8 HxCDFs	0.1					50
2,3,4,7,8 HpCDFs	0.01					50
OCDD	0.0003					100
OCDF	0.0003					100
PCB 77	0.0001					0.5
PCB 81	0.0003					0.5
PCB 126	0.1					0.5
PCB 169	0.03					0.5
Total						

# TABLE 4.0(2)F - DIOXIN/FURAN COMPOUNDS

#### FACT SHEET AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

For draft Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015964001, EPA I.D. No. TX0141046, to discharge to water in the state.

Issuing Office:	Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087
Applicant:	LVTP Holdings, LLC 4173 Lomita Lane Dallas, Texas 75220
Prepared By:	Venkata S. Kancharla Municipal Permits Team Wastewater Permitting Section (MC 148) Water Quality Division (512) 239-3342
Date:	4/18/2022

Permit Action: New Permit

#### 1. 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**.

#### 2. APPLICANT ACTIVITY

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 an annual average flow not to exceed 0.55 million gallons per day (MGD) in the Interim phase and an annual average flow not to exceed 1.2 MGD in the Final phase. The proposed wastewater treatment facility will serve the Lakeview Municipal Utility District (MUD).

#### 3. FACILITY AND DISCHARGE LOCATION

The plant site is located approximately 2.0 miles northeast of the intersection of Rex Odom Drive and West U.S Highway 287, in Ellis County, Texas 75165.

**Outfall Location:** 

Outfall Number	Latitude	Longitude
001	32.464050 N	96.892560 W

The treated effluent is discharged to an unnamed tributary of Long Branch, thence to an unnamed impoundment on Long Branch, thence to Long Branch, thence to an unnamed impoundment on Long Branch, thence to Long Branch, thence to Waxahachie Creek, thence to Bardwell Reservoir in Segment No. 0815 of the Trinity River Basin. The

unclassified receiving water uses are minimal aquatic life use for the unnamed tributary and Long Branch, presumed high aquatic life use for the unnamed impoundments, and intermediate aquatic life use for the Waxahachie Creek. The designated uses for Segment No. 0815 are primary contact recreation, public water supply, and high aquatic life use.

### 4. TREATMENT PROCESS DESCRIPTION AND SEWAGE SLUDGE DISPOSAL

The Lakeview MUD Wastewater Treatment Facility is an activated sludge process plant operated in the extended aeration mode. Treatment units in the Interim phase will include a bar screen, an aeration chamber, a final clarifier, a sludge digester, a chlorine contact chamber, and a dechlorination chamber. Treatment units in the Final phase will include an additional aeration chamber, a final clarifier, a sludge digester, a chlorine contact chamber, and a dechlorination chamber. 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.

#### 5. SUMMARY OF SELF-REPORTED EFFLUENT ANALYSES

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

#### 6. DRAFT PERMIT CONDITIONS AND MONITORING REQUIREMENTS

The effluent limitations and monitoring requirements for those parameters that are limited in the draft permit are as follows:

#### A. INTERIM PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The daily average flow of effluent shall not exceed 0.55 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 1,528 gallons per minute (gpm).

Parameter	<u>30-Da</u>	<u> 30-Day Average</u>		<u>Daily</u>
			<u>Average</u>	<u>Maximum</u>
	<u>mg/l</u>	<u>lbs/day</u>	<u>mg/l</u>	<u>mg/l</u>
CBOD <sub>5</sub>	5	23	10	20
TSS	5	23	10	20
NH <sub>3</sub> -N	1.2	5.5	2.4	4.8
Total Phosphorus (P)	1	4.6	2	4
DO (minimum)	6.0	N/A	N/A	N/A
<i>E. coli,</i> CFU or MPN	126	N/A	N/A	399
per 100 ml				

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored twice per month by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The effluent shall contain a total chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and shall be monitored daily by grab sample. The permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/l total chlorine residual and shall monitor total chlorine residual daily by grab sample after the dechlorination process. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

<u>Parameter</u>	Monitoring Requirement
Flow, MGD	Continuous
CBOD <sub>5</sub>	One/week
TSS	One/week
NH <sub>3</sub> -N	One/week
Total P	One/week
DO	One/week
E. coli	Two/month

#### B. FINAL PHASE EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The annual average flow of effluent shall not exceed 1.2 MGD, nor shall the average discharge during any two-hour period (2-hour peak) exceed 3,333 gpm.

<u>Parameter</u>	<u>30-Day Average</u>		<u>7-Day</u>	<u>Daily</u>
			Average	Maximum
	<u>mg/l</u>	<u>lbs/day</u>	<u>mg/l</u>	<u>mg/l</u>
$CBOD_5$	5	50	10	20
TSS	5	50	10	20
NH <sub>3</sub> -N	1.1	11	2.2	4.4
Total Phosphorus	1	10	2	4
DO (minimum)	6.0	N/A	N/A	N/A
E. coli, CFU or	126	N/A	N/A	399
MPN/100 ml			-	

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per week by grab sample. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

The effluent shall contain a total chlorine residual of at least 1.0 mg/l after a detention time of at least 20 minutes (based on peak flow) and shall be monitored daily by grab sample at each chlorine contact chamber. The permittee shall dechlorinate the chlorinated effluent to less than 0.1 mg/l total chlorine residual and shall monitor total chlorine residual daily by grab sample after the dechlorination process. An equivalent method of disinfection may be substituted only with prior approval of the Executive Director.

<u>Parameter</u>	Monitoring Requirement
Flow, MGD	Continuous
CBOD <sub>5</sub>	Two/week

TSS	Two/week
NH <sub>3</sub> -N	Two/week
Total P	Two/week
DO	Two/week
E. coli	One/week

#### C. SEWAGE SLUDGE REQUIREMENTS

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.

#### D. WHOLE EFFLUENT TOXICITY (BIOMONITORING) REQUIREMENTS

- (1) The draft permit includes chronic freshwater biomonitoring requirements as follows. The permit requires five dilutions in addition to the control (0% effluent) to be used in the toxicity tests. These additional effluent concentrations shall be 32%, 42%, 56%, 75%, and 100%. The low-flow effluent concentration (critical dilution) is defined as 100% effluent. The critical dilution is in accordance with the "Aquatic Life Criteria" section of the "Water Quality Based Effluent Limitations/Conditions" section.
  - (a) Chronic static renewal survival and reproduction test using the water flea (*Ceriodaphnia dubia*). The frequency of the testing is once per quarter for at least the first year of testing, after which the permittee may apply for a testing frequency reduction.
  - (b) Chronic static renewal 7-day larval survival and growth test using the fathead minnow (*Pimephales promelas*). The frequency of the testing is once per quarter for at least the first year of testing, after which the permittee may apply for a testing frequency reduction.
- (2) The draft permit includes the following minimum 24-hour acute freshwater biomonitoring requirements at a frequency of once per six months:
  - (a) Acute 24-hour static toxicity test using the water flea (*Daphnia pulex* or *Ceriodaphnia dubia*).
  - (b) Acute 24-hour static toxicity test using the fathead minnow (*Pimephales promelas*).

#### E. BUFFER ZONE REQUIREMENTS

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).

#### F. SUMMARY OF CHANGES FROM APPLICATION

The applicant requested effluent limitations, based on a 30-day average, of 10 mg/l BOD<sub>5</sub>, 15 mg/l TSS, and 3 mg/l NH<sub>3</sub>-N. However, effluent limitations in the Interim phase of the draft permit, based on a 30-day average, are 5 mg/l CBOD<sub>5</sub>, 5 mg/l TSS, 1.2 mg/l NH<sub>3</sub>-N, 126 CFU or MPN of *Escherichia coli* (*E. coli*) per 100 ml and 6.0 mg/l minimum DO. The effluent limitations in the Final phase of the draft permit, based on a 30-day average, are 5 mg/l TSS, 1.1 mg/l NH<sub>3</sub>-N, 126 CFU or MPN of *E. coli* per 100 ml and 6.0 mg/l minimum DO.

#### 8. DRAFT PERMIT RATIONALE

#### A. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

Regulations promulgated in Title 40 of the CFR require that technology-based limitations be placed in wastewater discharge permits based on effluent limitations guidelines, where applicable, or on best professional judgment (BPJ) in the absence of guidelines.

Effluent limitations for maximum and minimum pH are in accordance with 40 CFR § 133.102(c) and 30 TAC § 309.1(b).

#### B. WATER QUALITY SUMMARY AND COASTAL MANAGEMENT PLAN

#### (1) WATER QUALITY SUMMARY

The treated effluent is discharged to an unnamed tributary of Long Branch, thence to an unnamed impoundment on Long Branch, thence to Long Branch, thence to an unnamed impoundment on Long Branch, thence to Long Branch, thence to Waxahachie Creek, thence to Bardwell Reservoir in Segment No. 0815 of the Trinity River Basin. The unclassified receiving water uses are minimal aquatic life use for the unnamed tributary and Long Branch, presumed high aquatic life use for the unnamed impoundments, and intermediate aquatic life use for the Waxahachie Creek. The designated uses for Segment No. 0815 are primary contact recreation, public water supply, and high aquatic life use. The effluent limitations in the draft permit will maintain and protect the existing instream uses. In accordance with 30 Texas Administrative Code §307.5 and the TCEQ implementation procedures (June 2010) for the Texas Surface Water Quality Standards (TSWQS), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in the unnamed impoundments and Waxahachie Creek, which have been identified as having high and intermediate aquatic life uses respectively. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

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) 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. 0815 is currently listed on the State's inventory of impaired or threatened waters (the 2020 Clean Water Act Section 303(d) list). The listing is for sulfate in water throughout the entire segment (Assessment Unit 0815\_01).

This is a new wastewater treatment facility that has not yet been constructed. Analaytical values for these pollutants will be screened at the next permit action (major amendment or renewal – as applicable) and evaluated to see if reporting requirements or limits for sulfate are needed in the permit.

The effluent limitations and conditions in the draft permit comply with EPA-approved portions of the 2018 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.

#### (2) CONVENTIONAL PARAMETERS

Effluent limitations for the conventional effluent parameters (i.e., Five-Day Biochemical Oxygen Demand or Five-Day Carbonaceous Biochemical Oxygen Demand [CBOD<sub>5</sub>], Ammonia Nitrogen [NH<sub>3</sub>-N], etc.) 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 (WQMP).

The effluent limits recommended above have been reviewed for consistency with the State of Texas WQMP. The proposed limits are not contained in the approved WQMP. However, these limits will be included in the next WQMP update.

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.

(3) COASTAL MANAGEMENT PLAN

The facility is not located in the Coastal Management Program boundary.

#### C. WATER QUALITY-BASED EFFLUENT LIMITATIONS/CONDITIONS

#### (1) GENERAL COMMENTS

The TSWQS (30 TAC Chapter 307) state that surface waters will not be toxic to man, or to terrestrial or aquatic life. The methodology outlined in the "Procedures to Implement the Texas Surface Water Quality Standards, June 2010" is designed to ensure compliance with 30 TAC Chapter 307. Specifically, the methodology 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.

#### (2) AQUATIC LIFE CRITERIA

#### (a) SCREENING

Water quality-based effluent limitations are calculated from freshwater aquatic life criteria found in Table 1 of the TSWQS (30 TAC Chapter 307).

There is no mixing zone or zone of initial dilution for this discharge directly to an intermittent stream; acute freshwater criteria apply at the end of pipe. Acute and chronic freshwater criteria are applied in the lake or reservoir.

For the intermittent stream, the percent effluent for acute protection of aquatic life is 100% because the 7Q2 of the intermittent stream is 0.0 cfs. TCEQ uses the U.S. Environmental Protection Agency horizontal jet plume model to estimate the dilution for acute and chronic protection of aquatic life for discharges into sections of lakes and reservoirs that are less than 200 feet wide. General assumptions used in the horizontal jet plume model are: a non-buoyant discharge, a submersed pipe, and no cross flow. The following critical effluent percentages are calculated based on the permitted flow of 1.2 MGD:

Acute Effluent % (stream):	100%	Chronic Effluent % (lake)	68%
Acute Effluent % (lake):	100%		

Waste load allocations (WLAs) are calculated using the above estimated effluent percentages, criteria outlined in the TSWQS, and partitioning coefficients for metals (when appropriate and designated in the implementation procedures). The WLA is the end-of-pipe effluent concentration that can be discharged when, after mixing in the receiving stream, instream numerical criteria will not be exceeded. From the WLA, a long-term average (LTA) is calculated using a log normal probability distribution, a given coefficient of variation (0.6), and a 90<sup>th</sup> percentile confidence level. The LTA is the long-term average effluent concentration for which the WLA will never be exceeded using a selected percentile

confidence level. The lower of the two LTAs (acute and chronic) is used to calculate a daily average and daily maximum effluent limitation for the protection of aquatic life using the same statistical considerations with the 99<sup>th</sup> percentile confidence level and a standard number of monthly effluent samples collected (12). Assumptions used in deriving the effluent limitations include segment values for hardness, chlorides, pH, and total suspended solids (TSS) according to the segment-specific values contained in the TCEQ guidance document "Procedures to Implement the Texas Surface Water Quality Standards, June 2010." The segment values are 96 mg/l for hardness (as calcium carbonate), 14 mg/l chlorides, 7.9 standard units for pH, and 6.1 mg/l for TSS. For additional details on the calculation of water quality-based effluent limitations, refer to the TCEQ guidance document.

TCEQ practice for determining significant potential is to compare the reported analytical data against percentages of the calculated daily average water quality-based effluent limitation. Permit limitations are required when analytical data reported in the application exceeds 85% of the calculated daily average water quality-based effluent limitation. Monitoring and reporting is required when analytical data reported in the application exceeds 70% of the calculated daily average water quality-based effluent limitation. See Attachment A of this Fact Sheet.

#### (b) **PERMIT ACTION**

No analytical data is available for screening against water quality-based effluent limitations because the facility is not in operation.

#### (3) AQUATIC ORGANISM BIOACCUMULATION CRITERIA

#### (a) SCREENING

Water quality-based effluent limitations for the protection of human health are calculated using criteria for the consumption of freshwater fish tissue found in Table 2 of the TSWQS (30 TAC Chapter 307). Freshwater fish tissue bioaccumulation criteria are applied in the lake or reservoir for a discharge to an intermittent stream that enters the lake or reservoir within 3 miles downstream of the discharge point. TCEQ uses the U.S. Environmental Protection Agency horizontal jet plume model to estimate dilution for discharges into sections of lakes or reservoirs that are less than 200 feet wide. General assumptions used in the horizontal jet plume model are: a non-buoyant discharge, a submersed pipe, and no cross flow. Based on this analysis, the following critical effluent percentage is calculated based on the permitted flow of 1.2 MGD:

Human Health Effluent %: 34%

Water quality-based effluent limitations for human health protection against the consumption of fish tissue are calculated using the same procedure as outlined for calculation of water quality-based effluent limitations for aquatic life protection. A 99<sup>th</sup> percentile confidence level in the long-term average calculation is used with only one long-term average value being calculated.

Significant potential is again determined by comparing reported analytical data against 70% and 85% of the calculated daily average water quality-based effluent limitation. See Attachment A of this Fact Sheet.

(b) PERMIT ACTION

No analytical data is available for screening against water quality-based effluent limitations because the facility is not in operation.

#### (4) DRINKING WATER SUPPLY PROTECTION

#### (a) SCREENING

Water Quality Segment No. 0815, which receives the discharge from this facility, is designated as a public water supply. The screening procedure used to calculate water quality-based effluent limitations and determine the need for effluent limitations or monitoring requirements is identical to the procedure outlined in the aquatic organism bioaccumulation section of this fact sheet. Criteria used in the calculation of water quality-based effluent limitations for the protection of a drinking water supply are outlined in Table 2 (Water and Fish) of the TSWQS (30 TAC Chapter 307). These criteria are developed from either drinking water maximum contaminant level (MCL) criteria outlined in 30 TAC Chapter 290 or from the combined human health effects of exposure to consumption of fish tissue and ingestion of drinking water.

#### (b) PERMIT ACTION

No analytical data is available for screening against water quality-based effluent limitations because the facility is not in operation.

Criteria in the "Water and Fish" section of Table 2 do not distinguish if the criteria is based on a drinking water standard or the combined effects of ingestion of drinking water and fish tissue. Effluent limitations or monitoring requirements to protect the drinking water supply (and other human health effects) were previously calculated and outlined in the aquatic organism bioaccumulation criteria section of this fact sheet.

#### (5) WHOLE EFFLUENT TOXICITY (BIOMONITORING) CRITERIA

#### (a) SCREENING

TCEQ has determined that there may be pollutants present in the effluent that may have the potential to cause toxic conditions in the receiving stream. Whole effluent biomonitoring is the most direct measure of potential toxicity that incorporates the effects of synergism of effluent components and receiving stream water quality characteristics. Biomonitoring of the effluent is, therefore, required as a condition of this permit to assess potential toxicity.

The applicant is not currently monitoring whole effluent toxicity because the requirements do not take effect until the 1.2 MGD phase.

(b) PERMIT ACTION

No analytical data is available because the facility is not in operation.

- (6) WHOLE EFFLUENT TOXICITY CRITERIA (24-HOUR ACUTE)
  - (a) SCREENING

The existing permit includes 24-hour acute freshwater biomonitoring language.

(b) PERMIT ACTION

The applicant is not currently monitoring whole effluent toxicity because the requirements do not take effect until the 1.2 MGD phase.

#### 9. WATER QUALITY VARIANCE REQUESTS

No variance requests have been received.

#### 10. PROCEDURES FOR FINAL DECISION

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

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

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

After the public comment deadline, the Executive Director prepares a response to all

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

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

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

For additional information about this application, contact Venkata S. Kancharla at (512) 239-3342.

#### 11. ADMINISTRATIVE RECORD

The following items were considered in developing the draft permit:

#### A. APPLICATION

Application received on February 11, 2021, and additional information received on November 15, 2021.

#### B. MEMORANDA

Interoffice Memoranda from the Water Quality Assessment Section of the TCEQ Water Quality Division.

#### C. MISCELLANEOUS

Federal Clean Water Act § 402; Texas Water Code § 26.027; 30 TAC Chapters 30, 305, 309, 312, and 319; Commission policies; and U.S. Environmental Protection Agency guidelines.

TSWQS, 30 TAC §§ 307.1 - 307.10.

*Procedures to Implement the Texas Surface Water Quality Standards* (IP), Texas Commission on Environmental Quality, June 2010, as approved by the U.S. Environmental Protection Agency, and the IP, January 2003, for portions of the 2010 IP not approved by the U.S. Environmental Protection Agency.

Texas 2020 Clean Water Act Section 303(d) List, Texas Commission on Environmental Quality, March 25, 2020; approved by the U.S. Environmental Protection Agency on May 12, 2020.

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.

### Attachment A: Calculated Water Quality Based Effluent Limitations

# TEXTOX MENU #8 - INTERMITTENT STREAM WITHIN 3 MILES OF A LAKE/RESERVOIR

The water quality-based effluent limitations developed below are calculated using:

Table 1, 2014 Texas Surface Water Quality Standards (30 TAC 307) for Freshwater Aquatic Life

Table 2, 2018 Texas Surface Water Quality Standards for Human Health "Procedures to Implement the Texas Surface Water Quality Standards," TCEQ, June 2010

#### PERMIT INFORMATION

Permittee Name:	LVTP Holdings
TPDES Permit No:	WQ0015964001
Outfall No:	1
Prepared by:	Venkata Kancharla
Date:	4/28/2022

#### DISCHARGE INFORMATION

Intermittent Receiving		
Waterbody:	unname	d tributary of Long Branch
TSS (mg/L) (Intermittent):	6.1	
pH (Standard Units)		
(Intermittent):	7.9	
Hardness (mg/L as CaCO₃)		
(Intermittent):	96	
Chloride (mg/L) (Intermittent):	14	
Effluent Flow for Aquatic Life		
(MGD)	1.2	
% Effluent for Acute Aquatic Life		
(Intermittent):	100	
Lake/Reservoir within 3 miles:	Bardwel	l Reservoir
Segment No.:	815	
TSS (mg/L) (Lake/Reservoir):	6.1	
pH (Standard Units)		
(Lake/Reservoir):	7.9	
Hardness (mg/L as CaCO₃)		
(Lake/Reservoir):	96	
Chloride (mg/L) (Lake/Reservoir):	14	
% Effluent for Chronic Aquatic		
Life (Lake/Reservoir):	68	
% Effluent for Acute Aquatic Life		
(Lake/Reservoir):	100	
Effluent Flow for Human Health		
(MGD):	1.2	
% Effluent for Human Health		
(Lake/Reservoir):	34	
Human Health Criterion (select:		
PWS, FISH, or INC)	FISH	

#### CALCULATE DISSOLVED FRACTION (AND ENTER WATER EFFECT RATIO IF APPLICABLE):

	Interc		Partiti on Coeffic	Dissol ved Fracti on		Water Effect	
Stream/River Metal	ept (b)	Slope (m)	ient (Kp)	(Cd/C t)	Source	Ratio (WER)	Source
<b>·</b>				1.0	Assume	1.0	Assum
Aluminum	N/A	N/A	N/A	0	d	0	ed

			12785	0.5		1.0	Assum
Arsenic	5.68	-0.73	2.50	62		0	ed
			51591	0.2		1.0	Assum
Cadmium	6.60	-1.13	3.97	41		0	ed
			61608	0.2		1.0	Assum
Chromium (total)	6.52	-0.93	8.71	10		0	ed
			61608	0.2		1.0	Assum
Chromium (trivalent)	6.52	-0.93	8.71	10		0	ed
				1.0	Assume	1.0	Assum
Chromium (hexavalent)	N/A	N/A	N/A	0	d	0	ed
			27469	0.3		1.0	Assum
Copper	6.02	-0.74	8.27	74		0	ed
			66333	0.1		1.0	Assum
Lead	6.45	-0.80	9.92	98		0	ed
				1.0	Assume	1.0	Assum
Mercury	N/A	N/A	N/A	0	d	0	ed
			17472	0.4		1.0	Assum
Nickel	5.69	-0.57	7.79	84		0	ed
				1.0	Assume	1.0	Assum
Selenium	N/A	N/A	N/A	0	d	0	ed
			37248	0.3		1.0	Assum
Silver	6.38	-1.03	6.27	06		0	ed
			35503	0.3		1.0	Assum
Zinc	6.10	-0.70	3.32	16		0	ed

				Dissol			
			Partiti	ved Fracti		W/ator	
	Interc		Coeffic	on		Fffect	
	ent	Slope	ient	(Cd/C		Ratio	
Lake/Reservoir Metal	(b)	(m)	(Kp)	(==, = t)	Source	(WER)	Source
				1.0	Assume	1.0	Assum
Aluminum	N/A	N/A	N/A	0	d	0	ed
			12785	0.5		1.0	Assum
Arsenic	5.68	-0.73	2.50	62		0	ed
			67219	0.1		1.0	Assum
Cadmium	6.55	-0.92	6.97	96		0	ed
			13426	0.1		1.0	Assum
Chromium (total)	6.34	-0.27	44.21	09		0	ed
			13426	0.1		1.0	Assum
Chromium (trivalent)	6.34	-0.27	44.21	09		0	ed
				1.0	Assume	1.0	Assum
Chromium (hexavalent)	N/A	N/A	N/A	0	d	0	ed
			55360	0.2		1.0	Assum
Copper	6.45	-0.90	9.01	28		0	ed
			78302	0.1		1.0	Assum
Lead	6.31	-0.53	4.21	73		0	ed
				1.0	Assume	1.0	Assum
Mercury	N/A	N/A	N/A	0	d	0	ed
			55354	0.2		1.0	Assum
Nickel	6.34	-0.76	0.40	28		0	ed
				1.0	Assume	1.0	Assum
Selenium	N/A	N/A	N/A	0	d	0	ed
			37248	0.3		1.0	Assum
Silver	6.38	-1.03	6.27	06		0	ed
			96822	0.1		1.0	Assum
Zinc	6.52	-0.68	3.71	45		0	ed

#### AQUATIC LIFE

CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS:

	FW Acute Criteri	FW/	FW Chroni					ιτα			
	on	Acute	C	WLAa			LTAa	a	LTAc		
	(int. strea	Criteri on	Criteri on	(int. strea	WLAa	WLAc	(int. strea	(lak e)	(lake )	Daily Ava.	Daily Max.
	m)	(lake)	(lake)	m)	(lake)	(lake)	m)	ς, (μg	, (μg/L	(μg/L	(μg/L
Parameter	(µg/L)	(µg/L)	(µg/L)	(µg/L)	(µg/L)	(µg/L)	(µg/L)	<u>/L)</u>	)	)	)
Aldrin	3.0	3.0	N/A	3.00	3.00	N/A	1.72	60 60	N/A	1.41	2.98
Aluminum	991	991	N/A	991	991	N/A	568	317	N/A	466	986
Arsenic	340	340	150	605	605	393	347	194	240	284	602
Cadmium	8.25	8.25	0.239	34.2	42.1	1.79	19.6	13. 5	1.09	1.60	3.40
Carbaryl	2.0	2.0	N/A	2.00	2.00	N/A	1.15	40	N/A	0.940	1.99
				2.40		0.005	4.00	0.7	0.003	0.005	0.011
Chlordane	2.4	2.4	0.004	2.40	2.40	0.060	1.38	68	0.036	0.039	0.082
Chlorpyrifos	0.083	0.083	0.041	0.005	0.0830	3	0.0476	266	8	0.055	6
Chromium (trivalent)	551	551	71.7	2622	5064	969	1502	162 0	591	868	1837
Chromium (hovavalant)	15 7	15 7	10.6	15 7	15 7	15.6	9.00	5.0	0 5 1	7 20	15.6
	15.7	15.7	10.0	15.7	15.7	15.0	9.00	19.	9.51	7.30	15.0
Copper	13.67	13.67	9.14	36.6	59.8	58.9	21.0	1	35.9	28.1	59.5
Cvanide (free)	45.8	45.8	10.7	45.8	45.8	15.7	26.2	14. 7	9.60	14.1	29.8
	13.0	15.0	10.7	15.0	15.0	0.001	20.2	0.3	0.000	0.001	0.002
4,4'-DDT	1.1	1.1	0.001	1.10	1.10	47	0.630	52	897	31	78
Demeton	N/A	N/A	0.1	N/A	N/A	0 147	N/A	N/A	0.089 7	0 131	0 278
Demeton	,,,,	14/7	0.1	,,,	14/1	0.117	1,7,7	0.0	,	0.079	0.270
Diazinon	0.17	0.17	0.17	0.170	0.170	0.250	0.0974	544	0.153	9	0.169
Dicofol [Kelthane]	593	593	19.8	593	59 3	29.1	34.0	19. 0	17.8	26.1	55.2
	55.5	55.5	15.0	33.3	55.5	0.002	34.0	0.0	0.001	0.002	0.005
Dieldrin	0.24	0.24	0.002	0.240	0.240	94	0.138	768	79	63	57
Diuron	210	210	70	210	210	103	120	67. 2	62.8	92.3	195
	210	210		220	210	0.082	120	0.0	0.050	0.073	100
Endosulfan I ( <i>alpha</i> )	0.22	0.22	0.056	0.220	0.220	4	0.126	704	2	8	0.156
Endosulfan II ( <i>beta</i> )	0.22	0.22	0.056	0.220	0.220	0.082	0.126	0.0 704	0.050	0.073	0.156
						0.082		0.0	0.050	0.073	
Endosulfan sulfate	0.22	0.22	0.056	0.220	0.220	4	0.126	704	2	8	0.156
Endrin	0.086	0.086	0.002	0.086 0	0.0860	0.002 94	0.0493	0.0 275	0.001 79	0.002	0.005
						0.014			0.008	0.013	0.027
Guthion [Azinphos Methyl]	N/A	N/A	0.01	N/A	N/A	7	N/A	N/A	97	1	8
Heptachlor	0.52	0.52	0.004	0.520	0.520	0.005	0.298	0.1 66	0.003	0.005	0.011
Hexachlorocyclohexane (gamma)	0.02	0.01	0.000	0.020	0.020		0.250	0.3	0.071	27	
[Lindane]	1.126	1.126	0.08	1.13	1.13	0.118	0.645	60	8	0.105	0.223
Lead	61.8	61.8	2.41	312	357	20.4	179	114	12.5	18.3	38.7
Malathion	N/A	N/A	0.01	N/A	N/A	0.014	N/A	N/A	97	0.015	8
-	· · ·				<u> </u>		· · ·	0.7			
Mercury	2.4	2.4	1.3	2.40	2.40	1.91	1.38	68	1.17	1.12	2.38
Methoxychlor	N/A	N/A	0.03	N/A	N/A	0.044	N/A	N/A	0.026 9	0.039	0.085 6
· ·	· ·	<u> </u>			i	0.001	· ·		0.000	0.001	0.002
Mirex	N/A	N/A	0.001	N/A	N/A	47	N/A	N/A	897	31	78
INICKEI	452	452	50.2	934	1980	323	535	o34	197	289	013

								8.9			
Nonylphenol	28	28	6.6	28.0	28.0	9.71	16.0	6	5.92	8.70	18.4
				0.065		0.019		0.0	0.011	0.017	0.036
Parathion (ethyl)	0.065	0.065	0.013	0	0.0650	1	0.0372	208	7	1	2
								6.9			
Pentachlorophenol	21.6	21.6	16.54	21.6	21.6	24.3	12.3	0	14.8	10.1	21.4
								9.6			
Phenanthrene	30	30	30	30.0	30.0	44.1	17.2	0	26.9	14.1	29.8
						0.020		0.6	0.012	0.018	0.039
Polychlorinated Biphenyls [PCBs]	2.0	2.0	0.014	2.00	2.00	6	1.15	40	6	4	0
								6.4			
Selenium	20	20	5	20.0	20.0	7.35	11.5	0	4.49	6.59	13.9
								1.4			
Silver	0.8	0.8	N/A	4.65	4.65	N/A	2.67	9	N/A	2.18	4.63
						0.000		0.2	0.000	0.000	0.000
Toxaphene	0.78	0.78	0.0002	0.780	0.780	294	0.447	50	179	263	557
						0.035		0.0	0.021	0.031	0.066
Tributyltin [TBT]	0.13	0.13	0.024	0.130	0.130	3	0.0745	416	5	6	9
								43.			
2,4,5 Trichlorophenol	136	136	64	136	136	94.1	77.9	5	57.4	63.9	135
Zinc	113.2	113.2	114.1	358	782	1159	205	250	707	301	638

HUMAN HEALTH

CALCULATE DAILY AVERAGE AND DAILY MAXIMUM EFFLUENT LIMITATIONS
----------------------------------------------------------------

	Water		Incide				
	and	Fish	ntal				
	Fish	Only	Fish				
	Criteri	Criteri	Criteri			Daily	Daily
	on	on	on	WLAh	LTAh	Avg.	Max.
Parameter	(µg/L)	(µg/L)	(µg/L)	(µg/L)	(µg/L)	(µg/L)	(µg/L)
Acrylonitrile	1.0	115	1150	338	315	462	978
	1.146	1.147	1.147E	0.000	0.00003	0.000	0.0000
Aldrin	E-05	E-05	-04	0337	14	0461	975
Anthracene	1109	1317	13170	3874	3602	5295	11203
Antimony	6	1071	10710	3150	2930	4306	9110
Arsenic	10	N/A	N/A	N/A	N/A	N/A	N/A
Barium	2000	N/A	N/A	N/A	N/A	N/A	N/A
Benzene	5	581	5810	1709	1589	2336	4942
	0.001						
Benzidine	5	0.107	1.07	0.315	0.293	0.430	0.910
				0.073			
Benzo(a)anthracene	0.024	0.025	0.25	5	0.0684	0.100	0.212
	0.002	0.002		0.007		0.010	
Benzo(a)pyrene	5	5	0.025	35	0.00684	0	0.0212
	0.002	0.274					
Bis(chloromethyl)ether	4	5	2.745	0.807	0.751	1.10	2.33
Bis(2-chloroethyl)ether	0.60	42.83	428.3	126	117	172	364
Bis(2-ethylhexyl) phthalate [Di(2-							
ethylhexyl) phthalate]	6	7.55	75.5	22.2	20.7	30.3	64.2
Bromodichloromethane							
[Dichlorobromomethane]	10.2	275	2750	809	752	1105	2339
Bromoform [Tribromomethane]	66.9	1060	10600	3118	2899	4262	9017
Cadmium	5	N/A	N/A	N/A	N/A	N/A	N/A
Carbon Tetrachloride	4.5	46	460	135	126	184	391
	0.002	0.002		0.007		0.010	
Chlordane	5	5	0.025	35	0.00684	0	0.0212
Chlorobenzene	100	2737	27370	8050	7487	11005	23283
Chlorodibromomethane							
[Dibromochloromethane]	7.5	183	1830	538	501	735	1556
Chloroform [Trichloromethane]	70	7697	76970	22638	21054	30948	65476
Chromium (hexavalent)	62	502	5020	1476	1373	2018	4270
Chrysene	2.45	2.52	25.2	7.41	6.89	10.1	21.4
Cresols [Methylphenols]	1041	9301	93010	27356	25441	37398	79121

Cyanide (free)	200	N/A	N/A	N/A	N/A	N/A	N/A
				0.005		0.008	
4,4'-DDD	0.002	0.002	0.02	88	0.00547	04	0.0170
	0.000	0.000		0.000	0.00035	0.000	0.0011
4,4'-DDE	13	13	0.0013	382	6	522	0
	0.000	0.000		0.001		0.001	0.0034
4,4'-DDT	4	4	0.004	18	0.00109	60	0
2,4'-D	70	N/A	N/A	N/A	N/A	N/A	N/A
Danitol [Fenpropathrin]	262	473	4730	1391	1294	1901	4023
1,2-Dibromoethane [Ethylene	0.47	4.24	42.4	42 5	44.6	47.0	26.0
Dibromidej	0.17	4.24	42.4	12.5	11.6	17.0	36.0
Dichlorobenzene]	377	595	5950	1750	1628	2202	5061
o-Dichlorobenzene [1 2-	JZZ	555	5550	1750	1020	2352	5001
Dichlorobenzenel	600	3299	32990	9703	9024	13264	28063
<i>p</i> -Dichlorobenzene [1.4-							
Dichlorobenzene]	75	N/A	N/A	N/A	N/A	N/A	N/A
3.3'-Dichlorobenzidine	0.79	2.24	22.4	6.59	6.13	9.00	19.0
1.2-Dichloroethane	5	364	3640	1071	996	1463	3096
1,1-Dichloroethylene [1,1-	-		55114	16210		22160	46884
Dichloroethene]	7	55114	0	0	150753	6	1
Dichloromethane [Methylene			13333				11342
Chloride]	5	13333	0	39215	36470	53610	0
1,2-Dichloropropane	5	259	2590	762	708	1041	2203
1,3-Dichloropropene [1,3-							
Dichloropropylene]	2.8	119	1190	350	326	478	1012
Dicofol [Kelthane]	0.30	0.30	3	0.882	0.821	1.20	2.55
	2.0E-	2.0E-	2.0E-	0.000	0.00005	0.000	0.0001
Dieldrin	05	05	04	0588	47	0804	70
2,4-Dimethylphenol	444	8436	84360	24812	23075	33920	71763
Di-n-Butyl Phthalate	88.9	92.4	924	272	253	371	786
Dioxins/Furans [TCDD	7.80E-	7.97E-	7.97E-	2.34E-	2.18E-	3.20E-	6.77E-
Equivalents]	08	08	07	07	07	07	07
				0.058		0.080	
Endrin	0.02	0.02	0.2	8	0.0547	4	0.170
Epichlorohydrin	53.5	2013	20130	5921	5506	8094	17124
Ethylbenzene	700	1867	18670	5491	5107	7506	15882
		1.68E	1.68E+	49411	459529	67550	14291
Ethylene Glycol	46744	+07	08	765	41	823	3647
Fluoride	4000	N/A	N/A	N/A	N/A	N/A	N/A
Userstandillar	8.0E-	0.000	0.001	0.000	0.00027	0.000	0.0008
Heptachior	0.000	1	0.001	294	4	402	50
Hantachlar Enovida	0.000	0.000	0 0020	0.000	0.00079	0.001	0.0024
	0.000	0.000	0.0029	0.002	3	0.002	0 0057
Hexachlorobenzene	0.000 68	68	0 0068	0.002	0 00186	73	0.0057
Hexachlorobutadiene	0.21	0.22	2.0000	0.647	0.00100	0 884	1 87
nexaemorobatadiene	0.007	0.22	2.2	0.047	0.002	0.004	1.07
Hexachlorocyclohexane ( <i>alpha</i> )	8	4	0.084	7	0.0230	7	0.0714
Hexachlorocyclohexane ( <i>beta</i> )	0.15	0.26	2.6	0.765	0.711	1.04	2.21
Hexachlorocyclohexane ( <i>aamma</i> )							
[Lindane]	0.2	0.341	3.41	1.00	0.933	1.37	2.90
Hexachlorocyclopentadiene	10.7	11.6	116	34.1	31.7	46.6	98.6
Hexachloroethane	1.84	2.33	23.3	6.85	6.37	9.36	19.8
Hexachlorophene	2.05	2.90	29	8.53	7.93	11.6	24.6
4,4'-Isopropylidenediphenol			15982				13595
[Bisphenol A]	1092	15982	0	47006	43715	64261	5
Lead	1.15	3.83	38.3	65.1	60.5	88.9	188
	0.012	0.012		0.035		0.049	
Mercury	2	2	0.122	9	0.0334	0	0.103
Methoxychlor	2.92	3.0	30	8.82	8.21	12.0	25.5
		9.92E	9.92E+	29176	271341	39887	84387
	13865	+05	06	47	2	15	10

			10482				
Methyl tert-butyl ether [MTBE]	15	10482	0	30829	28671	42146	89167
Nickel	332	1140	11400	14674	13647	20061	42442
Nitrate-Nitrogen (as Total							
Nitrogen)	10000	N/A	N/A	N/A	N/A	N/A	N/A
Nitrobenzene	45.7	1873	18730	5509	5123	7531	15933
	0.003						
N-Nitrosodiethylamine	7	2.1	21	6.18	5.74	8.44	17.8
N-Nitroso-di-n-Butylamine	0.119	4.2	42	12.4	11.5	16.8	35.7
Pentachlorobenzene	0.348	0.355	3.55	1.04	0.971	1.42	3.01
Pentachlorophenol	0.22	0.29	2.9	0.853	0.793	1.16	2.46
	6.4E-	6.4E-	6.40E-	0.001		0.002	0.0054
Polychlorinated Biphenyls [PCBs]	04	04	03	88	0.00175	57	4
Pyridine	23	947	9470	2785	2590	3807	8055
Selenium	50	N/A	N/A	N/A	N/A	N/A	N/A
1,2,4,5-Tetrachlorobenzene	0.23	0.24	2.4	0.706	0.656	0.965	2.04
1,1,2,2-Tetrachloroethane	1.64	26.35	263.5	77.5	72.1	105	224
Tetrachloroethylene							
[Tetrachloroethylene]	5	280	2800	824	766	1125	2381
Thallium	0.12	0.23	2.3	0.676	0.629	0.924	1.95
Toluene	1000	N/A	N/A	N/A	N/A	N/A	N/A
				0.032		0.044	
Toxaphene	0.011	0.011	0.11	4	0.0301	2	0.0935
2,4,5-TP [Silvex]	50	369	3690	1085	1009	1483	3138
		78435	78435	23069	214543	31537	66723
1,1,1-Trichloroethane	200	4	40	24	9	95	14
1,1,2-Trichloroethane	5	166	1660	488	454	667	1412
Trichloroethylene							
[Trichloroethene]	5	71.9	719	211	197	289	611
2,4,5-Trichlorophenol	1039	1867	18670	5491	5107	7506	15882
TTHM [Sum of Total							
Trihalomethanes]	80	N/A	N/A	N/A	N/A	N/A	N/A
Vinyl Chloride	0.23	16.5	165	48.5	45.1	66.3	140

# CALCULATE 70% AND 85% OF DAILY AVERAGE EFFLUENT LIMITATIONS:

	70%	85%
	of	of
	Daily	Daily
Aquatic Life	Avg.	Avg.
Parameter	(μg/L)	(µg/L)
Aldrin	0.987	1.19
Aluminum	326	396
Arsenic	199	241
Cadmium	1.12	1.36
Carbaryl	0.658	0.799
	0.003	0.004
Chlordane	69	48
	0.027	0.033
Chlorpyrifos	3	1
Chromium (trivalent)	608	738
Chromium (hexavalent)	5.16	6.27
Copper	19.6	23.9
Cyanide (free)	9.87	11.9
	0.000	0.001
4,4'-DDT	923	12
	0.092	
Demeton	3	0.112
	0.055	0.067
Diazinon	9	9
Dicofol [Kelthane]	18.2	22.1

	0.001	0.002
Dieldrin	84	24
Diuron	64.6	78.4
	0.051	0.062
Endosulfan I ( <i>alpha</i> )	6	7
	0.051	0.062
Endosulfan II ( <i>beta</i> )	6	7
	0.051	0.062
Endosultan sultate	6	/
Endrin	0.001	0.002
Endrin	0 000	0.011
Guthion [Azinnhos Methyl]	0.009	0.011
Gutilion [Azinphos Methyl]	0.003	0.004
Heptachlor	69	48
Hexachlorocyclohexane ( <i>aamma</i> )	0.073	0.089
[Lindane]	8	6
Lead	12.8	15.5
	0.009	0.011
Malathion	23	2
Mercury	0.790	0.959
	0.027	0.033
Methoxychlor	6	6
	0.000	0.001
Mirex	923	12
Nickel	202	246
Nonvlphenol	6.09	7.39
	0.011	0.014
Parathion (ethyl)	9	5
Pentachlorophenol	7.09	8.61
Phenanthrene	9.87	11.9
	0.012	0.015
Polychlorinated Biphenyls [PCBs]	9	6
Selenium	4.61	5.60
Silver	1.53	1.86
	0.000	0.000
Toxaphene	184	224
	0.022	0.026
Tributyltin [TBT]	1	9
2,4,5 Trichlorophenol	44.7	54.3
Zinc	211	256
	70%	85%
	of	of
	Daily	Daily
Human Health	Avg.	Avg.
Parameter	(µg/L)	(µg/L)
Acrylonitrile	323	393
	0.000	0.000
Aldrin	0322	0392
Anthracene	3706	4501
Antimony	3014	3660
Arsenic	N/A	N/A
Barium	N/A	N/A
Benzene	1635	1985
Benzidine	0.301	0.365
	0.070	0.085
Benzo(a)anthracene	0.070 3	0.085 4
Benzo(a)anthracene	0.070 3 0.007	0.085 4 0.008
Benzo(a)anthracene Benzo(a)pyrene	0.070 3 0.007 03	0.085 4 0.008 54
Benzo(a)anthracene Benzo(a)pyrene Bis(chloromethyl)ether	0.070 3 0.007 03 0.772	0.085 4 0.008 54 0.938
Benzo(a)anthracene Benzo(a)pyrene Bis(chloromethyl)ether Bis(2-chloroethyl)ether	0.070 3 0.007 03 0.772 120	0.085 4 0.008 54 0.938 146
# LVTP Holdings, LLC TPDES Permit No. WQ0015964001 Fact Sheet and Executive Director's Preliminary Decision

Bis(2-ethylhexyl) phthalate [Di(2-		
ethylhexyl) phthalate]	21.2	25.8
Bromodichloromethane		
[Dichlorobromomethane]	774	939
Bromoform [Tribromomethane]	2983	3622
Cadmium	N/A	N/A
Carbon Tetrachloride	129	157
	0.007	0.008
Chlordane	03	54
Chlorobenzene	7703	9354
Chlorodibromomethane		
[Dibromochloromethane]	515	625
Chloroform [Trichloromethane]	21664	26306
Chromium (hexavalent)	1412	1715
Chrysene	7.09	8.61
Cresols [Methylphenols]	26178	31788
Cvanide (free)	N/A	N/A
	0.005	0.006
4.4'-DDD	62	83
	0.000	0.000
4.4'-DDE	365	444
.,	0.001	0.001
4.4'-DDT	12	36
2 4'-D	N/A	N/A
Danitol [Fennronathrin]	1331	1616
1 2-Dibromoethane [Ethylene	1331	1010
Dibromide]	11.9	14.4
<i>m</i> -Dichlorobenzene [1,3-	11.0	
Dichlorobenzenel	1674	2033
<i>o</i> -Dichlorobenzene [1,2-	2071	2000
Dichlorobenzenel	9285	11275
<i>p</i> -Dichlorobenzene [1.4-		
Dichlorobenzene]	N/A	N/A
3.3'-Dichlorobenzidine	6.30	7.65
1.2-Dichloroethane	1024	1244
1.1-Dichloroethylene [1.1-	15512	18836
Dichloroethene]	4	5
Dichloromethane [Methylene		
Chloride]	37527	45568
1,2-Dichloropropane	728	885
1.3-Dichloropropene [1.3-		
Dichloropropylene]	334	406
Dicofol [Kelthane]	0.844	1.02
	0.000	0.000
Dieldrin	0562	0683
2,4-Dimethylphenol	23744	28832
Di-n-Butyl Phthalate	260	315
Dioxins/Furans [TCDD	2.24E-	2.72E-
Equivalents	07	07
	0.056	0.068
Endrin	2	3
Epichlorohydrin	5665	6879
Fthylbenzene	5254	6380
	47285	57418
Ethylene Glycol	576	200
Fluoride	N/A	N/A
	0.000	0.000
Heptachlor	281	341
	0.000	0.000
Heptachlor Epoxide	816	991
	0.001	0.002
Hexachlorobenzene	91	32
		-

# LVTP Holdings, LLC TPDES Permit No. WQ0015964001 Fact Sheet and Executive Director's Preliminary Decision

Hexachlorobutadiene	0.619	0.751
	0.023	0.028
Hexachlorocyclohexane (alpha)	6	7
Hexachlorocyclohexane (beta)	0.731	0.888
Hexachlorocyclohexane (gamma)		
[Lindane]	0.959	1.16
Hexachlorocyclopentadiene	32.6	39.6
Hexachloroethane	6.55	7.96
Hexachlorophene	8.16	9.91
4,4'-Isopropylidenediphenol		
[Bisphenol A]	44983	54622
Lead	62.2	75.6
	0.034	0.041
Mercury	3	6
Methoxychlor	8.44	10.2
	27921	33904
Methyl Ethyl Ketone	00	08
Methyl tert-butyl ether [MTBE]	29502	35824
Nickel	14043	17052
Nitrate-Nitrogen (as Total		
Nitrogen)	N/A	N/A
Nitrobenzene	5271	6401
N-Nitrosodiethylamine	5.91	7.17
N-Nitroso-di-n-Butylamine	11.8	14.3
Pentachlorobenzene	0.999	1.21
Pentachlorophenol	0.816	0.991
	0.001	0.002
Polychlorinated Biphenyls [PCBs]	80	18
Pyridine	2665	3236
Selenium	N/A	N/A
1,2,4,5-Tetrachlorobenzene	0.675	0.820
1.1.2.2-Tetrachloroethane	74.1	90.0
Tetrachloroethylene		
[Tetrachloroethylene]	788	956
Thallium	0.647	0.786
Toluene	N/A	N/A
	0.030	0.037
Toxaphene	9	5
2,4,5-TP [Silvex]	1038	1261
	22076	26807
1,1,1-Trichloroethane	56	25
1,1,2-Trichloroethane	467	567
Trichloroethylene		
[Trichloroethene]	202	245
2,4,5-Trichlorophenol	5254	6380
TTHM [Sum of Total		
Trihalomethanes]	N/A	N/A
Vinyl Chloride	46.4	56.3



# **Compliance History Report**

Compliance History Report for CN605858901, RN111192340, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator:	CN605858901, LVTP HOLDINGS, LLC	Classification: UNCLASSIFIED	Rating:		
Regulated Entity:	RN111192340, LAKEVIEW MUD WWTP	Classification: UNCLASSIFIED	Rating:		
<b>Complexity Points:</b>	4	Repeat Violator: NO			
CH Group:	14 - Other				
Location:	LOCATED APPROXIMATELY 2 MI NE OF THE INTERX OF REX ODOM DR AND W US HWY 287 ELLIS, TX, ELLIS COUNTY				
TCEQ Region:	REGION 04 - DFW METROPLEX				
ID Number(s): WASTEWATER PERMIT WQ0	015964001 <b>WAS</b>	TEWATER EPA ID TX0141046			
Compliance History Peri	od: September 01, 2018 to August 31, 2	023 Rating Year: 2023 Rati	ng Date: 09/01/2023		
Date Compliance History	Report Prepared: November 08, 2	023			
Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.					
<b>Component Period Selec</b>	ted: November 08, 2018 to November	08, 2023			
TCEQ Staff Member to C	ontact for Additional Information	Regarding This Compliance Histo	ry.		
Name: JAM		<b>Phone:</b> (512) 239-4668			
Site and Owner/Operation	ator History:				
<ol> <li>Has the site been in exister</li> <li>Has there been a (known) of</li> </ol>	nce and/or operation for the full five year c change in ownership/operator of the site d	ompliance period? NO uring the compliance period? NO			
Components (Multime	edia) for the Site Are Listed in S	Sections A - J			
A. Final Orders, court ju N/A	udgments, and consent decrees:				
B. Criminal convictions					
C. Chronic excessive en N/A	nissions events:				
D. The approval dates on N/A	of investigations (CCEDS Inv. Trac	k. No.):			
E. Written notices of via A notice of violation repre regulated entity. A notice N/A	olations (NOV) (CCEDS Inv. Track sents a written allegation of a violation of of violation is not a final enforcement act	. No.): a specific regulatory requirement from th ion, nor proof that a violation has actually	e commission to a v occurred.		

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

- H. Voluntary on-site compliance assessment dates:  $_{\mbox{N/A}}$
- I. Participation in a voluntary pollution reduction program:  $$N\!/\!A$$
- J. Early compliance:

N/A

Sites Outside of Texas:

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 28, 2022

TO: All interested persons.

RE: HK Real Estate Development LLC TPDES Permit No. WQ0016150001

# 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 Floresville City Hall, 1120 D Street, Floresville, 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.

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- (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 <u>www.tceq.texas.gov/agency/decisions/cc/comments.html</u> 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

Laurie Gharis Chief Clerk

LG/erg Enclosure

#### EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT for HK Real Estate Development LLC TPDES Permit No. WQ0016150001

The Executive Director has made the Response to Public Comment (RTC) for the application by HK Real Estate Development LLC for TPDES Permit No. WQ0016150001 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 (WQ0016150001) 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 <u>chiefclk@tceq.texas.gov</u>.

# **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, are available for review 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 Floresville City Hall, 1120 D Street, Floresville, Texas.

#### MAILING LIST for HK Real Estate Development LLC TPDES Permit No. WQ0016150001

#### FOR THE APPLICANT:

Daniel Ryan, P.E., Vice President LJA Engineering 7500 Rialto Boulevard Building H, Suite 100 Austin, Texas 78731

Lauren Crone, P.E., Project Manager LJA Engineering 7500 Rialto Boulevard Building H, Suite 100 Austin, Texas 78731

Paul Kuo, Manager HK Real Estate Development LLC 24607 Fairway Springs San Antonio, Texas 78260

#### **INTERESTED PERSONS:**

Mary Adair Branscomb Law 4630 North Loop 1604 West, Suite 206 San Antonio, Texas 78249

Emmanuel Ayala 4012 US Highway 181 North Floresville, Texas 78114

John L. McClung John L. McClung Attorney at Law 3310 Oakwell Court, Apartment 15101 San Antonio, Texas 78218

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 Environmental Law Division MC-173 P.O. Box 13087 Austin, Texas 78711-3087

Deba Dutta, 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



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

Diciembre 28, 2022

TO: Todas las personas interesadas.

RE: HK Real Estate Development LLC TPDES Permiso No. WQ0016150001

# Decisión del Director Ejecutivo.

El director ejecutivo ha tomado la decisión de que la solicitud de permiso mencionada anteriormente cumple con los requisitos de la ley aplicable. **Esta decisión no autoriza la construcción u operación de ninguna instalación propuesta.** Esta decisión será considerada por los comisionados en una reunión pública programada regularmente antes de que se tome cualquier medida sobre esta solicitud, a menos que todas las solicitudes de audiencia o reconsideración de casos impugnados hayan sido retiradas antes de esa reunión.

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo a los Comentarios Públicos (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a <u>chiefclk@tceq.texas.gov</u>. Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en el Ayuntamiento de Floresville, 1120 D Street, Floresville, Texas.

Si no está de acuerdo con la decisión del director ejecutivo y cree que es una "persona afectada" como se define a continuación, puede solicitar una audiencia de caso impugnado. Además, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Los procedimientos para la evaluación de la comisión de las solicitudes de audiencia/solicitudes de reconsideración se encuentran en 30 Código Administrativo de Texas, Capítulo 55, Subcapítulo F. A continuación, se presenta una breve descripción de los procedimientos para estas dos solicitudes.

# Cómo solicitar una audiencia de caso impugnado.

Es importante que su solicitud incluya toda la información que respalde su derecho a una audiencia de caso impugnado. Su solicitud de audiencia debe demostrar que cumple con los requisitos legales aplicables para que se le conceda su solicitud de audiencia. La consideración de la comisión de su solicitud se basará en la información que usted proporcione.

La solicitud debe incluir lo siguiente:

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- (1) Su nombre, dirección, número de teléfono durante el día y, si es posible, un número de fax.
- (2) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (3) Una declaración que exprese claramente que está solicitando una audiencia de caso impugnado. Por ejemplo, la siguiente declaración sería suficiente: "Solicito una audiencia de caso impugnado".
- (4) Si la solicitud es realizada por un grupo o asociación, la solicitud debe identificar:
  - (A) una persona por nombre, dirección, número de teléfono durante el día y, si es posible, el número de fax, de la persona que será responsable de recibir todas las comunicaciones y documentos para el grupo.;
  - (B) los comentarios sobre la solicitud presentada por el grupo que constituyen la base de la solicitud de audiencia; y
  - (C) por nombre y dirección física, uno o más miembros del grupo que de otro modo tendrían derecho a solicitar una audiencia por derecho propio. Los intereses que el grupo busca proteger deben estar relacionados con el propósito de la organización. Ni la reclamación alegada ni la reparación solicitada deben requerir la participación de los miembros individuales en el caso.

Además, su solicitud debe demostrar que usted es una **"persona afectada".** Una persona afectada es aquella que tiene un interés justiciable personal relacionado con un derecho, deber, privilegio, poder o interés económico legal afectado por la solicitud. Su solicitud debe describir cómo y por qué se vería afectado negativamente por la instalación o actividad propuesta de una manera que no sea común al público en general. Por ejemplo, en la medida en que su solicitud se base en estas preocupaciones, debe describir el impacto probable en su salud, seguridad o usos de su propiedad que puedan verse afectados negativamente por la instalación o las actividades propuestas. Para demostrar que tiene un interés personal justiciable, debe indicar, tan específicamente como pueda, su ubicación y la distancia entre su ubicación y la instalación o actividades propuestas.

Su solicitud debe plantear cuestiones de hecho controvertidas que sean relevantes y materiales para la decisión de la comisión sobre esta solicitud que fueron planteadas **por usted** durante el período de comentarios públicos. La solicitud no puede basarse únicamente en cuestiones planteadas en los comentarios que haya retirado.

Para facilitar la determinación por parte de la comisión del número y alcance de los asuntos que se remitirán a la audiencia, usted debe: 1) especificar cualquiera de las respuestas del director ejecutivo a **sus** comentarios que usted disputa; 2) la base fáctica de la disputa; y 3) enumerar cualquier cuestión de derecho en disputa.

# Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

# Fecha límite para la presentación de solicitudes.

La oficina del Secretario Oficial debe **recibir** una solicitud de audiencia de caso impugnado o reconsideración de la decisión del director ejecutivo a más tardar **30 días calendario** después de la fecha de esta carta. Puede enviar su solicitud electrónicamente a <u>www.tceq.texas.gov/agency/decisions/cc/comments.html</u> o por correo a la siguiente dirección:

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

# Procesamiento de solicitudes.

Las solicitudes oportunas para una audiencia de caso impugnado o para la reconsideración de la decisión del director ejecutivo se remitirán al Programa de Resolución Alternativa de Disputas de TCEQ y se incluirán en la agenda de una de las reuniones programadas regularmente de la comisión. Las instrucciones adicionales que explican estos procedimientos se enviarán a la lista de correo adjunta cuando se haya programado esta reunión.

# Cómo obtener información adicional.

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, al número gratuito, 1-800-687-4040.

Atentamente,

Laurie Gharis

Laurie Gharis Secretaria Oficial

LG/erg

Recinto

# RESPUESTA DEL DIRECTOR EJECUTIVO A LOS COMENTARIOS DEL PÚBLICO para HK Real Estate Development LLC TPDES Permiso No. WQ0016150001

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de HK Real Estate Development LLC del permiso de TPDES No. WQ0016150001. Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace: https://www.tceq.texas.gov/goto/cid

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (WQ0016150001) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a <u>chiefclk@tceq.texas.gov</u>.

# Información adicional

Para obtener más información sobre el proceso de participación pública, puede comunicarse con la Oficina del Asesor de Interés Público al (512) 239-6363 o llamar al Programa de Educación Pública, al número gratuito, (800) 687-4040.

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. Además, una copia de la solicitud completa, el borrador del permiso y la decisión preliminar del director ejecutivo están disponibles para ver y copiar en el Ayuntamiento de Floresville, 1120 D Street, Floresville, Texas.

#### LISTA DE CORREO para HK Real Estate Development LLC TPDES Permiso No. WQ0016150001

#### PARA EL SOLICITANTE:

Daniel Ryan, P.E., Vice President LJA Engineering 7500 Rialto Boulevard Building H, Suite 100 Austin, Texas 78731

Lauren Crone, P.E., Project Manager LJA Engineering 7500 Rialto Boulevard Building H, Suite 100 Austin, Texas 78731

Paul Kuo, Manager HK Real Estate Development LLC 24607 Fairway Springs San Antonio, Texas 78260

#### PERSONAS INTERESADAS:

Mary Adair Branscomb Law 4630 North Loop 1604 West, Suite 206 San Antonio, Texas 78249

Emmanuel Ayala 4012 US Highway 181 North Floresville, Texas 78114

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PARA EL DIRECTOR EJECUTIVO por correo electrónico:

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#### TPDES PERMIT NO. WQ0016150001

APPLICATION	§	BEFORE
BY HK REAL ESTATE	§	THE TEXAS
DEVELOPMENT, LLC FOR	§	COMMISSION ON
TPDES PERMIT NO. WQ0016150001	§	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 on the application by HK Real Estate Development, LLC (**Applicant**) for new Texas Pollutant Discharge Elimination System (**TPDES**) Permit No. WQ0016150001, 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 Emmanuel Ayala, John McClung, on behalf of James and Betty Freasier (the Freasiers), and Mary Adair, on Behalf of Freasier LLC. This response addresses all timely public comments received, whether withdrawn or not. For 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 web site at http://www.tceq.texas.gov.

#### BACKGROUND

The Applicant applied for new TPDES permit No. WQ0016150001 to authorize the discharge of treated domestic wastewater (**effluent**) at a daily average flow limit of 60,000, or 0.06 million gallons per day (**MGD**) during Interim phase I, at a daily average flow limit of 0.12 MGD during Interim Phase II, and a daily average flow limit of 0.18 MGD in the Final Phase (**proposed discharge**).

#### **Description of Facility/Discharge Route**

The Applicant's Wastewater Treatment Facility (**WWTF**), the Richter Ranch WWTF (**proposed facility**) which will serve the Richter Ranch subdivision, is located approximately 2,800 feet southeast of the intersection of County Road 320 and State Highway 181 North, in Wilson County, Texas 78114, and is an activated sludge process plant operated in conventional mode. Treatment units across all phases of the proposed permit include mechanical auger screens, anoxic aerobic tanks, aeration tanks, Membrane Bioreactor (MBR) basins, aerobic digesters, and chlorine contact chambers. Interim Phase I includes one of each treatment unit, with Interim Phase II and the Final Phase including two of each treatment unit and three of each treatment unit, respectively. The discharge route for the proposed discharge is to Sandpit Creek, then to the Upper San Antonio River in Segment No. 1911 of the San Antonio River Basin.

Sludge generated at the proposed facility is authorized to be disposed of at a TCEQ-authorized land application site, co-disposal landfill, or wastewater treatment facility, or a facility that further processes sludge.

# **Technical Review**

The TCEQ has primary authority over water quality in Texas and also federal regulatory authority for the TPDES program, which controls discharges of pollutants into Texas surface waterbodies ("water in the state"). The Texas Water Code (**TWC**) § 26.027, authorizes the TCEQ to issue permits for discharges into water in the state, and the ED evaluates applications for discharge permits based on the information provided in the application and can recommend issuance or denial of an application based on its compliance with the TWC and TCEQ rules. Specifically, the ED's Technical Review evaluates impacts from the proposed discharge on the receiving waters, starting at the discharge point (Sandpit Creek), according to 30 TAC Chapter 307, the Texas Surface Water Quality Standards (**TSWQS**) and the TCEQ's *Implementation Procedures for the Texas Surface Water Quality Standards-June 2010* (**IPs**).

The Technical Review process for surface water quality is conducted by staff in the ED's Water Quality Division (**WQD staff**) on the Standards Implementation Team (**Standards Team**), and WQD staff in the Water Quality Assessment Team (**Modeling Team**). WQD staff reviewed the application in accordance with the TSWQS and TCEQ's IPs with the goal of maintaining a level of water quality sufficient to protect the existing uses of the receiving surface waters.

The first component of the ED's Technical Review involved WQD staff on the Standards Team reviewing the classifications, designations, and descriptions of the receiving surface waters for the route of the proposed discharge. Along with other available information, reviewing the receiving waters for the proposed discharge allows the Standards Team to preliminarily determine the aquatic life uses in the area of the proposed discharge's possible impact and assign the corresponding Minimum DO criterion as stipulated at 30 TAC § 307.5 (TSWQS) and in the TCEQ's IPs.

The designated uses and the dissolved oxygen criterion for the receiving waters of the route for the proposed discharge, according to Appendix A of 30 TAC § 307.10 (TSWQS), is primary contact recreation, high aquatic life use, and 5.0 mg/L DO for the Upper San Antonio River in Segment No. 1911. Through his Technical Review, the ED provides the proper effluent limitations (**limits**) to protect these uses.

For applications for new discharges, the Standards Team performs an antidegradation analysis of the proposed discharge, and per 30 TAC § 307.5 (TSWQS) and the TCEQ's IPs, an antidegradation review of the receiving waters was performed. The Tier 1 review determined that existing water quality uses will not be impaired by the proposed discharge, with the numerical and narrative criteria to protect existing uses being maintained. The Tier 2 review preliminarily determined that significant degradation of water quality is not expected in the Upper San Antonio River, which has been identified as having high aquatic life use, because existing uses will be maintained and protected. 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) (TSWQS) and determined that Sandpit Creek, an unclassified waterbody, had a limited aquatic life use, with 3.0 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 employed in the applicable review or analysis.

The second component of the ED's Technical Review involved WQD staff on the Modeling Team performing water quality modeling runs, or a Dissolved Oxygen (**DO**)

analysis, using a default QUAL-TX model in combination with an updated version of the calibrated QUAL-TX model documented in the *Waste Load Evaluation for the San Antonio River System in the San Antonio River Basin (1989).* 

The proposed permit's effluent limits, established by WQD staff's modeling results, will maintain and protect the existing instream uses. Similarly, conventional effluent parameters such as DO, Five-day Carbonaceous Biochemical Oxygen Demand (**CBOD**<sub>5</sub>), Total Suspended Solids (**TSS**), and Ammonia Nitrogen (**NH**<sub>3</sub>-**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 results, the proposed limits below are predicted to be adequate to maintain dissolved oxygen levels above the criteria stipulated by the Standards Implementation Team for Sandpit Creek (3.0 mg/L DO) and for the Upper San Antonio River (Segment No. 1911) (5.0 mg/L DO).

# Interim I phase(0.06 MGD): $5.0 \text{ mg/L CBOD}_5$ , $2.0 \text{ mg/L NH}_3$ -N, and 5.0 mg/L DOInterim II phase(0.12 MGD): $5.0 \text{ mg/L CBOD}_5$ , $2.0 \text{ mg/L NH}_3$ -N, and 5.0 mg/L DOFinal Phase(0.18 MGD): $5.0 \text{ mg/L CBOD}_5$ , $2.0 \text{ mg/L NH}_3$ -N, and 5.0 mg/L DO

Coefficients and kinetics used in the model are a combination of site-specific, standardized default, and estimated values. The results of this evaluation can be reexamined upon receipt of information that conflicts with the assumptions employed in this analysis.

Therefore, the entire set of effluent limitations for all three phases of the proposed permit, based on a 30-day average, are  $5.0 \text{ mg/l CBOD}_5$ , 5.0 mg/l TSS,  $2.0 \text{ mg/l NH}_3$ -N, 63 colony forming units (CFU) or most probable number (MPN) of *Escherichia coli* (*E. coli*) per 100 ml, and 5.0 mg/l minimum DO. The effluent must 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. An equivalent method of disinfection may be substituted only with prior approval of the ED.

In all phases of the proposed permit, the pH must not be less than 6.0 standard units nor greater than 9.0 standard units and must be monitored once per week by grab sample. There must be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.

Segment No. 1911 is currently listed on the state's inventory of impaired and threatened waters (the 2020 CWA § 303(d) list). The listings are for impaired fish community from just upstream of the confluence with Sixmile Creek to the upper end of the segment (Assessment Units [AUs] 1911\_08 & 1911\_09). Segment No. 1911 is also listed for impaired macrobenthic community from just upstream of the confluence with Sixmile Creek to just upstream of the confluence with San Pedro Creek (AU 1911\_08). This facility will be discharging to AU 1911\_04 which is located downstream from the impaired AUs 1911\_08 & 1911\_09 and will therefore not contribute to the impairment of the segment.

Total Maximum Daily Load (TMDL) Project No. 34D has been approved for this segment. On August 8, 2007, the TCEQ adopted TMDLs for Bacteria in the San Antonio Area, Project No. 34D. The EPA approved the TMDL on April 21, 2009. This document describes a project developed to address water quality impairments related to bacteria for three streams located in and around the City of San Antonio: Salado Creek, Segment No. 1910; Walzem Creek, Segment No. 1910A; and the Upper San Antonio River, Segment No. 1911. There are several municipal point sources in the watershed. The TMDL

calculation relies on a 63 cfu/100 ml for the waste water treatment facility waste load allocation (WLA). Effluent limits for these facilities should be set at 63 cfu/100 ml.

The proposed permit's pretreatment requirements are based on TPDES regulations contained in 30 TAC Chapter 305, which references 40 Code of Federal Regulations (CFR) Part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution" *[rev. Federal Register/ Vol. 70/ No. 198/ Friday, October 14, 2005/ Rules and Regulations, pages 60134-60798].* The permit includes specific requirements that establish responsibilities of local government, industry, and the public to implement the standards to control pollutants which pass through or interfere with treatment processes in publicly owned treatment works or which may contaminate the sewage sludge. This permit has appropriate pretreatment language for a facility of this size and complexity.

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 April 20, 2022, and declared it administratively complete on June 27, 2022. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Wilson County, Texas in English in the Wilson County News on July 06, 2022, an in Spanish in El Mundo on July 07, 2022. The ED completed the technical review of the application on August 25, 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 Wilson County, Texas in English in the Wilson County News on September 21, 2022, in English in the Seguin Gazette on September 18, 2022, and in Spanish in *El Mundo* on September 15, 2022. The public comment period ended on October 21, 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.

The ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, animal life, vegetation and human health. However, if you would like to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, you may contact the TCEQ Regional Office (Region 13) in San Antonio, TX at (210) 490-3096 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described below at the seventh bullet point under, "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.

# Access to Rules, Laws and Records

- All administrative rules: Secretary of State Website: <u>www.sos.state.tx.us</u>
- TCEQ rules: Title 30 of the Texas Administrative Code: <u>www.sos.state.tx.us/tac/</u> (select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: <u>www.statutes.capitol.texas.gov</u>
- TCEQ website: <u>www.tceq.texas.gov</u> (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.) <u>http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab\_02.tpl</u>
- Federal environmental laws: <u>http://www.epa.gov/lawsregs/</u>
- Environmental or citizen complaints may be filed electronically at: <a href="https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html">https://www.tceq.texas.gov/assets/public/compliance/monops/complaints/complaints.html</a> (select "use our online form") or by sending an email to the following address: <a href="mailto:complaint@TCEO.texas.gov">complaint@TCEO.texas.gov</a>

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 <u>www.tceq.texas.gov/goto/cid.</u> The permit application has been available for viewing and copying at the Floresville City Hall located at 1120 D Street, Floresville, Texas 78114, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision are available for viewing and copying at the same location since publication of the NAPD.

# COMMENTS AND RESPONSES

# COMMENT 1:

Emmanuel Ayala, the Freasiers, and Freasier LLC, all of whom own property within proximity to the proposed facility and proposed discharge route, all commented in opposition to the proposed permit, the proposed facility, and the proposed facility's location, while expressing concerns about wastewater possibly encroaching on their respective properties that may cause negative impacts and also negatively affect their use and enjoyment of their property.

# **RESPONSE 1:**

The ED acknowledges the comments in opposition to the proposed permit, proposed discharge route, the proposed facility, and the proposed facility's location.

The issuance of a permit by the TCEQ does not authorize any injury to persons or property or an invasion of others property rights, and 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. In addition, the scope of TCEQ's regulatory jurisdiction does not limit the ability of nearby landowners to seek relief from a court 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.

The Applicant has a duty to comply with all conditions of the proposed 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.

If the proposed facility, proposed discharge, or the Applicant create any nuisance conditions, the TCEQ may be contacted by the methods described above, in the last paragraph on page 5 to investigate if potential permit violations occurred.

However, 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 discharge facility. The Applicant is the entity that proposes the location of the facility, the discharge point, and the route for the proposed discharge, rather than the ED.

Instead, the ED may only evaluate a location for the proposed facility according to the Location Standards in the TCEQ regulations and the effect(s) of the discharge on the uses of the receiving streams starting at the discharge point.

If an Applicant were to revise its application with a different location and discharge route for the proposed 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:

Emmanuel Ayala, the Freasiers, and Freasier LLC, all commented, expressing concerns about their health, the health of their families, the health of livestock and the water quality in Sandpit creek.

# **RESPONSE 2:**

The health concerns of area residents, as well as those of the public, are considered in reviewing amendment applications for domestic wastewater discharge permits. The TCEQ takes the concerns and comments expressed by the public, relating to human health, water quality, and protecting the State's rivers and lakes, into consideration in deciding whether to issue a wastewater discharge permit.

Chapter 26 of the TWC and TCEQ's water quality are written for 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.*<sup>1</sup>

The proposed permit also requires the Applicant to "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.

WQD staff evaluated the application as an authorization to discharge treated wastewater into water in the State. Thus, the quality of the discharge and method of achieving that quality must follow the Federal Clean Water Act, TWC, and the TSWQS.

The TSWQS is a primary mechanism for the TCEQ to protect human health, surface and groundwater quality, aquatic life, the environment, and specifically, the designated uses of the receiving waters. 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. 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 the TSWQS.

As specified in the methodologies from 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. Relatedly, municipal facilities typically do not have industrial contributors, and therefore, do not have toxins in their effluent. 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.

WQD Staff drafted the proposed permit with provisions to ensure that the TSWQS will be maintained, ensuring the proposed discharge is protective of human health, aquatic life, livestock, domestic animals, and the environment. Likewise, the proposed permit's effluent limits will protect the uses and quality of the waterbodies in the route of the proposed discharge for the benefit of the aquatic life and terrestrial wildlife that depend on it. WQD Staff determined that the proposed permit complies with the TSWQS, ensuring that the effluent discharged is protective of human health.

This is because 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.

WQD Staff drafted the proposed permit to preclude significant degradation of water quality in the waterbodies in the route of the proposed discharge by including effluent limits and monitoring requirements designed to ensure protection of the waterbodies according to the TCEQ rules and procedures.

To achieve the goal of supporting a level of water quality sufficient to protect existing uses of waterbodies, the proposed permit contains several water quality-specific parameters or requirements that limit the potential impact of the discharge on the receiving waters of the discharge route.

<sup>&</sup>lt;sup>1</sup> Texas Water Code § 26.003 and 30 TAC § 307.1.

The potential impact of the proposed discharge on instream dissolved oxygen (**DO**) levels is evaluated under hot and dry, low-flow summertime conditions, which are typically the most restrictive conditions in regard to DO levels. Critical low-flow, as defined in the TSWQS (30 TAC § 307.3(a)(16)), is a "low-flow condition that consists of the seven-day, two-year flow (7Q2)," which is the lowest seven-day average discharge with a recurrence interval of two years. The criteria of the 30 TAC Chapter 307 (the TSWQS) are applicable even during critical low-flow, therefore critical low-flow is considered when evaluating the appropriate effluent limits for the proposed discharge.

The proposed permit requires the Applicant to "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."

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 proposed permit.

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 this 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.<sup>2</sup> 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.<sup>3</sup>

Additionally, 30 TAC § 217.37 requires a disinfection system to include a backup power system capable of providing sufficient power to operate continuously during all power outages. The draft permit also includes bacteria limits and monitoring requirements to verify proper disinfection. The treated effluent shall meet a daily average bacteria limit of 63 colony-forming units (CFU) or most probable number (MPN) of *Escherichia coli* per 100 ml. The effluent shall be sampled for bacteria One/month.

<sup>&</sup>lt;sup>2</sup> U.S. EPA Wastewater Technology Fact Sheet- Chlorine Disinfection (EPA 832-F-99-062)

<sup>&</sup>lt;sup>3</sup> HK Real Estate Development LLC, Draft Permit, Effluent Limitations and Monitoring Requirements, p.2; *see also* 30 Tex. ADMIN. CODE § 309.3(g)(2)

The ED's review of an application for a TPDES permit focuses on controlling the discharge of pollutants into water in the state, which includes both navigable and non-navigable water bodies. The Texas Water Code defines "water" or "water in the state" to mean groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.<sup>4</sup>

The legislature has determined that "the goal of groundwater policy in this state is that the existing quality of groundwater is not degraded. This goal of non-degradation does not mean zero-contaminant discharge."<sup>5</sup> Chapter 26 of the Texas Water Code further states, "discharges of pollutants, disposal of wastes, or other activities subject to regulation by state agencies must be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard (TWC § 26.401(c)(2)).

WQD staff determined that the proposed permit fully complies with the TSWQS, ensuring that the proposed discharge is protective of human health, water quality, aquatic life, and the environment. Further, the WQD has made the determination that if the surface water quality is protected, groundwater quality in the vicinity will not be impacted by the discharge. Thus, the limits of the proposed permit intended to maintain the existing uses and preclude degradation of the surface waters, protect against degradation of groundwater.

Further, 30 TAC § 309.13(c) states that a treatment unit at the proposed facility may not be located closer than 500 feet from a public water well nor 250 feet from a private water well. For public water sources, the provisions of § 309.13(c) bolster the safeguards from TCEQ's Groundwater Rule (GWR) that protect drinking water quality against disease-causing microorganisms.

The effluent limits and conditions in the proposed permit were derived from a rigorous technical review to ensure compliance with the TSWQS. Similarly the proposed permit was developed to protect human health, animal life, vegetation, and aquatic and terrestrial life according to the TSWQS, provided the Applicant operates and maintains the proposed facility according to TCEQ rules and the requirements in the proposed permit.

# COMMENT 3:

Emmanuel Ayala, the Freasiers, and Freasier LLC, all commented, expressing concern about foul odors from the proposed facility and negative impacts to air quality.

#### **RESPONSE 3:**

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 DO limit, restrict the amount of oxygen-demanding constituents and are set at levels to

<sup>&</sup>lt;sup>4</sup> Texas Water Code § 26.001(5).

<sup>&</sup>lt;sup>5</sup> Texas Water Code § 26.401(b)

significantly reduce the odors in the effluent being discharged and prevent degradation of the receiving waters.

Maintaining an adequate DO concentration in the early stages of wastewater treatment helps to minimize sulfide generation, which is the most common cause of odor. The treatment process proposed by the Applicant supplies oxygen from the air into the wastewater for biodegradation of the organic contaminants in the wastewater through aeration. Oxygen also turns the sulfide compounds into odorless sulfates. 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 ownership of the buffer zone area. 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 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 be reported to the TCEQ by calling the toll-free number, 1-888-777-3186, or the TCEQ Regional Office (Region 13) in San Antonio, TX at (210) 490-3096. Complaints may be filed electronically by using the methods described on page five (5), at the seventh bullet point in the fourth 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.

Related to air quality, the TCEQ is the agency responsible for enforcing air pollution laws. The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if, upon review, it is found that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health and the environment will be protected. According to the TCEQ rules in 30 TAC § 106.532, wastewater facilities have undergone this review, and their air emissions are permitted by rule provided the facility performs only the functions listed in the rule. Wastewater treatment facilities do not contribute significant amounts of air contaminants to the atmosphere, and thus, do not negatively impact human health and the environment. Similarly, the Applicant indicated in its application that the treatment process of the proposed facility would use the oxygen from the air, which does not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code's Texas Clean Air Act § 382.057 and § 382.05196, and is therefore permitted by rule.

# COMMENT 4:

The Freasiers and Freasier LLC, commented, expressing concern about the public notice process for the application.

#### **RESPONSE 4:**

Notice provisions for Applicants and the TCEQ are found in 30 TAC Chapter 39 (Public Notice). When the ED determines that an application is administratively complete, the Chief Clerk mails this determination, along with a Notice of Receipt of Application and Intent to Obtain Permit (NORI), to the Applicant.<sup>6</sup> Not later than 30 days after the ED determines that the application is administratively complete, the Applicant must publish the NORI in the newspaper that has the largest circulation within the county or municipality in which the facility is located.<sup>7</sup> The Applicant must also make a copy of the administratively complete application available for public viewing in the county in which the facility is located.<sup>8</sup> Finally, the Applicant, using county deed records, must identify all landowners adjacent to the proposed facility and discharge and submit the list to the TCEQ Chief Clerk's office so it can mail timely copies of the public notices for the application to the adjacent landowners.

After completing the technical review of an application, the ED files the preliminary determination and the proposed permit with the Chief Clerk.<sup>9</sup> The Chief Clerk must mail the preliminary decision, along with the Notice of Application and Preliminary Decision (NAPD), to the Applicant, who must then publish the NAPD in the same newspaper as the NORI.<sup>10</sup> The Chief Clerk must also mail the NAPD to adjacent landowners and to persons who have filed public comment or hearing requests.<sup>11</sup>

The NAPD must set a deadline for filing public comments with the Chief Clerk that is no earlier than 30 days after its publication in a newspaper.<sup>12</sup> As the public comment period has ended, the ED must file this Response to Public Comments, addressing all timely, relevant, and material, or significant public comments submitted during the comment period, regardless of whether the comments were withdrawn.<sup>13</sup>

The notices are not intended to provide a full description of the application, but rather to provide instructions on where to obtain additional information, such as more comprehensive description of the information in the application. Documents associated with the application are made public at the locations below to allow the public to review them and determine if they have additional comments or questions. There is no requirement in the TCEQ rules that the public notices of an application must contain information about the regionalization analysis.

In this case, the TCEQ received the application for a new permit on **April 20**, **2022**, and the TCEQ Application Review and Processing Team performed an administrative review of the application which includes verifying that the landowners map and landowners list was prepared according to TCEQ policies and regulations. The Applicant provided the required landowners list and map to TCEQ, and the NORI and NAPD were mailed out to each person and address on the list. The Applicant published the NORI in English on July 06, 2022, in the *Wilson County News*, and in Spanish in *El Mundo* on July 7, 2022. The application was determined technically complete on August 25, 2022, and the Applicant published the NAPD in English in the *Wilson County News* on

8 30 TAC § 39.405(g).

<sup>10</sup> 30 TAC § 39.419(b).

<sup>&</sup>lt;sup>6</sup> 30 TAC § 39.418(a).

<sup>&</sup>lt;sup>7</sup> 30 TAC § 39.405(f).

<sup>&</sup>lt;sup>9</sup> 30 TAC § 39.419(a).

<sup>&</sup>lt;sup>11</sup> 30 TAC § 39.413.

<sup>&</sup>lt;sup>12</sup> 30 TAC § 39.551(c)(3).

<sup>&</sup>lt;sup>13</sup> 30 TAC § 55.156.

September 21, 2022, in English in the *Seguin Gazette* on September 18, 2022, and in Spanish in *El Mundo* on September 15, 2022, and in Spanish in *El Mundo* on September 15, 2022.

The Copies of the NORI and NAPD were mailed out to each person on the landowners list. Additionally, a copy of the permit application (including location maps) and the NAPD notice with a URL link to the TCEQ on-line location map (showing the location of the facility) are available for viewing and copying at the TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of the Chief Clerk). The Applicant states that the permit application has been available for viewing and copying at the Floresville City Hall located at 1120 D Street, Floresville, Texas 78114, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

Additionally, during regular business hours, the public may review or copy the public file for this application, which includes the application, its attachments, the comment letters, this Response to Public Comment, and any other communications made during the review of this application, at TCEQ's Office of the Chief Clerk.

The ED may hold a public meeting at any time in the county where the facility is located if there is evidence of substantial public interest or if a legislator representing the general area where the facility will be located requests a meeting.

# COMMENT 5:

Emmanuel Ayala, the Freasiers, and Freasier LLC, all commented, expressing concerns about potential flooding in Sandpit Creek worsening due to the greater volume of discharge from the proposed facility, and the possible damage to their properties.

# **RESPONSE 5:**

The ED encourages the participation of all individuals in the environmental permitting process. However, there are certain concerns of individuals that the TCEQ cannot address in the review of a wastewater discharge permit, as the scope of the ED's jurisdiction in a TPDES application is limited to the issues set out by statute.

While the Texas Legislature has given the TCEQ the responsibility to protect water quality, and section 26.027 of the Texas Water Code (TWC) authorizes the TCEQ to issue permits to control the discharge of wastes or pollutants into state waters and to protect the water quality of the state's rivers, lakes and coastal waters, and the proposed permit establishes terms and conditions that are intended to provide water quality pollution control, which focuses on controlling the discharge of pollutants into water in the state, the ED through his Water Quality Division (WQD) has no jurisdiction to address flooding or erosion issues in the water permitting process, which is limited to controlling the discharge of pollutants into water quality of the state's waterbodies.

While the TCEQ does not have jurisdiction to regulate flooding in the context of a wastewater discharge permit, to the extent that a concern over flooding also involves water quality, the Applicant is always required to comply with all the numeric and narrative effluent limitations and other conditions in the proposed permit, including during flooding conditions. Likewise, the proposed permit includes effluent limits and other requirements that the Applicant must meet even during rainfall events and periods of flooding. According to the application, the proposed facility will be located

above the 100-year flood plain. For additional protection, the proposed permit includes Other Requirement No. 4, which requires the Applicant to provide protection for the facility against a 100-year flood event.

Similarly, the TSWQS require that discharges not cause surface waters to be toxic to animal life. WQD Staff drafted the proposed permit with provisions to ensure that the TSWQS will be maintained, ensuring the proposed discharge is protective of human health, aquatic life, animal life, and the environment. Likewise, the proposed permit's effluent limits will protect the uses and quality of the waterbodies in the route of the proposed discharge for the benefit of the animals that interact with those waterbodies.

For flooding concerns, members of the public may contact the Wilson County Floodplain Administrator's office, run out of the Wilson County Office Emergency Management at phone number (830) 393-8351 8:00 a.m. – 5:00 p.m., Monday through Friday, or by sending an email to <u>emc@wilsoncountytx.gov</u>. The TCEQ Resource Protection Team can be contacted for aid in identifying and contacting the appropriate county officials or offices, by calling (512) 239-4600, or by email at: <u>wcp@tceq.texas.gov</u>. Additionally, the Federal Emergency Management Agency has programs designed to mitigate damage caused by flooding, that can be found at the following website: <u>https://www.fema.gov/floodplain-management</u>.

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, or property. If the Applicant's activities create any nuisance conditions, the TCEQ may be contacted to investigate whether a permit violation has occurred by calling the toll-free number, 1-888-777-3186, or the TCEQ Regional Office (Region 13) in San Antonio, TX at (210) 490-3096. Complaints may be filed electronically by using the methods described on page five (5), at the seventh bullet point in the fourth subsection of Background Information, "Access to Rules, Laws, and Records."

# COMMENT 6:

Emmanuel Ayala commented, expressing concerns about property devaluation.

# **RESPONSE 6:**

The ED acknowledges the significance of these concerns, however, 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 ED, through his Water Quality Division, has no jurisdiction to address property values.

The TCEQ does not have the authority to address these types of issues as part of the wastewater permitting process. While the Texas Legislature has given the TCEQ the responsibility to protect water quality, the water quality permitting process is limited to controlling the discharge of pollutants into or adjacent to water in the state and protecting the water quality of the state's rivers, lakes, and coastal waters The issuance of a permit by the TCEQ does not authorize any injury to persons or property or an invasion of others property rights. 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 13) in San Antonio, TX at (210) 490-3096 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described above in the third subsection of Background Information (Access to Rules, Laws, and Records).

#### 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

Erin Chancellor, Interim Executive Director

Charmaine Backens Deputy Director, Environmental Law Division and Acting Director, Office of Legal Services

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

# **CERTIFICATE OF SERVICE**

I certify that on December 22, 2022, the Executive Director's Response to Public Comment for Permit No. WQ0016150001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.

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