

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Office of Chief Clerk Date: April 18, 2024
From: Michael Parr, Staff Attorney, Environmental Law Division
Subject: Transmittal of Documents for Administrative Record

Applicant: The City of Marble Falls
Proposed Permit No.: WQ0016234001
Program: Water Quality Division
TCEQ Docket No.: 2023-1593-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 (Fact Sheet, Draft Permit and the Executive Director's Preliminary Decision and Compliance Histories).
3. The Executive Director's Final Decision letter.

Sincerely,



Michael Parr II
Staff Attorney
Environmental Law Division

TCEQ DOCKET NO. 2023-1593-MWD

APPLICATION BY THE
CITY OF MARBLE FALLS FOR
NEW TCEQ PERMIT NO.
WQ0016234001

§
§
§
§

BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Hearing Requests on the application by the City of Marble Falls (Applicant) for new TCEQ Permit No. WQ0016234001 to authorize the construction of the Applicant's One Water Marble Falls Wastewater Treatment Facility and disposal site (proposed facility) for disposal of treated domestic wastewater at a daily average flow limit of 1.5, 2.0, 3.0, 4.0 million gallons per day via surface irrigation of 360 acres of non-public access, agricultural land in the Interim I, II, III, and Final phases (respectively). Will Fowler filed timely, written, requests for a Contested Case Hearing (Request(s)).

II. ATTACHMENTS FOR COMMISSION CONSIDERATION

A. Attachment A - ED's GIS Map

III. DESCRIPTION OF FACILITY & THE ED'S TECHNICAL REVIEW

A. FACILITY

When constructed the proposed facility will be an AGS treatment system plant with treatment units in the first three phases consisting of include one bar screen, four aeration basins, one final clarifier, one sludge digester, and one chlorine contact chamber. Treatment units in the Final phase will include two fine screens, a manual bar screen, two vortex grit removal systems, four AGS basins, two effluent filter units, a chlorine contact basin, two sludge buffer basins, and an aerated sludge storage tank.

In all phases of the proposed permit, the facility includes two storage ponds with a total surface area of 16 acres and total capacity of 220 acre-feet for storage of treated effluent prior to irrigation. The rate of wastewater application to the irrigated land must not exceed 4.74 acre-feet per year per acre irrigated. The irrigated crops include Bermuda during the spring and summer and rye grass in the fall and winter months.

The proposed facility will be located approximately 1.0 miles northwest of the intersection of FM 1431 and U.S. Highway 281, in Burnet County, Texas 78654, and will be within the drainage basin of Marble Falls Lake in Segment No. 1405 of the Colorado River Basin. However, no discharges of pollutants into water in the state is authorized by the proposed permit.

B. ED'S TECHNICAL REVIEW

The basis for the ED's Technical Review of a TPDES permit application comes from the Texas Legislature's passage of Chapter 26 (Water Quality Control) of the TWC into law, which gives the TCEQ primary authority over WQ in Texas. Chapter 26 combines the TCEQ's WQ authority with federally delegated CWA regulatory authority for the

TPDES program, which controls discharges of pollutants into Texas' surface waterbodies, otherwise defined by the TWC as "Water in the State." To implement TCEQ's WQ control program, Chapter 26 grants the TCEQ the authority to issue permits (and amendments) for the disposal of wastewater adjacent to Water in the State, so long as the parameters established through the ED's Technical Review of the application, comply with the TWC, TCEQ rules, and the TSWQS. However, the TCEQ may refuse to issue a permit when the ED's Technical Review finds that issuing the permit would violate the provisions of any state or federal law or rules or regulations derived from those laws, or when it finds that issuing the permit would interfere with the TCEQ's implementation of its WQ control program.

To ensure compliance with the TSWQS, WQD staff follow the prescribed methodology in the TCEQ's IPs for drafting a permit, its limits, requirements, and conditions. The limits for all phases of the proposed permit, based on a daily average, are 20 mg/l CBOD₅ and 20 mg/l TSS.

Through the Technical Review, the ED provides the proper limits to maintain and protect human health and the environment. For that reason, the ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, WQ, and human health. Considering the TCEQ's WQ-primacy, all determinations, reviews, or analyses related to the ED's Technical Review of the application for the proposed permit can be reexamined and subsequently modified upon receipt of newer information or information that conflicts with the bases employed in the applicable review or analysis.

IV. PROCEDURAL HISTORY

The TCEQ received the application on October 3, 2022, and declared it administratively complete on November 8, 2022. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Burnet County, Texas in *The Highlander* on November 15, 2022. The ED completed the technical review of the application on March 4, 2023, 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 Burnet County, Texas in *The Highlander* on May 19, 2023. The public comment period ended on June 20, 2023, the ED's Response to Comment was filed on August 29, 2023, and with the ED's Final Decision Letter, was mailed on September 6, 2023. The deadline for filing a Request or a Request for Reconsideration (RFR) was October 6, 2023. 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.

V. ACCESS TO RULES, LAWS AND RECORDS

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.

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

Commission records for the proposed facility are available for viewing and copying at TCEQ’s primary office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk, for the current application until final action is taken). Some documents located at the Office of the Chief Clerk may also be located in the TCEQ Commissioners’ Integrated Database at www.tceq.texas.gov/goto/cid.

Since publication of the NORI, the permit application was available for viewing and copying at Marble Falls City Hall, located at 800 3rd Street, Marble Falls, Texas, the ED verified the application and proposed permit, if issued, meets all statutory and regulatory requirements.

Since publication of the NAPD, ED’s preliminary decision, the final permit application, proposed permit, and statement of basis/technical summary of the ED’s Technical Review, was available for viewing and copying at the same location. The ED determined that the proposed permit is protective of the water quality and protective of human health and the environment.

However, if individuals wish to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, complaints may be filed electronically by using the methods described above at the seventh bullet under “Access to Rules, Laws, and Records.” If an inspection by the TCEQ finds that the Applicant is not complying with all requirements of the proposed permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.¹

VI. EVALUATION OF HEARING REQUESTS

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

¹ For individuals wishing to file a complaint to address potential permit violations at the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, the TCEQ’s Regional Office (Region 11) in Austin, Texas may be contacted at (512) 339-2929 or the statewide toll-free number at 1-888-777-3186.

administratively complete on September 14, 2022; therefore, it is subject to the procedural requirements adopted pursuant to both HB 801 and SB 709.

A. LEGAL AUTHORITY TO RESPOND TO HEARING REQUESTS

“The executive director, the public interest counsel, and applicant may submit written responses to [hearing] requests... [which must specifically address:]”

1. whether the requestor is an affected person;
2. whether issues raised in the hearing request are disputed;
3. whether the dispute involves questions of fact or law;
4. whether the issues were raised during the public comment period;
5. whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter by filing a written withdrawal letter with the chief clerk prior to the filing of the ED’s Response to Comment;
6. whether the issues are relevant and material to the decision on the application; and
7. a maximum expected duration for the contested case hearing.²

The issues described above in subparagraph A.6. are often referred to as “relevant and material fact issues.”

B. HEARING REQUEST REQUIREMENTS

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

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

A hearing request must substantially comply with the following:

- (1) give the name, address, telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who is responsible for receiving all official communications and documents for the group;
- (2) identify the person’s justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor’s location and distance relative to the facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) for applications filed;

² 30 TAC §§ 55.209(d) and (e) [combined].

³ 30 TAC § 55.201(c).

(B) on or after September 1, 2015, list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the ED's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, list any disputed issues of law; and

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

C. REQUIREMENT THAT REQUESTOR BE AN AFFECTED PERSON

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

- (a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the public does not qualify as a personal justiciable interest.
- (b) Governmental entities, including local governments and public agencies with authority under state law over issues raised by the application, may be considered affected persons.
- (c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
- (1) whether the interest claimed is one protected by the law under which the application will be considered;
 - (2) distance restrictions or other limitations imposed by law on the affected interest;
 - (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
 - (6) whether the requester timely submitted comments on the application which were not withdrawn; and
 - (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.⁵
- (d) In making this determination, the commission may also consider, to the extent consistent with case law:
- (1) the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;
 - (2) the analysis and opinions of the ED; and

⁴ *Id.* at § 55.201(d).

⁵ 30 TAC § 55.203(a)-(c).

- (3) any other expert reports, affidavits, opinions, or data submitted by the ED, the applicant, or hearing requestor.⁶

D. REFERRAL TO THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

“When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to State Office of Administrative Hearing (SOAH) for a hearing.”⁷ “The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue:

- (1) involves a disputed question of fact or a mixed question of law and fact;
- (2) was raised during the public comment period by an affected person; and
- (3) is relevant and material to the decision on the application.”⁸

E. REQUESTS FOR RECONSIDERATION

According to 30 TAC § 55.201(e), any person may file a RFR of the ED’s decision no later than 30 days after the Chief Clerk mails the ED’s decision and RTC, if it expressly states that the person is requesting reconsideration of the ED’s decision, is in writing, and gives reasons why the decision should be reconsidered.

VII. ANALYSIS OF THE HEARING REQUESTS

The ED analyzed whether the Requests followed TCEQ rules, the requestor’s Affected Person qualifications, what issues to refer for a possible hearing, and the appropriate length of any hearing. After reviewing the Requests with the following analysis, the ED respectfully recommends granting the Request of Will Fowler.

A. WHETHER THE REQUEST COMPLIED WITH 30 TAC §§ 55.201(C) AND (D).

1. **Will Fowler** filed timely, written Requests that provided the requisite contact information, raised relevant and material issues that form the basis of his Request in timely comments not withdrawn before the RTC was filed, and requested a hearing.

Mr. Fowler’s Request complied with 30 TAC §§ 55.201(c), and (d) because it effectively identified a personal justiciable interest in a written explanation plainly describing why Mr. Fowler believes he will be affected by the application differently than the public. Mr. Fowler’s Requests stated his family owns property that is adjacent to the location of the proposed facility on multiple sides and raised issues relevant to a decision on the application, such as dangers to human health and harm to the environment around the proposed facility.

The ED recommends finding that Will Fowler’s Requests substantially complied with 30 TAC §§ 55.201(c) and 55.201(d).

B. WHETHER REQUESTOR IS AN AFFECTED PERSON UNDER 30 TAC § 55.203.

1. **Will Fowler** filed Requests that effectively identified a personal, justiciable interest affected by the application.

⁶ *Id.* at § 55.203(d).

⁷ 30 TAC § 50.115(b).

⁸ *Id.* at § 55.203(d).

Mr. Fowler's Requests raised relevant and material fact issues because of proximity to the proposed facility. Mr. Fowler's Requests stated concerns about the proposed facility's dangers to human health and the environment. Mr. Fowler's Requests stated that the location of the proposed facility abuts his family's property on its northern and southern boundaries, which the GIS map prepared by the ED's staff verified. This affects the likelihood that Mr. Fowler's family's property may be affected in a way not common to the public.

Mr. Fowler's family's property's proximity that was explained in plain language, specifically and briefly in his Requests and the relevant issues to a decision on the application, like dangers to human health and the environment from the proposed facility raised in his requests and that are related to the interests of the requestor demonstrate that a reasonable relationship exists between the interests claimed and the activity regulated.

Because Mr. Fowler demonstrated a personal judiciable related to a legal interest not in common to the public, as required by Texas Water Code § 5.115, the ED recommends the Commission find that he is an affected person.

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

VIII. ISSUES RAISED IN THE HEARING REQUEST:

The ED's analysis of the issues raised in Mr. Fowler's Requests identified the following relevant and material fact issue of:

1. Whether the draft permit contains adequate protections for human health and the environment consistent with state law and TCEQ's rules.

(RTC Response Nos. 2 & 3) This is an issue of fact. If it can be shown that the draft permit does not have adequate protections for human health and the environment consistent with state law and the TCEQ's rules, that information would be relevant and material to a decision on the application.

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

IX. CONTESTED CASE HEARING DURATION

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

X. EXECUTIVE DIRECTOR'S RECOMMENDATION

The ED recommends the following actions by the Commission:

1. Find that Will Fowler is an affected person under 30 TAC §§ 55.203.
2. Grant the Requests of Will Fowler.
3. Should the Commission decide to refer this case to SOAH.
 - a. refer the case to Alternative Dispute Resolution for a reasonable time.
 - b. refer the identified issues in section VIII. 1. to SOAH for a Hearing.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, *Executive Director*

Erin Chancellor, *Director*
Office of Legal Services

Charmaine Backens, *Deputy Director*
Environmental Law Division



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

XI. CERTIFICATE OF SERVICE

I certify that on January 12, 2024, the Executive Director's Response to Hearing Requests for TPDES Permit No. WQ0016234001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a copy was served to all persons listed on the attached mailing list via hand delivery, electronic delivery, inter-agency mail, or by deposit in the U.S. Mail.



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

MAILING LIST
City of Marble Falls
TCEQ Docket No. 2023-1593-MWD Permit No. WQ0016234001

FOR THE APPLICANT:

Mike Hodge, City Manager
City of Marble Falls
800 3rd Street
Marble Falls, Texas 78654

Christina McDonald, City Secretary
City of Marble Falls
800 3rd Street
Marble Falls, Texas 78654

Ashley Lewis, Interim Water Quality/
Permitting Team Leader
Plummer Associates, Inc
6300 La Calma Drive, Suite 400
Austin, Texas 78752

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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

Sonia Bhuiya, 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

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

FOR ALTERNATIVE DISPUTE RESOLUTION

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

REQUESTER(S):

Will Fowler, III
1208 McKeithen Drive
Alexandria, Louisiana 71303

Attachment A

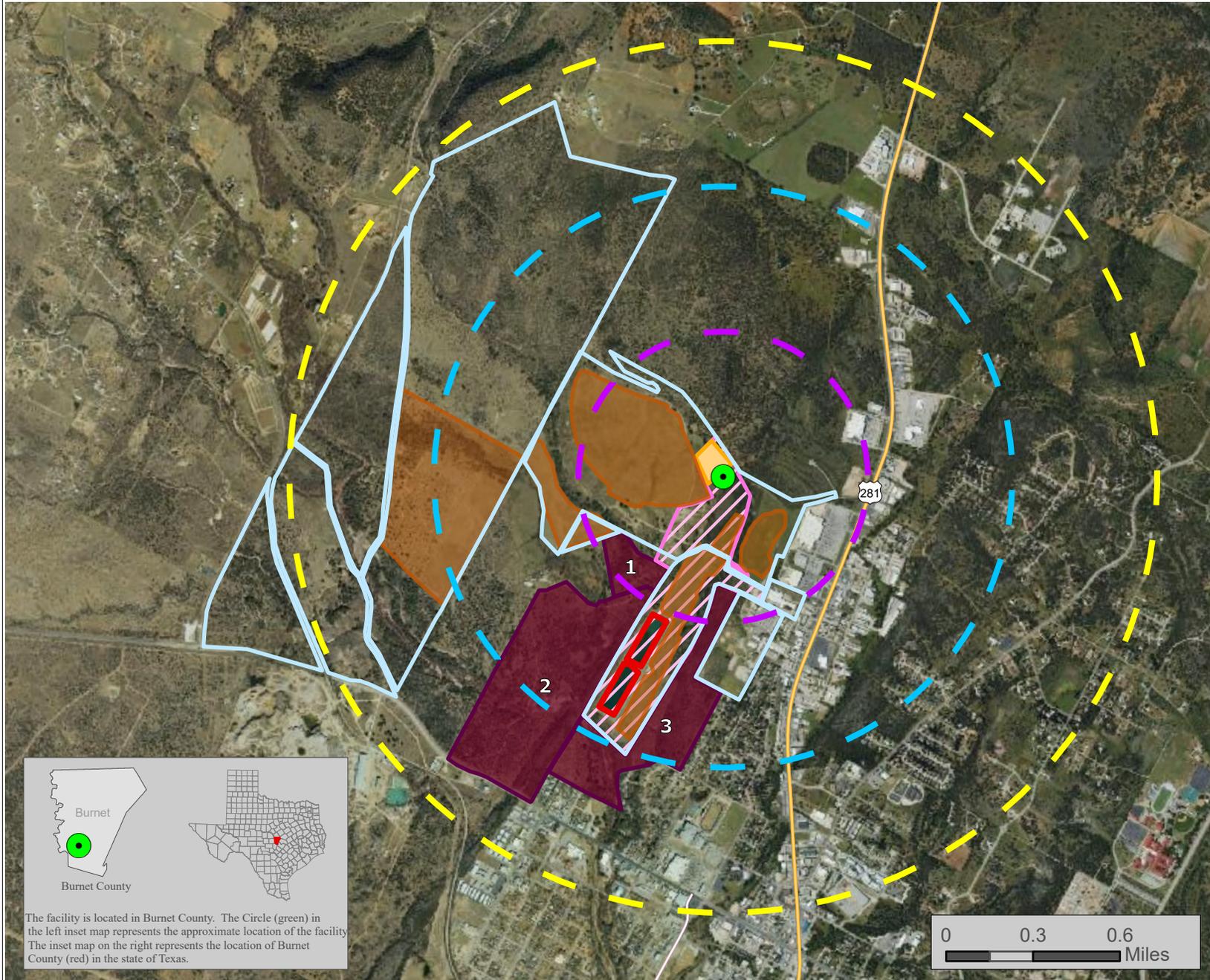
One Water Marble Falls - City of Marble Falls (North)



*Protecting Texas by
Reducing and
Preventing Pollution*

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

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 10/24/2023
CRF 0096114_activeaprx
Cartographer: Abanda



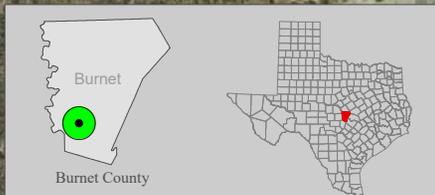
- Facility Treatment Plant Point
- 0.5-Mile Facility Treatment Plant Radius
- 1.0-Mile Facility Treatment Plant Radius
- 1.5-Mile Facility Treatment Plant Radius
- Burnet County Parcels
- Effluent Disposal Site
- Facility Treatment Boundary
- Effluent Storage Ponds
- City of Marble Falls Property Boundary
- Fowler Nancy Shifflett Trust
- County Boundary

The distance between the Facility Treatment Plant Point and Fowler Nancy Shifflett Trust Property are below in miles:

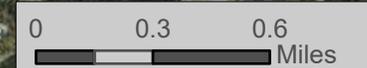
- Property #1 - 0.37
- Property #2 - 0.46
- Property #3 - 0.37

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

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



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



Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Final Documents Team Leader
Chief Clerk's Office

DATE: January 12, 2024

From: Michael Parr
Staff Attorney
Environmental Law Division

Subject: Backup Filed for the ED's Response to Hearing Requests

Applicant:	The City of Marble Falls
Proposed Permit No.:	WQ0016234001
Program:	Water
Docket No.:	2023-1593-MWD

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

- Technical Summary & Proposed Permit
- The Compliance History Report

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

DESCRIPTION OF APPLICATION

Applicant: City of Marble Falls
TCEQ Permit No. WQ0016234001

Regulated Activity: Domestic Wastewater Permit

Type of Application: New Permit

Request: New Permit

Authority: Texas Water Code (TWC) § 26.027; 30 Texas Administrative Code (TAC) Chapters 305, 309, 312, 319, and 30; and Commission policies.

EXECUTIVE DIRECTOR RECOMMENDATION

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

REASON FOR PROJECT PROPOSED

City of Marble Falls has applied to the Texas Commission on Environmental Quality (TCEQ) for new Permit No. WQ0016234001 to authorize the disposal of treated domestic wastewater at an annual average flow not to exceed 1.5 million gallons per day (MGD) in the Interim I phase, an annual average flow not to exceed 2.0 MGD in the Interim II phase, an annual average flow not to exceed 3.0 MGD in the Interim III phase, and an annual average flow not to exceed 4.0 MGD in the Final phase via surface irrigation of 360 acres of non-public access agricultural land. The facility includes for all phases, two storage ponds with a total surface area of 16 acres and total capacity of 220 acre-feet for storage of treated effluent prior to irrigation. The proposed wastewater treatment facility will serve the City of Marble Falls.

PROJECT DESCRIPTION AND LOCATION

The One Water Marble Falls Wastewater Treatment Facility consists of an aerobic granular sludge (AGS) treatment system. Treatment units in the Interim I, Interim II, and Interim III phases will include two fine screens, a manual bar screen, two vortex grit removal systems, a pre-equalization basin, three AGS basins, two effluent filter units, a chlorine contact basin, two sludge buffer basins, and an aerated sludge storage tank. Treatment units in the Final phase will include two fine screens, a manual bar screen, two vortex grit removal systems, four AGS basins, two effluent filter units, a chlorine contact basin, two sludge buffer basins, and an aerated sludge storage tank. The facility has not been constructed.

Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ-permitted landfill, Micro Dirt landfill, Permit No. 42016, in Caldwell County. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site,

City of Marble Falls

Permit No. WQ0016234001

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

co-disposal landfill, wastewater treatment facility, or facility that further processes sludge. Additionally, the draft permit authorizes the processing and Distribution and Marketing of Class A or Class AB Biosolids via composting.

The wastewater treatment facility and disposal site are located approximately 1 mile northwest of the intersection of Farm-to-Market Road 1431 and U.S. Highway 281 in Burnet County, Texas 78654.

The wastewater treatment facility and disposal site are located in the drainage basin of Marble Falls Lake in Segment No. 1405 of the Colorado River Basin. No discharge of pollutants into water in the state is authorized by this permit.

SUMMARY OF EFFLUENT DATA

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

DRAFT PERMIT CONDITIONS

The draft permit authorizes the disposal of treated domestic wastewater at an annual average flow not to exceed 1.5 MGD in the Interim I phase, an annual average flow not to exceed 2.0 MGD in the Interim II phase, an annual average flow not to exceed 3.0 MGD in the Interim III phase, and an annual average flow not to exceed 4.0 MGD in the Final phase via surface irrigation of 360 acres of non-public access agricultural land in the final phase. In all phases the facility includes two storage ponds with a total surface area of 16 acres and total capacity of 220 acre-feet for storage of treated effluent prior to irrigation. Application rates to the irrigated land shall not exceed 4.74 acre-feet per year per acre irrigated. The irrigated crops include bermuda / rye grass.

The effluent limitations for all phases in the draft permit, based on a daily average, are 20 mg/l five-day biochemical oxygen demand and 20 mg/l total suspended solids. The effluent shall contain a total chlorine residual of at least 2.0 mg/l after a detention time of at least 10 minutes based on peak flow. An equivalent method of disinfection may be substituted only with prior approval of the Commission.

The draft permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation. Sludge generated from the treatment facility is hauled by a registered transporter and disposed of at a TCEQ-permitted landfill, Micro Dirt landfill, Permit No. 42016, in Caldwell County. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, wastewater treatment facility, or facility that further processes sludge. Additionally, the draft permit authorizes the processing and Distribution and Marketing of Class A or Class AB Biosolids via composting.

SUMMARY OF CHANGES FROM APPLICATION

None.

BASIS FOR DRAFT PERMIT

The following items were considered in developing the draft permit:

1. Application received on October 3, 2022, and additional information received on November 8, 2022.
2. Interoffice Memorandum from the Water Quality Assessment Team, Water Quality Assessment & Standards Section, Water Quality Division.

PROCEDURES FOR FINAL DECISION

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

Once a draft permit is completed, it is sent, along with the Executive Director's preliminary decision, as contained in the technical summary or fact sheet, to the Chief Clerk. At that time, 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

City of Marble Falls

Permit No. WQ0016234001

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

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 Sonia Bhuiya at (512) 239-1205.

Sonia Bhuiya
Municipal Permits Team
Wastewater Permitting Section (MC 148)

Date



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

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

City of Marble Falls

whose mailing address is

800 3rd Street
Marble Falls, Texas 78654

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

General Description and Location of Waste Disposal System:

Description: The One Water Marble Falls Wastewater Treatment Facility consists of an aerobic granular sludge (AGS) treatment system. Treatment units in the Interim I, Interim II, and Interim III phases will include two fine screens, a manual bar screen, two vortex grit removal systems, a pre-equalization basin, three AGS basins, two effluent filter units, a chlorine contact basin, two sludge buffer basins, and an aerated sludge storage tank. Treatment units in the Final phase will include two fine screens, a manual bar screen, two vortex grit removal systems, four AGS basins, two effluent filter units, a chlorine contact basin, two sludge buffer basins, and an aerated sludge storage tank. The facility includes for all phases, two storage ponds with a total surface area of 16 acres and total capacity of 220 acre-feet for storage of treated effluent prior to irrigation. The permittee is authorized to dispose of treated domestic wastewater effluent at an annual average flow not to exceed 1.5 MGD in the Interim I phase, 2.0 MGD in the Interim II phase, 3.0 MGD in the Interim III phase, 4.0 MGD in the Final phase via surface irrigation of 360 acres* of non-public access agricultural land. Application rates shall not exceed 4.74 acre-feet per year per acre irrigated.

*See Special Provision No. 27.

Location: The wastewater treatment facility and disposal site are located approximately 1 mile northwest of the intersection of Farm-to-Market Road 1431 and U.S. Highway 281, in Burnet County, Texas 78654. (See Attachment A.)

Drainage Area: The wastewater treatment facility and disposal site are located in the drainage basin of Marble Falls Lake in Segment No. 1405 of the Colorado River Basin. No discharge of pollutants into water in the state is authorized by this permit.

This permit and the authorization contained herein shall expire at midnight on **five years from the date of issuance**.

ISSUED DATE:

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

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

A. Effluent Limitations

Character: Treated Domestic Sewage Effluent

Volume: Annual Average Flow – 1.5 MGD from the treatment system in the Interim I phase
 Annual Average Flow – 2.0 MGD from the treatment system in the Interim II phase
 Annual Average Flow – 3.0 MGD from the treatment system in the Interim III phase
 Annual Average Flow – 4.0 MGD from the treatment system in the Final phase

Quality: The following effluent limitations are required:

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

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

The effluent shall be chlorinated in a chlorine contact chamber to a residual of 2.0 mg/l with a minimum detention time of 10 minutes. An equivalent method of disinfection may be substituted only with prior approval of the Commission.

B. Monitoring Requirements:

<u>Parameter</u>	<u>Monitoring Frequency</u>	<u>Sample Type</u>
Flow	Continuous	Totalizing Meter
Biochemical Oxygen Demand (5-day)	Two/week	Composite
Total Suspended Solids	Two/week	Composite
pH	One/week	Grab
Chlorine Residual	Five/week	Grab

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

STANDARD PERMIT CONDITIONS

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

DEFINITIONS

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

1. Flow Measurements

- a. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- b. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder and limited to major domestic wastewater discharge facilities with a 1 million gallons per day or greater permitted flow.
- c. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.

2. Concentration Measurements

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
 - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.
 - ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.

3. Sample Type

- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC § 319.9 (b).
 - b. Grab sample - an individual sample collected in less than 15 minutes.
4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
 5. The term “sewage sludge” is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids which have not been classified as hazardous waste separated from wastewater by unit processes.
 6. The term “biosolids” is defined as sewage sludge that has been tested or processed to meet Class A, Class AB, or Class B pathogen standards in 30 TAC Chapter 312 for beneficial use.
 7. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING REQUIREMENTS

1. Monitoring Requirements

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

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

2. Test Procedures

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

3. Records of Results

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

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

4. Additional Monitoring by Permittee

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

5. Calibration of Instruments

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

6. Compliance Schedule Reports

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

7. Noncompliance Notification

- a. In accordance with 30 TAC § 305.125(9), any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Except as allowed by

30 TAC § 305.132, report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Compliance Monitoring Team of the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

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

- i. Unauthorized discharges as defined in Permit Condition 2(g).
- ii. Any unanticipated bypass which exceeds any effluent limitation in the permit.

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

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

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

9. Changes in Discharges of Toxic Substances

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

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

- i. One hundred micrograms per liter (100 µg/L);
- ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
- iii. Five (5) times the maximum concentration value reported for that pollutant in the permit application; or
- iv. The level established by the TCEQ.

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

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

10. Signatories to Reports

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

PERMIT CONDITIONS

1. General

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

2. Compliance

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

health or the environment.

- e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.
- f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§ 305.62 and 305.66 and Texas Water Code Section 7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Special Provisions section of this permit.
- h. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§ 7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties).

3. Inspections and Entry

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

4. Permit Amendment and/or Renewal

- a. The permittee shall give notice to the Executive Director as soon as possible of any planned physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. Notice shall also be required under this paragraph when:
 - i. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements in Monitoring and

Reporting Requirements No. 9;

- ii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Prior to any facility modifications, additions, or expansions that will increase the plant capacity beyond the permitted flow, the permittee must apply for and obtain proper authorization from the Commission before commencing construction.
- c. The permittee must apply for an amendment or renewal at least 180 days prior to expiration of the existing permit in order to continue a permitted activity after the expiration date of the permit. If an application is submitted prior to the expiration date of the permit, the existing permit shall remain in effect until the application is approved, denied, or returned. If the application is returned or denied, authorization to continue such activity shall terminate upon the effective date of the action. If an application is not submitted prior to the expiration date of the permit, the permit shall expire and authorization to continue such activity shall terminate.
- d. Prior to accepting or generating wastes which are not described in the permit application or which would result in a significant change in the quantity or quality of the existing discharge, the permittee must report the proposed changes to the Commission. The permittee must apply for a permit amendment reflecting any necessary changes in permit conditions, including effluent limitations for pollutants not identified and limited by this permit.
- e. In accordance with the Texas Water Code § 26.029(b), after a public hearing, notice of which shall be given to the permittee, the Commission may require the permittee, from time to time, for good cause, in accordance with applicable laws, to conform to new or additional conditions.

5. Permit Transfer

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

6. Relationship to Hazardous Waste Activities

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

7. Property Rights

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

8. Permit Enforceability

The conditions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to

other circumstances, and the remainder of this permit, shall not be affected thereby.

9. Relationship to Permit Application

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

10. Notice of Bankruptcy.

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

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

b. This notification must indicate:

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

OPERATIONAL REQUIREMENTS

1. The permittee shall at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. This includes, but is not limited to, the regular, periodic examination of wastewater solids within the treatment plant by the operator in order to maintain an appropriate quantity and quality of solids inventory as described in the various operator training manuals and according to accepted industry standards for process control. Process control, maintenance, and operations records shall be retained at the facility site, or shall be readily available for review by a TCEQ representative, for a period of three years.
2. Upon request by the Executive Director, the permittee shall take appropriate samples and provide proper analysis in order to demonstrate compliance with Commission rules. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall comply with all applicable provisions of 30 TAC Chapter 312 concerning sewage sludge or biosolids use and disposal and 30 TAC §§ 319.21 - 319.29 concerning the discharge of certain hazardous metals.
3. Domestic wastewater treatment facilities shall comply with the following provisions:
 - a. The permittee shall notify the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, in writing, of any facility expansion at least 90 days prior to conducting such activity.
 - b. The permittee shall submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity. Closure is the act of permanently taking a waste management unit or treatment facility out of service and includes the permanent removal from service of any pit, tank, pond, lagoon, surface impoundment and/or other treatment unit regulated by this permit.

4. The permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.
5. Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined.
6. The permittee shall remit an annual water quality fee to the Commission as required by 30 TAC Chapter 21. Failure to pay the fee may result in revocation of this permit under Texas Water Code § 7.302(b)(6).

7. Documentation

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

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

If in the judgement of the Executive Director the population to be served will not cause permit noncompliance, then the requirement of this section may be waived. To be effective, any waiver must be in writing and signed by the Director of the Enforcement Division (MC 219) of the Commission, and such waiver of these requirements will be reviewed upon expiration of the existing permit; however, any such waiver shall not be interpreted as condoning or excusing any violation of any permit parameter.

- b. The plans and specifications for domestic sewage collection and treatment works associated with any domestic permit must be approved by the Commission and failure to secure approval before commencing construction of such works or making a discharge is a violation of this permit and

each day is an additional violation until approval has been secured.

- c. Permits for domestic wastewater treatment plants are granted subject to the policy of the Commission to encourage the development of area-wide waste collection, treatment and disposal systems. The Commission reserves the right to amend any domestic wastewater permit in accordance with applicable procedural requirements to require the system covered by this permit to be integrated into an area-wide system, should such be developed; to require the delivery of the wastes authorized to be collected in, treated by or discharged from said system, to such area-wide system; or to amend this permit in any other particular to effectuate the Commission's policy. Such amendments may be made when the changes required are advisable for water quality control purposes and are feasible on the basis of waste treatment technology, engineering, financial, and related considerations existing at the time the changes are required, exclusive of the loss of investment in or revenues from any then existing or proposed waste collection, treatment or disposal system.
9. Domestic wastewater treatment plants shall be operated and maintained by sewage plant operators holding a valid certificate of competency at the required level as defined in 30 TAC Chapter 30.
 10. Facilities which generate industrial solid waste as defined in 30 TAC § 335.1 shall comply with these provisions:
 - a. Any solid waste, as defined in 30 TAC § 335.1 (including but not limited to such wastes as garbage, refuse, sludge from a waste treatment, water supply treatment plant or air pollution control facility, discarded materials, discarded materials to be recycled, whether the waste is solid, liquid, or semisolid), generated by the permittee during the management and treatment of wastewater, must be managed in accordance with all applicable provisions of 30 TAC Chapter 335, relating to Industrial Solid Waste Management.
 - b. Industrial wastewater that is being collected, accumulated, stored, or processed before discharge through any final discharge outfall, specified by this permit, is considered to be industrial solid waste until the wastewater passes through the actual point source discharge and must be managed in accordance with all applicable provisions of 30 TAC Chapter 335.
 - c. The permittee shall provide written notification, pursuant to the requirements of 30 TAC § 335.8(b)(1), to the Corrective Action Section (MC 127) of the Remediation Division informing the Commission of any closure activity involving an Industrial Solid Waste Management Unit, at least 90 days prior to conducting such an activity.
 - d. Construction of any industrial solid waste management unit requires the prior written notification of the proposed activity to the Registration and Reporting Section (MC 129) of the Permitting and Remediation Support Division. No person shall dispose of industrial solid waste, including sludge or other solids from wastewater treatment processes, prior to fulfilling the deed recordation requirements of 30 TAC § 335.5.
 - e. The term "industrial solid waste management unit" means a landfill, surface impoundment, waste-pile, industrial furnace, incinerator, cement kiln, injection well, container, drum, salt dome waste containment cavern, or any other structure vessel, appurtenance, or other improvement on land used to manage industrial solid waste.
 - f. The permittee shall keep management records for all sludge (or other waste) removed from any wastewater treatment process. These records shall fulfill all applicable requirements of 30 TAC Chapter 335 and must include the following, as it pertains to wastewater treatment and discharge:
 - i. Volume of waste and date(s) generated from treatment process;

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

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

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

TCEQ Revision 06/2020

SLUDGE PROVISIONS

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

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

A. General Requirements

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

B. Testing Requirements

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

Region 11) within seven (7) days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped, and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Registration Support Division (MC 129), Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 11) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year.

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

TABLE 1

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

* Dry weight basis

3. Pathogen Control

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

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

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

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

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

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

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

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

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

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

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

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

criteria.

Alternative 1

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

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

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

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

- i. Prior to use or disposal, all the sewage sludge must have been generated from a

single location, except as provided in paragraph v. below;

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

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

- i. Food crops with harvested parts that touch the biosolids /soil mixture and are totally above the land surface shall not be harvested for 14 months after application of biosolids.
- ii. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of biosolids when the biosolids remain the land surface for 4 months or longer prior to incorporation into the soil.
- iii. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of biosolids when the biosolids remain on the land surface for less than 4 months prior to incorporation into the soil.
- iv. Food crops, feed crops, and fiber crops shall not be harvested for 30 days after application of biosolids.
- v. Domestic livestock shall not be allowed to graze on the land for 30 days after application of biosolids.
- vi. Turf grown on land where biosolids are applied shall not be harvested for 1 year after application of the biosolids when the harvested turf is placed on either land with a high potential for public exposure or a lawn.
- vii. Public access to land with a high potential for public exposure shall be restricted for 1 year after application of biosolids.

- viii. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of biosolids.
 - ix. Land application of biosolids shall be in accordance with the buffer zone requirements found in 30 TAC § 312.44.
4. Vector Attraction Reduction Requirements

All bulk sewage sludge that is applied to agricultural land, forest, a public contact site, or a reclamation site shall be treated by one of the following Alternatives 1 through 10 for vector attraction reduction.

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

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

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

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

C. Monitoring Requirements

Toxicity Characteristic Leaching Procedure (TCLP) Test - annually
 PCBs - annually

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

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

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

Representative samples of sewage sludge shall be collected and analyzed in accordance with

the methods referenced in 30 TAC § 312.7

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

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

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

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

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

A. Pollutant Limits

Table 2

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

Table 3

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

*Dry weight basis

B. Pathogen Control

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

C. Management Practices

1. Bulk biosolids shall not be applied to agricultural land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow-covered so that the bulk sewage sludge or biosolids enters a wetland or other waters in the State.
2. Bulk sewage sludge not meeting Class A biosolids requirements shall be land applied in a manner which complies with Applicability in accordance with 30 TAC §312.41 and the Management Requirements in accordance with 30 TAC § 312.44.
3. Bulk biosolids shall be applied at or below the agronomic rate of the cover crop.
4. An information sheet shall be provided to the person who receives bulk Class A or AB biosolids sold or given away. The information sheet shall contain the following information:
 - a. The name and address of the person who prepared the Class A or AB biosolids that are sold or given away in a bag or other container for application to the land.
 - b. A statement that application of the Class A or AB biosolids to the land is prohibited except in accordance with the instruction on the label or information sheet.
 - c. The annual whole sludge application rate for the sewage sludge application rate for the biosolids that does not cause any of the cumulative pollutant loading rates in Table 2 above to be exceeded, unless the pollutant concentrations in Table 3 found in Section II above are met.

D. Notification Requirements

1. If bulk biosolids are applied to land in a State other than Texas, written notice shall be provided prior to the initial land application to the permitting authority for the State in which the bulk biosolids are proposed to be applied. The notice shall include:
 - a. The location, by street address, and specific latitude and longitude, of each land application site.
 - b. The approximate time period bulk biosolids will be applied to the site.
 - c. The name, address, telephone number, and National Pollutant Discharge Elimination System permit number (if appropriate) for the person who will apply the bulk biosolids.
2. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the biosolids disposal practice.

E. Record Keeping Requirements

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

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

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

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

6. The recommended agronomic loading rate from the references listed in Section II.C.3. above, as well as the actual agronomic loading rate shall be retained. The person who applies bulk biosolids shall develop the following information and shall retain the information at the facility site and/or shall be readily available for review by a TCEQ representative indefinitely. If the permittee supplies the sludge to another person who land applies the sludge, the permittee shall notify the land applier of the requirements for record keeping found in 30 TAC § 312.47 for persons who land apply:
 - a. A certification statement that all applicable requirements (specifically listed) have been met, and that the permittee understands that there are significant penalties for false certification including fine and imprisonment. See 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii), as applicable, and to the permittee’s specific sludge or biosolids treatment activities.
 - b. The location, by street address, and specific latitude and longitude, of each site on which sludge or biosolids are applied.
 - c. The number of acres in each site on which bulk sludge or biosolids are applied.
 - d. The date and time sludge or biosolids are applied to each site.
 - e. The cumulative amount of each pollutant in pounds/acre listed in Table 2 applied to each site.
 - f. The total amount of sludge applied to each site in dry tons.

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

F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 11) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year the following information.

1. Identify in the following categories (as applicable) the sewage sludge or biosolids treatment process or processes at the facility: preliminary operations (e.g., sludge or biosolids grinding and degritting), thickening (concentration), stabilization, anaerobic digestion, aerobic digestion, composting, conditioning, disinfection (e.g., beta ray irradiation, gamma ray irradiation, pasteurization), dewatering (e.g., centrifugation, sludge drying beds, sludge lagoons), heat drying, thermal reduction, and methane or biogas capture and recovery.
2. Identify the nature of material generated by the facility (such as a biosolid for beneficial use or land-farming, or sewage sludge for disposal at a monofill) and whether the material is ultimately conveyed off-site in bulk or in bags.
3. Results of tests performed for pollutants found in either Table 2 or 3 as appropriate for the permittee's land application practices.
4. The frequency of monitoring listed in Section I.C. that applies to the permittee.
5. Toxicity Characteristic Leaching Procedure (TCLP) results.
6. PCB concentration in sludge or biosolids in mg/kg.
7. Identity of hauler(s) and TCEQ transporter number.
8. Date(s) of transport.
9. Texas Commission on Environmental Quality registration number, if applicable.
10. Amount of sludge or biosolids disposal dry weight (lbs/acre) at each disposal site.
11. The concentration (mg/kg) in the sludge or biosolids of each pollutant listed in Table 1 (defined as a monthly average) as well as the applicable pollutant concentration criteria (mg/kg) listed in Table 3 above, or the applicable pollutant loading rate limit (lbs/acre) listed in Table 2 above if it exceeds 90% of the limit.
12. Level of pathogen reduction achieved (Class A, Class AB or Class B).
13. Alternative used as listed in Section I.B.3.(a. or b.). Alternatives describe how the pathogen reduction requirements are met. If Class B biosolids, include information on how site restrictions were met.
14. Identify each of the analytic methods used by the facility to analyze enteric viruses, fecal coliforms, helminth ova, *Salmonella* sp., and other regulated parameters.
15. Vector attraction reduction alternative used as listed in Section I.B.4.
16. Amount of sludge or biosolids transported in dry tons/year.

17. The certification statement listed in either 30 TAC § 312.47(a)(4)(A)(ii) or 30 TAC § 312.47(a)(5)(A)(ii) as applicable to the permittee's sludge or biosolids treatment activities, shall be attached to the annual reporting form.
18. When the amount of any pollutant applied to the land exceeds 90% of the cumulative pollutant loading rate for that pollutant, as described in Table 2, the permittee shall report the following information as an attachment to the annual reporting form.
 - a. The location, by street address, and specific latitude and longitude.
 - b. The number of acres in each site on which bulk biosolids are applied.
 - c. The date and time bulk biosolids are applied to each site.
 - d. The cumulative amount of each pollutant (i.e., pounds/acre) listed in Table 2 in the bulk biosolids applied to each site.
 - e. The amount of biosolids (i.e., dry tons) applied to each site.

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

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

- A. The permittee shall handle and dispose of sewage sludge or biosolids in accordance with 30 TAC § 330 and all other applicable state and federal regulations to protect public health and the environment from any reasonably anticipated adverse effects due to any toxic pollutants that may be present. The permittee shall ensure that the sewage sludge or biosolids meet the requirements in 30 TAC § 330 concerning the quality of the sludge disposed in a municipal solid waste landfill.
- B. If the permittee generates sewage sludge or biosolids and supplies that sewage sludge or biosolids to the owner or operator of a municipal solid waste landfill (MSWLF) for disposal, the permittee shall provide to the owner or operator of the MSWLF appropriate information needed to be in compliance with the provisions of this permit.
- C. The permittee shall give 180 days prior notice to the Executive Director in care of the Wastewater Permitting Section (MC 148) of the Water Quality Division of any change planned in the sewage sludge or biosolids disposal practice.
- D. Sewage sludge or biosolids shall be tested annually in accordance with the method specified in both 40 CFR Part 261, Appendix II and 40 CFR Part 268, Appendix I (Toxicity Characteristic Leaching Procedure) or other method, which receives the prior approval of the TCEQ for contaminants listed in Table 1 of 40 CFR § 261.24. Sewage sludge or biosolids failing this test shall be managed according to RCRA standards for generators of hazardous waste, and the waste's disposition must be in accordance with all applicable requirements for hazardous waste processing, storage, or disposal.

Following failure of any TCLP test, the management or disposal of sewage sludge or biosolids at a facility other than an authorized hazardous waste processing, storage, or disposal facility shall be prohibited until such time as the permittee can demonstrate the sewage sludge or biosolids no longer exhibits the hazardous waste toxicity characteristics (as demonstrated by the results of the TCLP tests). A written report shall be provided to both the TCEQ Registration and Reporting Section (MC 129) of the Permitting and Registration Support Division and the Regional Director (MC Region 11) of the appropriate TCEQ field office within 7 days after failing the TCLP Test.

The report shall contain test results, certification that unauthorized waste management has stopped, and a summary of alternative disposal plans that comply with RCRA standards for the management of hazardous waste. The report shall be addressed to: Director, Permitting and Registration Support Division (MC 129), Texas Commission on Environmental Quality, P. O. Box 13087, Austin, Texas 78711-3087. In addition, the permittee shall prepare an annual report on the results of all sludge toxicity testing. This annual report shall be submitted to the TCEQ Regional Office (MC Region 11) and the Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30 of each year.

- E. Sewage sludge or biosolids shall be tested as needed, in accordance with the requirements of 30 TAC Chapter 330.
- F. Record Keeping Requirements

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

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

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

G. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 11) and Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year the following information.

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

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

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

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

A. General Requirements

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

B. Record Keeping Requirements

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

C. Reporting Requirements

The permittee shall report the following information annually to the TCEQ Regional Office (MC Region 11) and Compliance Monitoring Team (MC 224) of the Enforcement Division, by September 30th of each year.

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

SECTION V. REQUIREMENTS FOR MARKETING AND/OR DISTRIBUTING BIOSOLIDS AND BIOSOLIDS DERIVED MATERIALS.

A. General Requirements

All biosolids, biosolids derived materials or materials sold or given away in bulk, bag or a container for application to the land shall meet the metal concentrations in Section II.A. Table 3, the pathogen requirements in 30 TAC §312.82, and the vector attraction reduction requirements in 30 TAC §312.83(b)(1) - §312.83(b)(8).

The product of the concentration of each pollutant in biosolids and the annual application rate for the biosolids shall not cause the annual metal loading rate for the metal in Table 4 below to be exceeded. The procedure used to determine the annual whole application rate is presented in §312.49 title (relating to Appendix A - Procedure to Determine the Annual Whole Application Rate for Biosolids).

Table 4 - ANNUAL METAL LOADING RATES

<u>Pollutant</u>	<u>Annual Metal Loading Rate **</u> <u>(pounds per acre) *</u>
Arsenic	1.8
Cadmium	1.7
Chromium	134.0
Copper	67.0
Lead	13.0
Mercury	0.76
Molybdenum	Report Only
Nickel	18.7
Selenium	4.5
Zinc	125.0

* Dry weight basis
 ** Per 365-day period

B. Marketing and Distribution Management Practices

1. Biosolids may be stockpiled and stored on site under semi-dry conditions for a period not to exceed 24 months.
2. The whole application rate shall not exceed the agronomic rate for any site.
3. The biosolids processing site location shall be selected and operated in a manner to prevent public health nuisances. Where nuisance conditions exist, the operator shall take necessary action to abate such nuisances.
4. Either a label shall be affixed to the bag or similar enclosure in which the biosolids are sold or given away for application to the land or an information sheet shall be provided to the person who receives the biosolids sold or given away in a similar enclosure for application to the land. The label or information sheet shall contain the following information:
 - a. the name and address of the person who prepared the biosolids for sale or give away in a bag or similar enclosure for application to the land;
 - b. a statement that prohibits the application of the biosolids to the land except in accordance with the instructions on the label or information sheet;

- c. the annual whole application rate for the biosolids that does not cause the annual metal loading rates in Table 4 to be exceeded.
5. If composting, the Compost Processing Pad Area shall be protected from storm water run-on and runoff. Storm water from the pad shall be routed through the headworks of the Wastewater Treatment Facility. The Compost Processing Pad shall be constructed of concrete or Executive Director approved material meeting the following requirements:
 - a. More than 30% passing a No. 200 mesh sieve
 - b. Liquid limit greater than 30%
 - c. Plasticity index greater than 15
 - d. A minimum thickness of 2 feet
 - e. Permeability equal to or less than 1×10^{-7} cm/sec
 - f. Soil compaction will be 95% standard proctor at optimum moisture content

The permittee shall furnish certification by a Texas Licensed Professional Engineer that the completed lining meets the appropriate criteria above prior to utilization of the facilities. The certification shall be sent to the TCEQ Regional Office (MC Region 11) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division.

6. This permit does not authorize the composting of grease or grease trap waste. Any such authorization shall be in accordance with Commission regulations in 30 TAC Chapter 332.
7. The following is a list of site management restrictions for Class A and Class AB bulk biosolids agricultural land, forest, or a reclamation sites:
 - a. A bulk biosolids agricultural land, forest, or a reclamation site may not be applied during rainstorms or during periods in which surface soils are water-saturated, and when pooling of water is evident on the land application site.
 - b. The operator shall manage a bulk biosolids agricultural land, forest, or a reclamation site according to the Adverse Weather and Alternative Plan. This plan details procedures to address times when the bulk biosolids cannot be applied to the land application site due to adverse weather or other conditions such as wind, precipitation, field preparation delays, and access road limitations.
 - c. A bulk biosolids agricultural land, forest, or a reclamation site location must be selected and operated in a manner to prevent public health nuisances.
 - d. An operator of a bulk biosolids agricultural land, forest, or a reclamation site may not accept bulk biosolids, unless the biosolids are transported to the land application unit in a covered container with the covering firmly secured at the front and back.
 - e. If the bulk biosolids are Class AB as per the pathogen reduction alternatives in 30 TAC §312.82(a)(2), then the management practices under 30 TAC §312.44 shall be met in addition to the section V.B.7 (a-d) of this permit.

C. Monitoring Requirements

Toxicity Characteristic Leaching Procedure (TCLP) Test	-	Once/Year
PCBs	-	Once/Year

All metal constituents, pathogen density requirements and vector attraction reduction requirements shall be monitored at the appropriate frequency pursuant to 30 TAC §312.46(a)(1).

D. Notification Requirements

The permittee shall inform TCEQ through a letter whenever biosolids are given to a new bulk agricultural land, forest, or a reclamation site recipient directly by the generator. The notification letter shall include:

1. The recipient's name, address, phone number, the longitude and latitude of the site, and the number of acres the intended to be used.
2. If Class AB biosolids, a site map showing the buffer zone areas required under §312.44(c)(2)(D) and (E)
3. Authorization number and biosolids source name.
4. Must be signed and dated by the responsible person.
5. Complete name and title, telephone number and the address of the person signing the letter.

E. Recordkeeping Requirements

The person who prepares bulk biosolids or biosolids material in 30 TAC §312.41(b)(1) or in 30 TAC §312.41(e) shall develop the following information and shall retain the information on-site for five years.

1. The concentration (mg/kg) in biosolids of each pollutant listed in Section II. A. (30 TAC §312.43(b)(3) Table 3).
2. A description of how the pathogen reduction requirements are met.
3. A description of how the vector attraction reduction requirements are met.
4. The annual whole application rate for biosolids that does not cause the annual pollutant loading rates in Table 4 to be exceeded.
5. The following certification statement: "I certify, under penalty of law, that the pathogen requirements in 30 TAC §312.82 and the vector attraction reduction requirement in (insert one of the vector attraction reduction requirements in §312.83(b)(1)-(8)) have been met. 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 pathogen requirements and vector attraction reduction requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

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

F. Reporting Requirements

The permittee shall report annually to the TCEQ Regional Office (MC Region 11) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 30th of each year the following information:

1. Results of tests performed for pollutants found in 30 TAC §312.43(b)(3) Table 3.
2. The frequency of monitoring listed in Section I.C. which applies to the permittee.
3. Toxicity Characteristic Leaching Procedure (TCLP) results.
4. PCB concentration in sludge in mg/kg.
5. Documentation of the level of pathogen reduction achieved.
6. As listed in Section I.B.3.(a), describe how the pathogen reduction requirements were met.
7. Vector attraction reduction alternative used as listed in Section I.B.4.
8. Annual production in dry tons/year.
9. Amount land applied in dry tons/year.
10. The following certification statement: "I certify, under penalty of law, that the pathogen requirements in 30 TAC §312.82 and the vector attraction reduction requirement in (insert one of the vector attraction reduction requirements in §312.83(b)(1)-(8)) have been met. 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 pathogen requirements and vector attraction reduction requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment." The certification statement shall be attached to the annual reporting form.

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

SPECIAL PROVISIONS:

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

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.

2. This Category B facility must be operated by a chief operator or an operator holding a Class B license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week. Where shift operation of the wastewater treatment facility is necessary, each shift which does not have the on-site supervision of the licensed chief operator must be supervised by an operator in charge who is licensed not less than one level below the category for the facility.
3. The permittee shall maintain and operate the treatment facility in order to achieve optimum efficiency of treatment capability. This shall include required monitoring of effluent flow and quality as well as appropriate grounds and building maintenance.
4. The permittee shall obtain representative soil samples from the root zones of the land application area receiving wastewater. Composite sampling techniques shall be used. Each composite sample shall represent no more than 80 acres with no less than 15 subsamples representing each composite sample. Subsamples shall be composited by like sampling depth and soil type for analysis and reporting. Soil types are soils that have like topsoil or plow layer textures. These soils shall be sampled individually from 0 to 6 inches, 6 inches to 18 inches and 18 inches to 30 inches below ground level. The permittee shall sample and analyze soils in February to April of each year. Soil samples shall be analyzed within 30 days of sample procurement.

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

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

			<p>The SAR value is unit less.</p> <p>If the SAR is greater than 10, amendments (e.g., gypsum) shall be added to the soil to adjust the SAR to less than 10.</p>
Amendment addition, e.g., gypsum			Report in <i>short tons/acre</i> in the year effected

The permittee shall provide a copy of this plan to the analytical laboratory prior to sample analysis. The permittee shall submit the results of the annual soil sample analyses with copies of the laboratory reports and a map depicting the areas that have received wastewater within the permanent land application fields to the Water Quality Assessment Team (MC 150), TCEQ Regional Office (MC Region 11) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division no later than end of September following the sampling date of each year. If wastewater is not applied in a particular year, the permittee shall notify the same TCEQ offices and indicate that wastewater and/or sludge has not been applied on the approved land disposal sites during that year.

5. Irrigation practices shall be designed and managed so as to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. The bermuda and rye grass shall be established and well maintained in the irrigation area throughout the year for effluent and nutrient uptake by the crop and to prevent pathways for effluent surfacing. Tailwater control facilities shall be provided as necessary to prevent the discharge of any effluent from the irrigated land.
6. The permittee shall maintain records at the treatment plant site of all effluent disposal. Such records will include the following information:
 - a. the acreage of each crop on which effluent is irrigated;
 - b. the annual yield of each crop;
 - c. the date of disposal;
 - d. the location of each disposal;
 - e. the total yield of each harvest; and
 - f. the number of crop harvests per year.

These records shall be updated each time effluent is disposed of and shall be maintained on site for at least three years and made available for inspection by an authorized representative of the Commission.

7. Effluent shall not be applied for irrigation during rainfall events or when the ground is frozen or saturated.
8. The permittee shall erect adequate signs stating that the irrigation water is from a non-potable water supply for any area where treated effluent is stored or where there exist hose bibs or faucets. Signs shall consist of a red slash superimposed over the international symbol

for drinking water accompanied by the message “DO NOT DRINK THE WATER” in both English and Spanish. All piping transporting the effluent shall be clearly marked with these same signs.

9. Spray fixtures for the irrigation system shall be of such design that they cannot be operated by unauthorized personnel.
10. Holding or storage ponds shall conform to the design criteria for stabilization ponds with regard to construction and levee design and shall maintain a minimum freeboard of two feet according to 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems.
11. Permanent transmission lines shall be installed from the holding pond to each tract of land to be irrigated utilizing effluent from that pond.
12. The permittee shall maintain a long-term contract with the owner(s) of the land application site which is authorized for use in this permit, or own the land authorized for land application of treated effluent.
13. Prior to construction of the wastewater treatment facility, the permittee shall submit to the TCEQ Wastewater Permitting Section (MC 148) of the Water Quality Division, a summary transmittal letter according to the requirements in 30 TAC § 217.6(d). If requested by the Wastewater Permitting Section, the permittee shall submit plans, specifications and a final engineering design report which comply with the requirements of 30 TAC Chapter 217, Design Criteria for Domestic Wastewater Systems. The permittee shall clearly show how the treatment system will meet the permitted effluent limitations required on Page 2 of the permit. A copy of the summary transmittal letter shall be available at the plant site for inspection by authorized representatives of the TCEQ.
14. Reporting requirements according to 30 TAC § 319.1-319.11 and any additional effluent reporting requirements contained in this permit are suspended from the effective date of the permit until plant startup or discharge, whichever occurs first, from the facility described by this permit. The permittee shall provide written notice to the TCEQ Regional Office (MC Region 11) and the Applications Review and Processing Team (MC 148) of the Water Quality Division at least forty-five (45) days prior to plant startup or anticipated discharge, whichever occurs first, and prior to completion of each additional phase on Notification of Completion Form 20007.
15. On October 3, 2022, the permittee submitted (in file) sufficient evidence of legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the permittee according to 30 TAC § 309.13(e)(3). The permittee shall also comply with the requirements of 30 TAC § 309.13(a) through (d). (See Attachment B.)
16. The irrigated crops include bermuda and rye grass. Application rates to the irrigated land shall not exceed 4.74 acre-feet per year per acre irrigated. The permittee is responsible for providing equipment to determine application rates and maintaining accurate records of the volume of effluent applied. These records shall be made available for review by the TCEQ and shall be maintained for at least three years.
17. The permittee shall comply with buffer zone requirements of 30 TAC Section §309.13(c). A wastewater treatment plant unit, defined by 30 TAC Section §309.11(9), must be located a minimum horizontal distance of 250 feet from a private well and a minimum horizontal

distance of 500 feet from a public water well site, spring, or other similar sources of public drinking water, as provided by §290.41(c)(1)(C) of this title. A land application field must be located a minimum horizontal distance of 150 feet from a private well and a minimum horizontal distance of 500 feet from a public water well site, spring, or other similar sources of public drinking water.

18. Facilities for the retention of treated or untreated wastewater shall be adequately lined to control seepage. The following methods of pond lining for the existing two storage ponds are acceptable:

a. In-situ clay soils or placed and compacted clay soils meeting the following requirements:

- 1) More than 30% passing a No. 200 mesh sieve
- 2) Liquid limit greater than 30%
- 3) Plasticity index greater than 15
- 4) A minimum thickness of 3 feet
- 5) Permeability equal to or less than $1.0E-07$ cm/sec
- 6) Soil compaction will be 95% standard proctor at optimum moisture content

b. Membrane lining with a minimum thickness of 30 mils, and an underdrain leak detection system.

c. An alternate method of pond lining that has been approved by the Executive Director.

The permittee shall furnish certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria above. The certification shall be sent to the TCEQ Water Quality Assessment Team (MC-150), the TCEQ Regional Office (MC Region-11), and the Water Quality Compliance Monitoring Team (MC-224) of the Enforcement Division. Pond liner certifications and all liner construction and repair documentation shall be maintained by the Permittee for the life of the facility and be made available for TCEQ personnel for inspection and review.

Contract drawings for the construction of the wastewater treatment and disposal system were submitted with the application. The Water Quality Division Plans and Specification Team may approve the contract drawings in lieu of pond liner certifications.

19. Any new or modified wastewater pond shall be adequately lined to control seepage in accordance with 30 TAC §217.203 and 30 TAC § 309.13(d), related to unsuitable site characteristics. New or modified wastewater ponds shall not be put into service until the permittee demonstrates that the pond liners meet the requirements of 30 TAC §217.203. The permittee shall demonstrate that the number, location, and test results of samples collected for geotechnical testing are in accordance with 30 TAC §217.203(d) and (e). The report providing this demonstration shall be submitted to the Water Quality Assessment Team (MC-150) and the TCEQ Regional Office (MC Region 11) for review and approval prior to use of the wastewater ponds. If a synthetic liner is to be used, the liner thickness shall be a minimum of 40 mils and be constructed with an underground leak detection system with appropriate sampling points.

20. The permittee shall submit the liner certification for a newly constructed or modified wastewater pond to the Water Quality Assessment Team (MC-150), the TCEQ Regional Office (MC Region 11), and the TCEQ Compliance Monitoring Section (MC-224) within 30

days of completion and prior to use. The certification shall be signed and sealed by a Texas-licensed professional engineer and include a description of how the liner meets the requirements of 30 TAC §217.203.

21. Facilities for the retention of treated or untreated wastewater shall be adequately managed and lined to control seepage. At least once per month, the permittee shall inspect the pond sides and bottom (if visible) for signs of damage and leakage, and any pond leak detection systems that are in service. Leaking ponds shall be removed from service, or operated in a manner to prevent discharge, until repairs are made or replacement ponds are constructed.
22. The permittee shall comply with the Groundwater Quality Assessment Plan dated September 30, 2014 (with Revisions dated November 19, 2014) approved by TCEQ on November 21, 2014. In accordance with the approved plan, semi-annual monitoring for all wells shall begin within 30 days of that Plan approval. The semi-annual groundwater sampling analytical results must be submitted to the WQA Team (MC-150), the Compliance Monitoring Section of the Enforcement Division (MC-224), and the TCEQ Regional Office (MC Region 11) within 60 days of the sampling event. The Annual Report required by the Plan must be submitted to the WQA Team (MC-150) no later than December 20th of each calendar year. The Executive Director may require additional action, including the installation of additional monitoring wells, if there is the potential for groundwater contamination.
 - 1) The replacement for MW-4 must be installed in accordance with the approved Groundwater Quality Assessment Plan no later than 90 days from the date of permit issuance. The well shall be installed in accordance with 16 TAC 76.100. Well installation information, including boring logs, and a copy of the State of Texas Well Report, must be submitted to the WQA Team (MC-150) no later than 30 days from installation.
 - 2) Prior to any irrigation on the additional land disposal site (Cold Springs Granite site), the City shall submit for review and approval the proposed location for monitoring wells for this area to the WQA Team (MC-150). The installation of monitoring wells must occur in a timely manner to allow the collection of at least one sample from these wells prior to the land application of wastewater effluent. The wells shall be installed in accordance with 16 TAC 76.100. Well installation information, including boring logs, and a copy of the State of Texas Well Report, must be submitted to the WQA Team (MC-150) no later than 30 days from the date of installation.
23. The permittee shall maintain a minimum of a 150-foot buffer zone from the irrigation site to any private water wells, including wells that are off-site and a 500-foot buffer zone from the irrigation site to any public water wells, including wells that are off-site.
24. The permittee shall maintain a 150-foot buffer zone of coastal Bermuda grass or undisturbed native vegetation between the disposal areas and the down-gradient property line and/or watercourse. The permittee shall maintain a 75-foot buffer zone of coastal Bermuda grass or native vegetation between the disposal areas and any watercourses.
25. The permittee shall maintain a minimum 500-foot buffer distance from the effluent irrigation sites to all springs as provided by 30 TAC §309.13(c)(3).
26. The permittee shall provide facilities for the protection of its wastewater treatment facility from a 100-year flood.

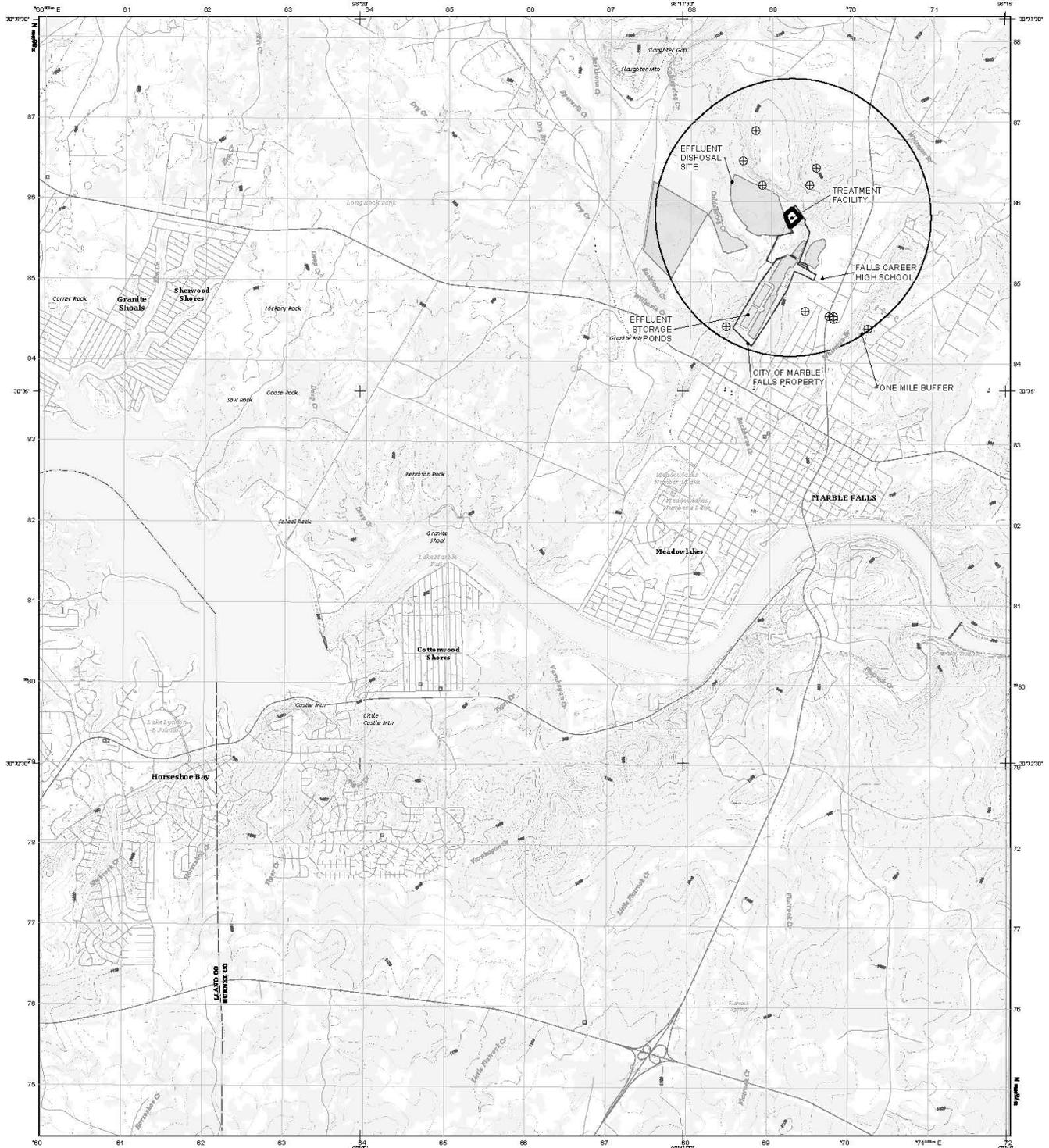
27. The permittee shall maximize the development of the reclaimed water acreage for beneficial use of the effluent under 30 TAC Chapter 210 prior to the development of permitted irrigation acreage identified in the permit. The 126 acres of permitted irrigation land to the west of the facility is not required to contain permanent equipment (e.g., sprinklers, piping, etc.) for the land application of treated effluent. The permittee shall maintain the ability to deliver and land apply treated effluent to this additional acreage on a temporary basis when reuse of reclaimed water under Chapter 210 is not available.

Attachment A – Site Map

TCEQ Permit No. WQ0016234001

City of Marble Falls

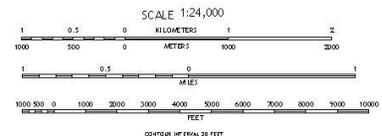
MARBLE FALLS QUADRANGLE
TEXAS
7.5-MINUTE



Coordinate System: NAD 83, GDA Zone 144
 Projection: Transverse Mercator
 Datum: NAD 83
 This map is not a legal document. Areas not shown may be generated for this map. Please consult the government. Use of this map may not be shown. Obtain permission before using this map.

Other sources of this map document are provided by the US Geological Survey. The aerial photograph on this document is not to scale by not shown by the 1992.

Property: AMF, September 2014, Houston 2014
 Maps: USGS, 1:50,000, 2013, 2014
 Aerial: Aerial, 1:50,000, 2013, 2014
 Contour: Contour, 1:50,000, 2013, 2014
 Elevation: Elevation, 1:50,000, 2013, 2014
 Topography: Topography, 1:50,000, 2013, 2014
 Hydrology: Hydrology, 1:50,000, 2013, 2014
 Roads: Roads, 1:50,000, 2013, 2014
 Utilities: Utilities, 1:50,000, 2013, 2014
 Boundaries: Boundaries, 1:50,000, 2013, 2014



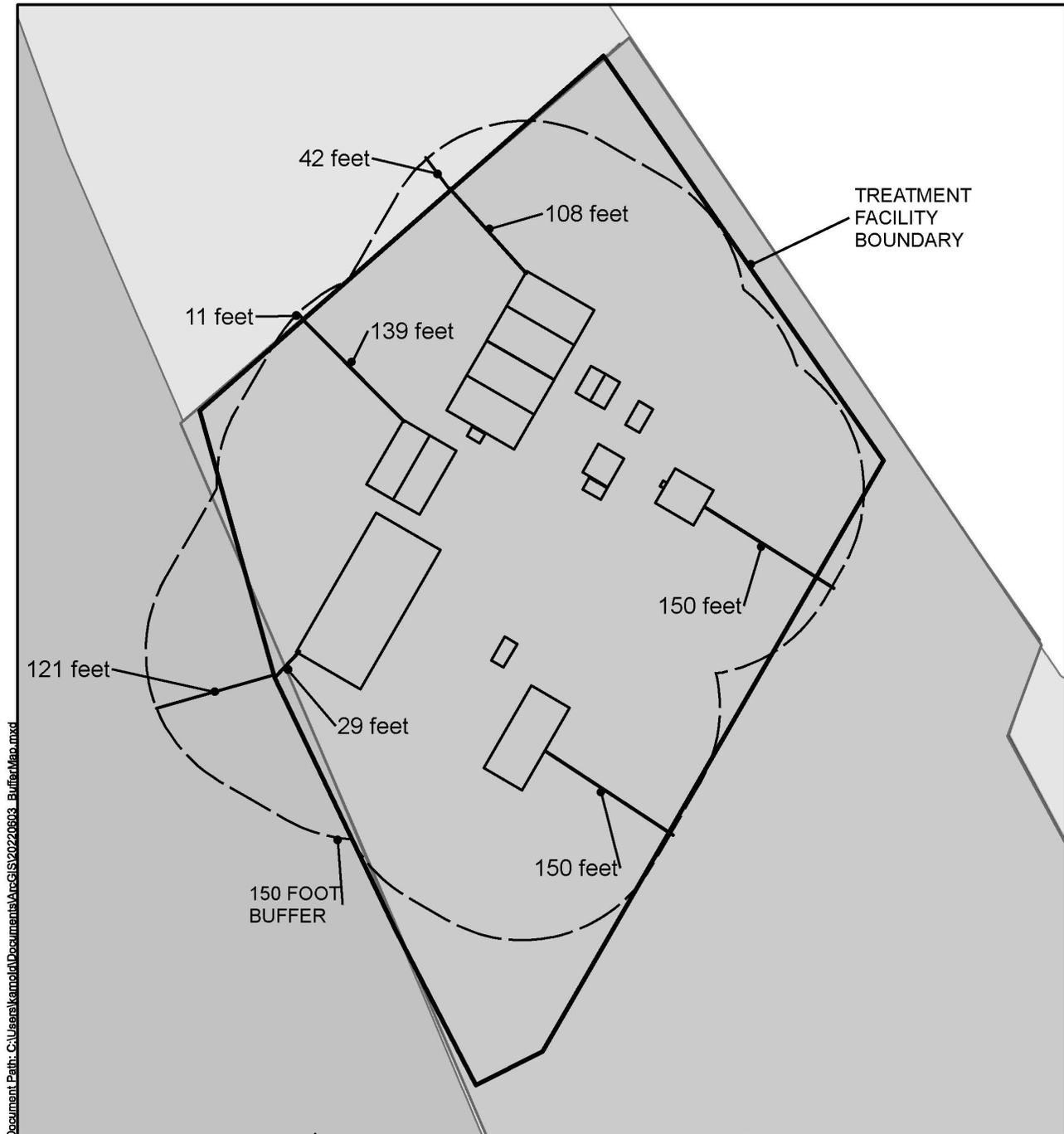
Water	Water	Water

ROAD CLASSIFICATION

Interstate	Local Connector
State	Local Road
County	Other
Other	Other

Marble Falls, TX
2022

Attachment B – Buffer Zone Map
 TCEQ Permit No. WQ0016234001
 City of Marble Falls



Document Path: C:\Users\kempold\Documents\AneGIS\20220803_BufferMap.mxd

Note: The portions of the buffer zone that falls outside of the City of Marble Falls' property boundary is met by a lease agreement with the Lower Colorado River Authority (see Attachment B).



**ATTACHMENT E
 CITY OF MARBLE FALLS
 NORTH MARBLE FALLS
 WASTEWATER PLANT
 NEW TLAP APPLICATION
 BUFFER ZONE MAP**

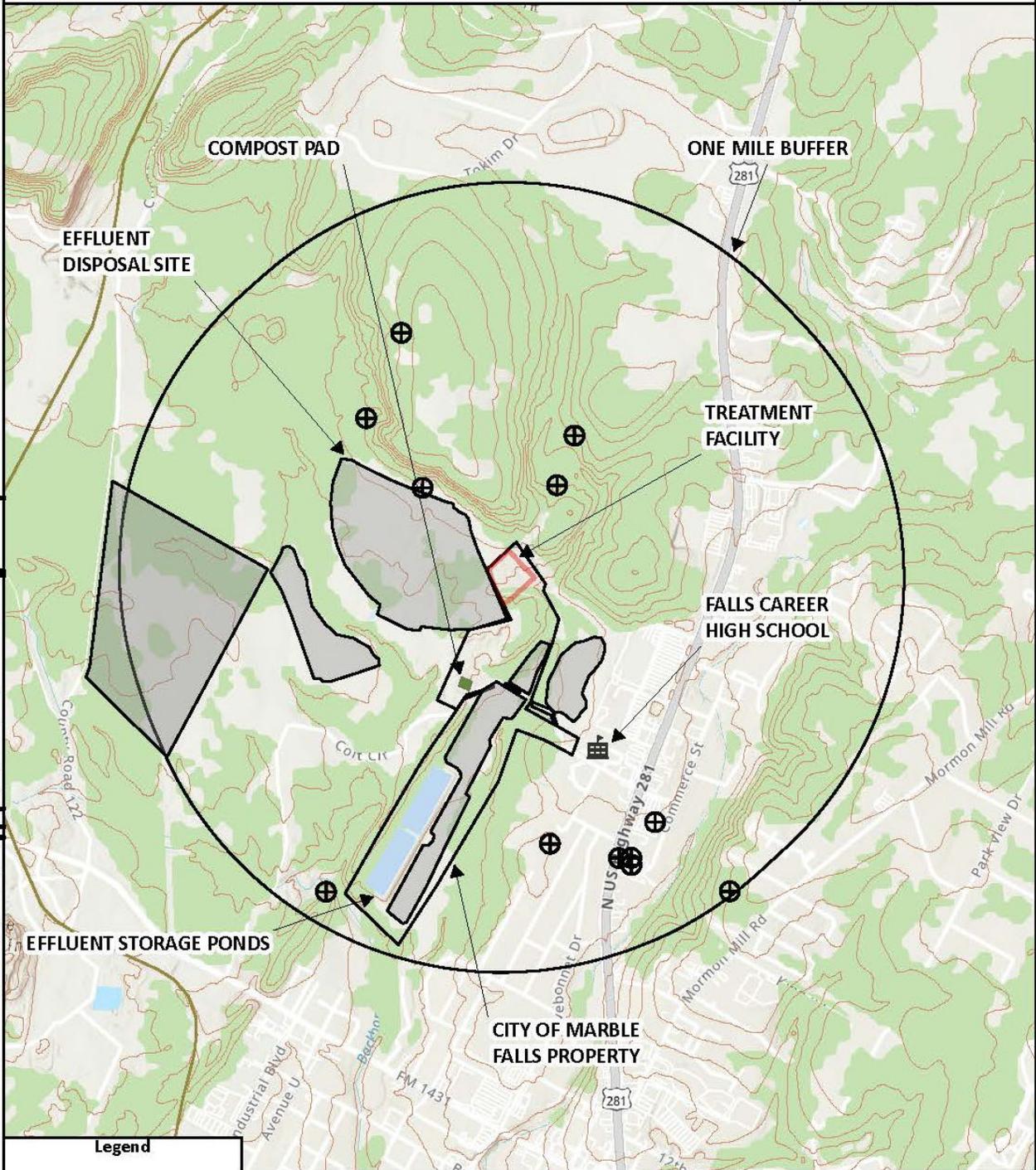
Legend

- 150 Foot Buffer
- Marble Falls Property
- Lower Colorado River Authority
- Treatment Facility Boundary
- Treatment Units
- Effluent Disposal Site

Attachment C – Composting Site
 TCEQ Permit No. WQ0016234001
 City of Marble Falls



PLUMMER



Legend	
	Wells
	Compost Pad
	Property Boundary
	Effluent Disposal Site
	Treatment Facility

ATTACHMENT C
 ONE WATER MARBLE FALLS
 NEW TEXAS LAND APPLICATION PERMIT
 USGS MAP

C:\Users\ahughes\OneDrive - Plummer\Documents\ArcGIS\Projects\MyProject2\aprx_lgr\esri

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 6, 2023

TO: All interested persons.

RE: City of Marble Falls
TCEQ Permit No. WQ0016234001

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 Marble Falls City Hall, 800 3rd Street, Marble Falls, Texas.

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

How to Request a Contested Case Hearing.

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

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.

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

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

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

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

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

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

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date

of this letter. You may submit your request electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html or by mail to the following address:

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,



Laurie Gharis
Chief Clerk

LG/cb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
City of Marble Falls
TCEQ Permit No. WQ0016234001

The Executive Director has made the Response to Public Comment (RTC) for the application by City of Marble Falls for TCEQ Permit No. WQ0016234001 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 (WQ0016234001) and click the "Search" button. The search results will display a link to the RTC.

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

Additional Information

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

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, 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 Marble Falls City Hall, 800 3rd Street, Marble Falls, Texas.

MAILING LIST
for
City of Marble Falls
TCEQ Permit No. WQ0016234001

FOR THE APPLICANT:

Christina McDonald, City Secretary
City of Marble Falls
800 3rd Street
Marble Falls, Texas 78654

Mike Hodge, City Manager
City of Marble Falls
800 3rd Street
Marble Falls, Texas 78654

Ashley Lewis
Interim Water Quality/ Permitting Team
Leader
Plummer Associates, Inc
6300 La Calma Drive, Suite 400
Austin, Texas 78752

INTERESTED PERSONS:

Will Fowler III
1208 McKeithen Drive
Alexandria, Louisiana 71303

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

Sonia Bhuiya, 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

NEW TCEQ PERMIT NO. WQ0016234001

APPLICATION BY THE
CITY OF MARBLE FALLS FOR
NEW TCEQ PERMIT NO.
WQ0016234001

§
§
§
§

BEFORE
THE TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

I. INTRODUCTION

The Executive Director of the Texas Commission on Environmental Quality, or "TCEQ," files this Response to Public Comment on the application by the City of Marble Falls for new TCEQ permit number WQ0016234001 and on the Executive Director's preliminary decision on the application. Before a permit is issued, the Executive Director is required by Title 30 of the Texas Administrative Code, Section 55.156 to prepare a response to all timely, relevant, and material, or significant comments. The TCEQ's Office of the Chief Clerk, or "OCC," received timely comments from Mr. Will Fowler III, on behalf of the Fowler Family. This response addresses all comments received by the OCC in writing during the public comment period, or at a public meeting held by the OCC, whether withdrawn or not. If anyone needs more information about this permit application or the TPDES permitting process, please call the TCEQ's Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on TCEQ's website at <http://www.tceq.texas.gov>.

A. Terms, Acronyms, or Abbreviations Used in this Response to Comments

- §: Section
- SH: State Highway
- ED: TCEQ's Executive Director
- FM: Farm-to-Market Road
- No.: Number
- WQ: Water Quality
- TSS: Total Suspended Solids
- EPA: United States Environmental Protection Agency
- AGS: Aerobic granular sludge wastewater treatment system
- OCE: TCEQ's Office of Compliance and Enforcement
- OCC: TCEQ's Office of the Chief Clerk
- TWC: Texas Water Code
- CWA: Clean Water Act
- MGD: Million gallons per day
- WQD: TCEQ's Water Quality Division
- TLAP: Texas Land Application Permit for
- NORI: Notice of Receipt & Intent to Obtain a Water Quality Permit
- THSC: Texas Health and Safety Code
- NAPD: Notice of Application & Preliminary Decision
- TPWD: Texas Parks and Wildlife Department
- TPWC: Texas Parks and Wildlife Code
- CBOD₅: Five-day Carbonaceous Biochemical Oxygen Demand
- Limits: Effluent Limitations/disposal limits
- WWTF: Wastewater Treatment Facility

- **TSWQS:** Texas Surface Water Quality Standards – 30 TAC Chapter 307
- **30 TAC:** Title 30 of the Texas Administrative Code
- **Effluent:** Treated wastewater produced by a WWTF
- **Applicant:** The City of Marble Falls
- **WQD staff:** TCEQ Staff from the Water Quality Division
- **TCEQ Rules:** Title 30 of the Texas Administrative Code
- **Commission:** Texas Commission on Environmental Quality
- **The Application:** The City of Dripping Springs’ application for a TPDES permit
- **Proposed permit:** Draft-TCEQ permit No. WQ0016234001
- **Proposed facility:** The One Water Marble Falls WWTF and disposal site
- **Appendix A, TSWQS:** Appendix A of 30 TAC § 307.10
- **TCEQ’s IPs:** TCEQ’s *Implementation Procedures for the Texas Surface Water Quality Standards-June 2010*

II. BACKGROUND

A. Application Request

The Applicant applied to the TCEQ for a new TLAP permit to authorize the proposed facility for disposal of treated domestic wastewater at a daily average flow limit of 1.5, 2.0, 3.0, 4.0 MGD via surface irrigation of 360 acres of non-public access, agricultural land in the Interim I, II, III, and Final phases (respectively). No discharge of pollutants into water in the state is authorized by the proposed permit.

B. Description of the Facility and its Authorization

If the proposed permit is ultimately issued, the proposed facility will be located approximately 1.0 miles northwest of the intersection of FM 1431 and U.S. Highway 281, in Burnet County, Texas 78654, within the drainage basin of Marble Falls Lake in Segment No. 1405 of the Colorado River Basin.

When constructed the proposed facility will be an AGS treatment system plant with treatment units in the first three phases consisting of include one bar screen, four aeration basins, one final clarifier, one sludge digester, and one chlorine contact chamber. Treatment units in the Final phase will include two fine screens, a manual bar screen, two vortex grit removal systems, four AGS basins, two effluent filter units, a chlorine contact basin, two sludge buffer basins, and an aerated sludge storage tank.

In all phases of the proposed permit, the facility includes two storage ponds with a total surface area of 16 acres and total capacity of 220 acre-feet for storage of treated effluent prior to irrigation. The rate of wastewater application to the irrigated land must not exceed 4.74 acre-feet per year per acre irrigated. The irrigated crops include bermuda / rye grass.

The proposed permit includes Sludge Provisions according to the requirements of 30 TAC Chapter 312, Sludge Use, Disposal, and Transportation Sludge generated from the proposed facility is hauled by a registered transporter and disposed of at a TCEQ-permitted landfill, Micro Dirt landfill, Permit No. 42016, in Caldwell County. The proposed permit also authorizes the disposal of sludge at a TCEQ-authorized land application site, co-disposal landfill, WWTF, or facility that further processes sludge. Additionally, the proposed permit authorizes the processing and Distribution and Marketing of Class A or Class AB Biosolids via composting.

C. ED's Technical Review of the Application

The basis for the ED's Technical Review of a TPDES permit application comes from the Texas Legislature's passage of Chapter 26 (Water Quality Control) of the TWC into law, which gives the TCEQ primary authority over WQ in Texas. Chapter 26 combines the TCEQ's WQ authority with federally delegated CWA regulatory authority for the TPDES program, which controls discharges of pollutants into Texas' surface waterbodies, otherwise defined by the TWC as "Water in the State." To implement TCEQ's WQ control regime, Chapter 26 grants the TCEQ the authority to issue permits (and amendments) for the disposal of wastewater adjacent to Water in the State, so long as the parameters established through the ED's Technical Review of the application, comply with the TWC, TCEQ rules, and the TSWQS. However, the TCEQ may refuse to issue a permit when the ED's Technical Review finds that issuing the permit would violate the provisions of any state or federal law or rules or regulations derived from those laws, or when it finds that issuing the permit would interfere with the TCEQ's WQ control regime.

To ensure compliance with the TSWQS, WQD staff follow the prescribed methodology in the TCEQ's IPs for drafting a permit, its limits, requirements, and conditions. The limits for all phases of the proposed permit, based on a daily average, are 20 mg/l CBOD₅ and 20 mg/l TSS.

Through the Technical Review, the ED provides the proper limits to maintain and protect human health and the environment. For that reason, the ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, WQ, and human health. Considering the TCEQ's WQ-primacy, all determinations, reviews, or analyses related to the ED's Technical Review of the application for the proposed permit can be reexamined and subsequently modified upon receipt of newer information or information that conflicts with the bases employed in the applicable review or analysis.

D. Procedural Background

The TCEQ received the application on October 3, 2022, and declared it administratively complete on November 8, 2022. The Applicant published the NORI in Burnet County, Texas in *The Highlander* on November 15, 2022. The ED completed the technical review of the application on March 4, 2023, and prepared the proposed permit, which if approved, would establish the conditions under which the proposed facility must operate. The Applicant published the NAPD in Burnet County, Texas in *The Highlander* on May 19, 2023. The public comment period ended on June 20, 2023.

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.

E. Access to Rules, Laws, and Records

- All administrative rules: Secretary of State Website: www.sos.state.tx.us
- TCEQ rules: Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select TAC Viewer on the right, then Title 30 Environmental Quality)
- Texas statutes: www.statutes.capitol.texas.gov

- TCEQ website: www.tceq.texas.gov (for downloadable rules in WordPerfect or Adobe PDF formats, select “Rules, Policy, & Legislation,” then “Current TCEQ Rules,” then “Download TCEQ Rules”)
- Federal rules: Title 40 of the Code of Federal Regulations (C.F.R.)
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl
- Federal environmental laws: <http://www.epa.gov/lawsregs/>
- **Environmental or citizen complaints may be filed electronically at:**
<https://www.tceq.texas.gov/compliance/complaints/index.html> (select “use our online form”) or by sending an email to the following address:
complaint@TCEQ.Texas.gov.

Commission records for the Proposed facility are available for viewing and copying at TCEQ’s main office in Austin at 12100 Park 35 Circle, Building F, 1st Floor in the OCC, for the current application until final action is taken). Some documents located at the OCC may also be found in the TCEQ Commissioners’ Integrated Database at www.tceq.texas.gov/goto/cid.

The permit application has been available for viewing and copying at Marble Falls City Hall, located at 800 3rd Street, Marble Falls, Texas, since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED’s preliminary decision were available for viewing and copying at the same location since publication of the Combined NORI-NAPD.

The ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, water quality, and human health. However, if individuals wish to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules, the TCEQ’s OCE should be contacted. Specifically, the Regional Office (Region 11) in Austin, Texas may be contacted at (512) 339-2929 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically by using the methods described above at the seventh bullet under “Access to Rules, Laws, and Records.” If an inspection by the TCEQ finds that the Applicant is not complying with all requirements of the proposed permit, or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

III. COMMENTS AND RESPONSES

COMMENT 1:

Will Fowler commented in opposition to the proposed permit and facility, and specifically the proposed facility’s location.

RESPONSE 1:

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

The Applicant is the entity that proposes the location of the facility rather than the ED. The ED’s review evaluates the impact of the disposal of wastewater through land application on the environment according to the TSWQS; however, the TCEQ’s

permitting authority does not include the ability to mandate a different location for the facility if the location in the application complies with 30 TAC Chapter 309, Subchapter B (Location Standards), specifically 30 TAC § 309.13 pertaining to “Unsuitable Site Characteristics” for a treatment facility. Instead, the ED may only evaluate a proposed location for a wastewater treatment facility according to the Location Standards in the TCEQ regulations.

If the Applicant revises its application with a different location for the proposed facility, the ED will reevaluate the new location and disposal site to make sure that the proposed permit contains proper limits and conditions for the revised location of the facility and disposal site, which may require notice to additional landowners.

COMMENT 2:

Will Fowler commented that he is concerned that the proposed facility will cause ecological issues.

RESPONSE 2:

The ED carefully considers the health concerns of area residents, as well as those of the public, in reviewing applications for domestic wastewater disposal permits. The TCEQ takes the concerns and comments expressed by the public, relating to human health, existing WQ, the environment, and animal, aquatic, terrestrial, and wildlife, and protecting the State’s rivers and lakes, into consideration in deciding whether to issue a permit.

This application is for a land application permit, which prohibits a discharge of pollutants into water in the state and regulates the disposal of effluent on the land. The proposed permit prohibits unauthorized discharges of wastewater or any other waste and includes appropriate requirements. The proposed permit also includes requirements that the effluent must not be applied for irrigating when the ground is saturated¹ and certain controls implemented to prevent the discharge of any effluent from the land application area.²

As mentioned above, the federal CWA, the TWC, and the TSWQS all contain WQ goals, standards, and requirements for TCEQ authorized disposal sites and facilities, and their method of achieving that quality. Equally important, WQD staff evaluated the application as an authorization to dispose of treated wastewater adjacent to Water in the State, which requires adherence to the same goals, standards, and requirements.

Chapter 26 of the TWC and TCEQ’s TSWQS were written for the protection of human health, existing WQ, the environment, and animal, aquatic, terrestrial, and wildlife. Accordingly, the stated policy of both the TWC 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.³

¹ City of Marble Falls Draft Permit, Special Provisions, Item 7, page 37.

² City of Marble Falls Draft Permit, Special Provisions, Item 5, page 37.

³ Texas Water Code § 26.003 and 30 TAC § 307.1.

The TSWQS is a primary mechanism for the TCEQ to protect human health, surface and groundwater quality, aquatic life, and the environment. The TSWQS require that treated effluent 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 WQ uses. Similarly, the treated from the proposed facility must meet the requirements of the TSWQS, and to ensure compliance with the TSWQS, the ED follows the methodology outlined in the TCEQ's IPs.

As specified in the TCEQ's IPs methodologies, TCEQ wastewater permits must maintain WQ 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. Additionally, the TSWQS require that TCEQ permitted facilities not cause surface waters to be toxic to aquatic life, terrestrial wildlife, livestock, or domestic animals.

To achieve the goal of supporting a level of WQ sufficient to protect human health, water quality, and the environment, the proposed permit contains several WQ-specific parameters or requirements that limit the potential impact of the proposed facility and disposal site. The Applicant is required to build a wastewater collection system or treatment facility according to the plans and specifications approved by the ED and must ensure the proposed facility's plans and specifications meet all design requirements in the proposed permit.

Additionally, for each effluent irrigation area, irrigation practices are required to be designed and managed to prevent ponding of effluent or contamination of ground and surface waters and to prevent the occurrence of nuisance conditions in the area. Crops must be established and well maintained in the irrigation areas throughout the year for effluent and nutrient uptake by the crop and to prevent pathways for effluent surfacing.

Through the ED's Technical Review, the ED provides the proper limits to maintain and protect human health and the environment. For that reason, the ED has determined that the proposed permit, if issued, meets all statutory and regulatory requirements and is protective of the environment, WQ, and human health.

However, the TCEQ's issuance of a permit does not authorize injuries to other persons, their property, or an invasion of their property rights. Similarly, the proposed permit's provisions do not, nor does the scope of TCEQ's regulatory jurisdiction, limit nearby landowners' ability to use a court of law's remedies for trespass, nuisance, or other causes of action from a TCEQ-authorized entity's activities, that may or do result in injury to property, animals, vegetation, or human health or welfare, or interfere with the use and enjoyment of their property.

Likewise, the Applicant has a duty to comply with all conditions of the proposed permit. Failure to comply with any permit condition is grounds for enforcement actions, permit amendments, revocations, suspensions, denial of a permit renewal applications, or even an application for a permit for another facility. This is because permit violations constitute violations of the permit and the TWC or the THSC.

COMMENT 3:

Will Fowler commented that the excessive current irrigation practices are already adversely affecting his property by filling up his creeks that he swims in and that the proposed facility could have a spill, making the situation worse.

RESPONSE 3:

As addressed below, the proposed permit has multiple safeguards or requirements that historically have been effective at keeping the Applicant or its operator informed of the proposed facility's conditions related to meeting the effluent limits, avoiding treatment system problems, and preventing unauthorized releases of raw sewage. As such, spills are not expected to occur at the proposed facility if it is maintained and operated in accordance with TCEQ rules and the provisions in the proposed permit.

The ability of the public to recreate in the waters of Texas is given significant consideration in the review of an application for, and the decision to issue, a wastewater permit. All waters in the state, whether intermittent or perennial, are considered as having primary contact recreational use, which includes activities that are presumed to involve a significant risk of ingestion of water. These activities are defined by the TPWC § 66.115, and unless otherwise specified in the TSWQS, these activities include wading by children, swimming, water skiing, diving, tubing, surfing, hand-fishing, and whitewater activities like kayaking, canoeing, and rafting.

Also protecting the recreational users of the state, is the TCEQ rules found at 30 TAC § 309.3(g)(1) (Disinfection), which requires that disinfection of domestic wastewater must be protective 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. For the proposed facility, the Applicant has chosen chlorine disinfection. Chlorination may be via gaseous, liquid, or tablet forms; however, the design criteria for chemical disinfection by chlorine, including safety requirements, in 30 TAC Chapter 217, Subchapter K must be observed. Chlorine is the 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.⁴ The effluent must contain a total chlorine residual of at least 2.0 mg/l after a detention time of at least 10 minutes based on peak flow. An equivalent method of disinfection may be substituted only with prior approval of the ED.⁵

The proposed permit was developed according to the TSWQS and the TCEQ IPs to be protective of WQ and maintain the recreational uses of Texas' stream and creeks, provided that the Applicant operates and maintains the proposed facility according to TCEQ rules and the proposed permit's requirements.

It is the Applicant's responsibility to hire the appropriate operator and, although any operator selected by the Applicant is required to operate and perform the appropriate maintenance according to the TCEQ rules and proposed permit, the Applicant is the entity that is always required to ensure that the proposed facility and all its systems of collection, treatment, and disposal are properly operated and maintained.

According to 30 TAC § 30.350, the proposed permit requires the proposed facility to be operated by a chief operator or an operator holding a Category C license or higher (Figure: 30 TAC § 30.350(e)). The ED determines the level of operator required based on the treatment technology and the maximum permitted flow. A Class C

⁴ U.S. EPA *Wastewater Technology Fact Sheet- Chlorine Disinfection* (EPA 832-F-99-062)

⁵ The City of Marble Falls, Draft Permit, Effluent Limitations and Monitoring Requirements, p.2; *see also* 30 TEX. ADMIN. CODE § 309.3(g)(2)

operator must have a high school diploma (or equivalent), two years of work experience and 60 hours of training.

The proposed facility must be operated a minimum of five days a week by the licensed chief operator or an operator holding the required level of license or higher. In addition, the Applicant may contract with a licensed operator or operations company for the day-to-day operations of the wastewater treatment facility with a Class C license or higher.

With respect to a facility's operation and maintenance, the proposed permit describes the conditions under which the proposed facility must operate and has maintenance and operational safeguards intended to minimize the occurrence of operational mishaps.

First, Operational Requirement No. 1 of the proposed permit requires the Applicant to ensure that the proposed facility and all its systems of collection, treatment, and disposal are always operated and maintained consistent with applicable TCEQ rules, including regular, periodic examination of wastewater solids within the proposed facility by the operator 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.

Compliance Condition 2(a) of the proposed permit requires the Applicant to tacitly acknowledge that acceptance of an issued permit is an agreement to comply with all the terms and conditions embodied in the permit and the rules and other orders of the Commission.

Compliance Condition 2(b) requires the Applicant to comply with all conditions of the proposed permit, and failure to do so constitutes a violation of the permit and the TWC or the THSC.

Operational Requirement No. 4 makes the Applicant responsible for installing, prior to plant start-up, and subsequently maintaining adequate safety measures to prevent the release 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.

Operational Requirement No. 2 requires the Applicant, upon request by from the ED, to take appropriate samples and provide proper analysis to demonstrate compliance with Commission rules. Sampling, analysis, and reporting for compliance with provisions of the proposed permit must be performed by the Applicant according to the proposed permit's provisions on Monitoring and Reporting Requirements, the proposed permit's Definitions and Standard Permit Conditions, which are based on the TCEQ's rules found at 30 TAC §§ 319.4 - 319.12.

Compliance Condition 2(d) requires the Applicant to take all reasonable steps to minimize or prevent any release or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment, and Compliance Condition 2(g) prohibits unauthorized releases of wastewater or any other waste.

Lastly, Compliance Condition 2(i) ties all these proposed permit conditions together and allows them to function as intended because it subjects the Applicant to administrative, civil, and criminal penalties from Chapter 7 of the TWC (Enforcement), for violations of the proposed permit and TCEQ rules, including, but not limited to, negligently or knowingly violating the federal Clean Water Act (CWA) §§ 301, 302, 306,

307, 308, 318, or 405, or any condition or limitation implementing any sections in the proposed permit issued under the CWA § 402, or any requirement imposed in proposed permit's pretreatment requirements approved under the CWA §§ 402(a)(3) or 402(b)(8).

These and other requirements in the proposed permit have historically been effective at keeping applicants informed as to conditions at the facility related to meeting the effluent limits, avoiding treatment system problems, and preventing unauthorized releases of raw sewage.

If spills were to occur at the facility, it would be an unauthorized discharge in violation of the proposed permit for which an enforcement action can be brought by the TCEQ against the Applicant. However, spills are not expected to occur at the proposed facility if it is maintained and operated in accordance with TCEQ rules and the provisions in the proposed permit.

Additionally, according to the TCEQ rules any noncompliance which may endanger human health or safety or the environment must be reported to the TCEQ by the Applicant, and the report of noncompliance must be provided orally or by facsimile transmission to the Regional Office (Region 11) within 24 hours of becoming aware of the noncompliance.⁶ A written submission of the report of noncompliance information must also be provided by the Applicant to the Regional Office (Region 11) *and* the Compliance Monitoring Team within five working days of becoming aware of the noncompliance. This includes any unanticipated bypass that exceeds any effluent limitation in the proposed permit, and any effluent violation which deviates from the permitted effluent limitation by more than 40% must be reported in writing to the TCEQ Regional Office (Region 11) in Austin, Texas, and the Compliance Monitoring Team within five working days of becoming aware of the noncompliance by more than 40%. The written submission must contain a description of the noncompliance; its cause; the potential danger to human health or safety or the environment; the period of noncompliance, including exact dates and times; the time the noncompliance is expected to continue if has not been corrected; and the steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.

As provided by Chapter 7 of the TWC (Enforcement), the Applicant is subject to applicable administrative (TWC §§ 7.051 - 7.075), civil (TWC §§ 7.101 - 7.111), and criminal penalties (TWC §§ 7.141 - 7.202) 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 CWA § 402, or any requirement imposed in a pretreatment program approved under CWA §§ 402 (a)(3) or 402 (b)(8); 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 the proposed 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.

⁶ 30 TAC § 305.125(9).

COMMENT 4:

Will Fowler commented expressing concerns that the Applicant is proposing collection system lines through his family's property carrying raw sewage and that he does not consent to the lines in his land.

RESPONSE 4:

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

The proposed permit, if issued, does not grant to the Applicant any property rights to use private property for treatment of wastewater in relation to the proposed facility. General Permit Condition No. 1(b) states that the proposed permit is granted based on the information supplied and representations made by the Applicant during the processing of the application and the permitting process and relying upon the accuracy and completeness of that information and those representations.

It is the responsibility of the Applicant to acquire property rights as is necessary to construct the proposed facility. This includes property belonging to any individual, partnership, corporation, or other entity. In addition, the proposed permit does not authorize the invasion of any personal rights or any violation of federal, state, or local laws and regulations.

COMMENT 5:

Will Fowler commented that the excessive current irrigation practices not only fill up his creeks but adversely affect his property by creating areas that remain wet at all times, wash out roads, erode land along the creek bank, and attract wild animals. Mr. Fowler commented that the proposed facility will adversely affect the value of his property and its marketability.

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 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 WQ, and TWC § 26.027 authorizes the TCEQ to issue permits to control the disposal of wastes or pollutants adjacent to state waters and to protect the WQ of the state's rivers, lakes and coastal waters; and while the proposed permit establishes terms and conditions that are intended to provide WQ pollution control, which focuses on controlling the disposal of pollutants adjacent to water in the state, the ED through the WQD has no jurisdiction in its determination of whether to issue a water quality permit, to address flooding, erosion, invasive wildlife, or to consider property values, and the marketability of surrounding properties, if water quality is maintained. Rather, the ED is limited to controlling the disposal of pollutants adjacent to waters in the state and protecting the WQ 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 WQ, 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.

For flooding concerns, members of the public may contact the Burnet County Floodplain Administrator by contacting the Burnet County Development Service Department at (512) 715-5260 8:00 a.m. - 5:00 p.m., Monday through Friday. The TCEQ Resource Protection Team can be contacted for aid in identifying and contacting the appropriate county officials or offices, by calling (512) 239-4600, or by email at: wcp@tceq.texas.gov. Additionally, the Federal Emergency Management Agency has programs designed to mitigate damage caused by flooding, that can be found at the following website: <https://www.fema.gov/floodplain-management>.

For any wildlife concerns, please visit the Texas Parks and Wildlife Department's Texas Wildlife Nuisance webpage at <https://tpwd.texas.gov/huntwild/wild/nuisance/> or by phone at (800) 792-1112. Additionally, the United States Department of Agriculture has programs designed to mitigate damage caused by invasive pigs, that can be found at the National Feral Swine Damage Management Program's webpage at <https://www.aphis.usda.gov/aphis/ourfocus/wildlifedamage/operational-activities/feral-swine>, which can be reached by phone at (866) 487-3297.

IV. CHANGES MADE TO THE PERMIT IN RESPONSE TO COMMENT

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

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Interim Executive Director

Erin Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



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

V. CERTIFICATE OF SERVICE

I certify that on August 29, 2023, the Executive Director's Response to Public Comment for Permit No. WQ0016234001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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